

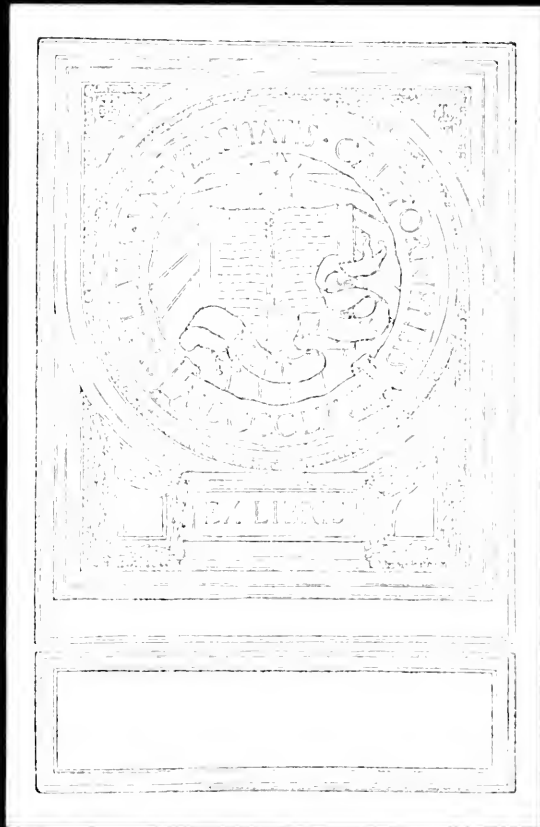
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# HISTORY

OF THE

## Office of the Corporation Counsel

OF

### THE CITY OF NEW YORK

With a Resumé of the Annual Report of  
the Law Department for the Year 1906

WILLIAM B. ELLISON

Corporation Counsel

Compiled by

JOHN H. GREENER

Assistant Chief Clerk

NEW YORK:  
MARTIN E. BROWN COMPANY, PRINTERS AND STATIONERS,  
NOS. 49 TO 57 PARK PLACE.

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# REPORT OF THE CORPORATION COUNSEL.

LAW DEPARTMENT,  
OFFICE OF THE CORPORATION COUNSEL,  
NEW YORK, May 15, 1907.

Hon. GEORGE B. McCLELLAN,

*Mayor:*

SIR—Pursuant to section 1544 of the Greater New York Charter, I submit the following report of the transactions of the Law Department for the year and quarter ending on December 31, 1906.

## HISTORY OF DEPARTMENT.

Before entering on my report of the work of the year, I wish to review briefly the history of the Law Department. Mr. Andrew T. Campbell, the Chief Clerk of the Department, is just now completing his fiftieth year of active service, and it seems a particularly fitting occasion to look back over the great changes that have occurred during that period, and to give some idea of the origin and history of the Law Department.

### Corporation Counsels for Past Fifty Years.

The office of Counsel to the Corporation of The City of New York has existed in some form for over two hundred years. Down to the time of the creation of the Greater City of New York, on January 1, 1898, the head of the Law Department of the old City of New York was known as the "Counsel to the Corporation." At the time of consolidation the title was changed to "Corporation Counsel." The persons who have held the office during Mr. Campbell's fifty years of service are as follows:

RICHARD BUSTEED, appointed September, 1856.  
Elected in the fall of 1856, while Fernando Wood was

Mayor, to serve three years. Mr. Busted was the first elective Counsel to the Corporation. The office had always been filled by appointment, but by the Charter amendment of April 14, 1857, it was made elective. The salary of the office was \$10,000 per annum, and \$8,000 was allowed for Assistants and Clerk hire. Mr. Busted reappointed George H. Purser as Corporation Attorney at a salary of \$5,000 and Charles A. May as Public Administrator at a salary of \$1,250. In 1858 Mr. May was succeeded by Thomas C. Fields. "Dick" Busted, as he was popularly known, enlisted as a Union soldier in the Civil War, and made a gallant record, and at the close of the war had reached the grade of brigadier-general. He was afterward appointed a Federal Judge for one of the Southern States.

GREENE C. BRONSON, elected for three years from January 1, 1860. Mr. Bronson had held the position of Attorney-General of New York State from 1829 to 1835, and had been a Justice of the Supreme Court from 1836 to 1852. It was during the administrations of Mr. Bronson and Mr. Develin that the City and country at large was occupied with the great Civil War. Mr. Bronson had two Assistants: Henry H. Anderson and William C. Trull, the latter of whom is still living. Mr. Bronson appointed George C. Genet Corporation Attorney and Stephen Russell Public Administrator.

JOHN E. DEVELIN, elected for three years from January 1, 1863. George Opdyke was Mayor at this time. During Mr. Develin's term of office there were three thousand suits commenced against the Board of Supervisors of the City, arising out of the draft riots of 1863, and an extra allowance of \$2,000 was given for services in these cases, making the total salary of the Corporation Counsel \$12,000. The riot suits were handled by Mr. Howard J. Forker, an assistant in the office at that time, who is now a Justice of the Court of Special Sessions in Brooklyn. Mr. Develin ap-

pointed N. Hill Fowler as Corporation Attorney and Robert B. Bradford as Public Administrator. The salary of the latter position was increased to \$5,000 in 1864. Mr. Bradford was succeeded by George Shea. At the close of his term of office Mr. Develin associated himself with Charles E. Miller and formed the well-known law firm of Develin & Miller.

RICHARD O'GORMAN, elected for three years from January 1, 1866. Resigned December 2, 1872. Mr. O'Gorman was the last elective Counsel to the Corporation. He was a distinguished Irish patriot, and of great renown as an orator. He became a Justice of the Superior Court of The City of New York, and later of the Supreme Court. By the Charter amendment of April 5, 1870, the term of office was made four years, and the power to remove the Corporation Counsel was vested in the Governor of the State. Mr. O'Gorman was allowed \$12,000 for Assistants, etc. David J. Dean, who will be mentioned again later, was an Assistant under Mr. O'Gorman. Martin T. McMahon was appointed Corporation Attorney and Gratz Nathan First Assistant. Gen. McMahon was subsequently elected a Judge of the Court of General Sessions. From 1866 to 1869, Henry E. Davies, Jr., a son of Judge Henry E. Davies, who had risen to the grade of Major-General in the Union Army, held the position of Public Administrator in the Department. In 1869 Thomas C. Fields was appointed Corporation Attorney and Andrew J. Rogers Public Administrator.

E. DELAFIELD SMITH, appointed by Mayor Oakey Hall, December 2, 1872, to fill the unexpired term of Richard O'Gorman. He was removed by Governor Tilden in 1875. The Charter amendment of April 30, 1873, gave to the Mayor the right to appoint the Counsel to the Corporation, with the approval of the Board of Aldermen. The salary was fixed at \$15,000 and the term of office at four years. An-

other bureau of the Law Department was created by this revision of the Charter, the head of which was called the "Attorney for the Collection of Personal Taxes." John H. White was appointed as head of the new bureau, and Mr. Smith also appointed H. M. Ruggles as Corporation Attorney and Isaac Dayton Public Administrator. During the administrations of Mr. O'Gorman and Mr. Smith, the City was greatly disturbed by the "Tweed Ring" exposures. Actions were commenced by the Counsel to the Corporation against William M. Tweed, A. Oakey Hall, Richard B. Connolly, and others, and in some of these cases judgments were entered by default for millions of dollars, but the criminal prosecutions of Tweed and the other members of the ring were handled by the great Charles O'Connor and other counsel who were associated with him. It was during this period that the City and County of New York were consolidated into one municipality by chapter 304 of the Laws of 1874.

WILLIAM C. WHITNEY, appointed to fill the unexpired term of E. Delafield Smith, August 9, 1875, by Mayor Wickham. Reappointed to succeed himself December 7, 1876, for four years, by Mayor Wickham. Reappointed to succeed himself December 11, 1880, by Mayor Cooper. Resigned November 8, 1882. Francis Lynde Stetson was an Assistant under Mr. Whitney. The many actions arising from the "Tweed Ring" transactions were disposed of during this period. It is probable that William C. Whitney will be longest remembered as Secretary of the Navy during President Cleveland's first administration. Mr. Whitney was the creator of the modernized navy of our country, and as such his fame will endure forever. Mr. Whitney was the first Corporation Counsel to recognize the necessity for specializing the work of the office, and he reorganized the entire Department along this line, assigning all litigation of a special character to a particular assistant. The "Consolidation Act" of 1882 was passed during Mr. Whitney's term of office, and the salary of the Counsel to the Corporation was

reduced by that act to \$12,000. Mr. Whitney appointed William A. Boyd Corporation Attorney, Algernon S. Sullivan Public Administrator and Edward T. Gale Attorney for the Collection of Personal Taxes.

GEORGE P. ANDREWS, appointed November 8, 1882, to succeed William C. Whitney, by Mayor Edson. Resigned May 31, 1884, to take office as Justice of the Supreme Court. Mr. Andrews was an Assistant under Mr. Whitney, and continued the reorganization of the department commenced by his predecessor. He surrounded himself with a staff of able assistants, among whom were David J. Dean, E. Henry Lacombe, Charles Blandy, Francis L. Wellman, Thomas P. Wickes, Arthur H. Masten, John J. Townsend, Jr., Charles P. Miller, Hugh L. Cole and Wilmot T. Cox. Mr. Andrews reappointed William A. Boyd Corporation Attorney and Algernon S. Sullivan Public Administrator. He appointed Charles S. Beardsley Attorney for the Collection of Personal Taxes.

E. HENRY LACOMBE, appointed June 1, 1884, to succeed George P. Andrews, by Mayor Edson. Reappointed by Mayor Grace June 2, 1885. Resigned June 20, 1887, to take his place as Judge of the United States Circuit Court, Southern District of New York. Mr. Lacombe was also an Assistant under William C. Whitney and George P. Andrews, and had much of the same talent for administration. He perfected the organization of the office, commenced by Mr. Whitney and continued by Judge Andrews, and many parts of the system devised at that time continue with but few changes to the present time. In 1885 he prepared and transmitted to the Mayor the first printed quarterly and annual reports of the department, and the form of reports adopted at that time is followed with very little variation at present. Mr. Lacombe reappointed William A. Boyd Corporation Attorney and Charles S. Beardsley Attorney for the Collection of Personal Taxes. He appointed Richard J. Morrisson Public Administrator. Judge Lacombe is the oldest living ex-Corporation Counsel.

MORGAN J. O'BRIEN, appointed July 1, 1887, by Mayor Hewitt, to succeed E. Henry Lacombe. Resigned December 31, 1887, to take office as Justice of the Supreme Court. Mr. O'Brien made no changes in the heads of the three bureaus of the department. He held the office of Corporation Counsel for only six months, but his subsequent record as a Justice of the Supreme Court and member and Presiding Justice of the Appellate Division, First Department, is too well known to require any comment here.

HENRY R. BEEKMAN, appointed to succeed Morgan J. O'Brien, January 1, 1888, by Mayor Hewitt; term expired May 1, 1889. Mr. Beekman reappointed William A. Boyd Corporation Attorney, Richard J. Morrisson Public Administrator, and Charles S. Beardsley Attorney for the Collection of Arrears of Personal Taxes. He was elected Judge of the Superior Court in the fall of 1894, and in 1896 became a Justice of the Supreme Court. Mr. Beekman, both as Corporation Counsel and Justice of the Supreme Court, is well remembered as a profound scholar, an indefatigable worker, and a great lawyer and judge. His death, in December, 1900, was a grievous loss to the bar and bench of this State.

WILLIAM H. CLARK, appointed May 24, 1889, to succeed Henry R. Beekman, by Mayor Grant. Reappointed to succeed himself May 2, 1893, by Mayor Gilroy. Mr. Clark's term of office expired December 31, 1894, but he held over under the administration of Mayor Strong until the appointment of his successor, Mr. Scott. It was during his term of office that the great "Aqueduct Cases," brought by O'Brien & Clark and others, to recover millions of dollars for extra work on the new Croton aqueduct, were tried, and won by the City. Those cases were handled for the City by James C. Carter, Elihu Root, Austen G. Fox, and Wallace Macfarlane, whom Mr. Clark had retained as special counsel. Mr. Clark appointed Louis Steckler Corporation Attorney, Charles E. Lydecker Public Administrator, and Henry Bischoff, Jr., Attorney for

the Collection of Arrears of Personal Taxes. Mr. Bischoff was elected a Judge of the Superior Court, and subsequently became a Justice of the Supreme Court. He was succeeded by John G. H. Meyers as Attorney for the Collection of Arrears of Personal Taxes, and in 1891 Louis Hanneman was appointed Corporation Attorney to succeed Louis Steckler. By chapter 158 of the Laws of 1893, a new bureau was added to the Law Department, to be known as the "Bureau of Street Openings," and John P. Dunn was appointed Assistant in charge. During 1893 William M. Hoes was appointed Public Administrator, and he held the office until May, 1895, when an act of the Legislature took effect by which the office of the Public Administrator was separated from the Law Department and made a bureau of the Surrogate's Court. Mr. Clark resumed the practice of law at the end of his second term of office, but died soon afterward.

FRANCIS M. SCOTT, appointed February 13, 1895, to succeed William H. Clark, by Mayor Strong. Reappointed April 30, 1897. Elected Justice of the Supreme Court in the fall of 1897. Mr. Scott had been an Assistant in the office under Mr. Andrews and Mr. Lacombe. As Counsel to the Corporation he took a very active part in the litigation of the department, arguing personally almost all of the appeals in the Court of Appeals. He is now one of the Justices of the Appellate Division, First Department. Mr. Scott appointed John P. Dunn and Henry DeF. Baldwin Assistants in charge of the Street Opening Bureau, Robert G. Monroe Attorney for the Collection of Arrears of Personal Taxes, George W. Lyon, Corporation Attorney, and John J. Brady, now a Justice of the Supreme Court, Attorney to Department of Street Improvements of the Twenty-third and Twenty-fourth Wards. The first Charter of the Greater New York was drafted during Mr. Scott's term of office, and he assisted in that great task.

JOHN WHALEN, appointed January 1, 1898, to succeed Francis M. Scott, by Mayor Van Wyck. Mr. Whalen was the first Corporation Counsel of the Greater New York, and as such was required to deal with all of the exceedingly difficult problems which arose at that period. The Charter of 1897 had provided for a main office in Manhattan, branch offices in Brooklyn and other boroughs, and had continued the bureaus already existing. It had also restored the salary of the Corporation Counsel to \$15,000. Mr. Whalen reappointed John P. Dunn Assistant in charge of Bureau of Street Openings; he appointed Adrian T. Kiernan Assistant in charge of the Bureau of Penalties (which succeeded the office of the Corporation Attorney), and James C. Spencer Assistant in charge of the Bureau for the Collection of Arrears of Personal Taxes. Almet F. Jenks was appointed as the Assistant in charge of the Brooklyn branch office, but he was elected to the Supreme Court bench in 1900. He was succeeded by William J. Carr, who was also elected a Justice of the Supreme Court. At the end of Mr. Whalen's term of office he resumed private practice, and is now a distinguished member of our bar.

GEORGE L. RIVES, appointed January 1, 1902, to succeed John Whalen by Mayor Low. Mr. Rives was Assistant Secretary of State under President Cleveland. He was afterwards President of the Commission which revised the first Charter for the Greater New York. He reorganized the department under the "Sweep Bill" of 1902, and instituted the "Tenement House Branch Office" of the department, to take charge of matters connected with the newly-created Tenement House Department, appointing Matthew C. Fleming Assistant in charge of that Bureau, Arthur F. Cosby as Assistant in charge of the Bureau of Penalties, Martin Saxe Assistant in charge of Bureau for the Collection of Arrears of Personal Taxes, and reappointing John P. Dunn Assistant in charge of the Bureau of Street Openings. James McKeen



was appointed Assistant in charge of the Brooklyn office. Mr. Rives is now counsel to the Board of Rapid Transit Commissioners of this City.

JOHN J. DELANY, appointed to succeed George L. Rives, by Mayor McClellan, January 1, 1904. Reappointed January 1, 1906, by Mayor McClellan for a term of four years; resigned October 7, 1906. Mr. Delany was greatly interested in the plans for obtaining a new supply of water for the City, which were successfully urged by Mayor McClellan. Mr. Delany prepared the bill which became chapter 724 of the Laws of 1905, under which the Board of Water Supply was created. He personally conducted the City's case before the State Water Supply Commission, which approved the City's plan of going to the Catskill mountains for a new supply of water. At the end of his term of office he resumed private practice, and has been appointed one of the Commissioners in the first proceeding to acquire title to property needed for the new water supply, which he had done so much to render possible. Mr. Delany reappointed John P. Dunn Assistant in charge of the Bureau of Street Openings, and appointed Herman Stiefel Assistant in charge of the Bureau of Penalties, Henry J. Steinert Assistant in charge of the Bureau for the Collection of Arrears of Personal Taxes, and John P. O'Brien Assistant in charge of the Tenement House branch office. Mr. Steinert was appointed a City Magistrate and was succeeded by James P. Keenan. Mr. Delany appointed James D. Bell as Assistant in charge of the Brooklyn branch office.

WILLIAM B. ELLISON (the present incumbent), appointed by Mayor McClellan to succeed John J. Delany on October 8, 1906. The only change that has been made in the heads of the various bureaus and branch offices is the assignment of George O'Reilly as Assistant in charge of the Bureau for the Collection of Arrears of Personal Taxes.

### List of Corporation Counsels of the City of Brooklyn.

From Mr. Richard B. Greenwood, who has been an Assistant in the Brooklyn office for thirty-two years, I have obtained the following list of the Corporation Counsels of the City of Brooklyn from the consolidation of the City of Brooklyn, the City of Williamsburg and the Town of Bushwick, in the year 1854 to the going into effect of the Greater New York Charter:

NATHANIEL F. WARING, appointed January 2, 1853; resigned August 1, 1856.

SAMUEL E. JOHNSON, appointed January 5, 1857.

ALEXANDER McCUE, appointed May 5, 1859; reappointed May 13, 1861.

JOHN G. SCHUMAKER, appointed January 5, 1863; reappointed January 9, 1865.

ALEXANDER McCUE, appointed January 7, 1867.

WILLIAM C. DeWITT, appointed January 4, 1869; reappointed January 4, 1871; reappointed January 6, 1873; reappointed January 4, 1875; reappointed January 8, 1877; reappointed January 6, 1879.

JOHN A. TAYLOR, appointed January 28, 1882; reappointed February 1, 1884.

ALMET F. JENKS, appointed January 6, 1886; reappointed January 3, 1888; reappointed January 15, 1890; reappointed January 2, 1892.

ALBERT G. McDONALD, appointed January 3, 1894.

JOSEPH A. BURR, appointed February 1, 1896.

The original charter of the former City of Brooklyn was granted in 1835. The Corporation Counsels from that date down to 1854 were as follows:

1835 to 1837, Henry C. Murphy.

1838 to 1839, Joshua M. Van Cott.

1840 to 1841, William A. Greene.

1842 to 1843, John Greenwood.

1843 to 1846, Nathaniel F. Waring.

1847 to 1848, James Humphreys, Counsel; Richard Ingraham, Attorney.

1849, William A. Greene, Counsel; Howard C. Cady, Attorney.

1850, Henry C. Murphy, Counsel; Henry Hagner, Attorney.

1851 to 1853, Joshua M. Van Cott, Attorney and Counsel.

### Early Dutch Records, 1609 to 1664.

There has been considerable controversy as to the exact date of the granting of the original Charter to this City, but the matter is well stated in a paper prepared by Hon. William C. De Witt, who held the office of Corporation Counsel of Brooklyn for six successive terms, and we quote from that paper as follows:

“Henry Hudson, in 1609, commanding the *Half Moon*, “made the voyage of the Hudson from Manhattan to the site “of Troy. It is not necessary to discuss the point whether or “not there were earlier discoveries. The maps of Verrazano “or the logs of other navigators, now so interesting to the “technical inquiries of the scholars, were certainly unknown to “the world at the time of Hudson’s death. His ample report “of his voyage of the ‘River of the Mountains,’ made upon “his return to England to the two great commercial powers of “the world, England and Holland, undoubtedly first gave this “belt of the Western Continent to civilization. And, while the “title of Holland was never specifically acknowledged, she was “permitted to assume dominion.

“It is surprising to observe how little in the way of estab- “lishing civil institutions was done under the dominion of Hol- “land. The original grant to *The New Netherland Company* “was simply a grant of a monopoly of trade and commerce “with the Indians, together with the incidental right of gov- “ernment as exigencies might require. The grant which fol- “lowed to the *West India Company* was in all respects similar. “There was no recognition of any right upon the part of those

"hardy pioneers, who should settle in New Netherland, to  
 "self-government or to personal liberty. They were left to the  
 "mercy of the Director General and a council selected at Am-  
 "sterdam by the *West India Company*. Governor Peter Stuy-  
 "vesant having some idea that the people should in some way  
 "be consulted, gave orders for an election of eighteen men by  
 "the people of the territory that is now somewhat coincident  
 "with Greater New York, including Yonkers. Brooklyn par-  
 "ticipated, with Manhattan, in this election. From these eight-  
 "teen men, elected by the people, Stuyvesant chose nine to be  
 "a council to confer with him whenever he saw fit and to ex-  
 "ercise such powers as he might allow. Stuyvesant was merely  
 "the agent of the *West India Company*, call him Director,  
 "General, Governor, or what you will—a choleric, blustering,  
 "aggressive, self-willed tyrant was this same Stuyvesant. He  
 "regarded the *West India Company* as the fountain of all good  
 "and he looked upon the people as its vassals. He arrested  
 "anybody who questioned his supremacy. He seized ships in  
 "the harbor and confiscated their cargoes with no better claim  
 "than that they had broken bulk in stress of weather before  
 "arriving at New Amsterdam. For disobedience of orders to  
 "appear before him he confiscated the house and lot of a citi-  
 "zen. He persecuted men for their religious belief with  
 "shameless cruelty. A Quaker, ordered to operate a wheel-  
 "barrow, heavily laden, for believing in the doctrines of his  
 "sect, upon refusal, was lashed by a negro in the public streets.

"It is not necessary to go minutely into the outrages which  
 "this petty despot perpetrated upon his subjects. Enough has  
 "been said to show what a merry time the 'Nine Men' elected  
 "to confer with him upon the public safety, as a general coun-  
 "cil, must have had when in any way inclined to run counter  
 "to his wishes. The slightest expression of discontent among  
 "their number—he always present—excited his wrath; he  
 "pounded the floor with his wooden leg and teetotally damned  
 "the unlucky malefactor. If this did not bring about the

“requisite obedience, the offending councilman was seized and  
“lodged in the common jail.

“These outrages at length brought upon the stage the noble  
“and patriotic character of Adriaen Van Der Donck. And we  
“have, in the petition for municipal independence, to the States  
“General in Holland, a fine example of his sterling qualities.  
“This petition presents in telling form the claim of the colo-  
“nists of municipal independence. It is dated July 26, 1649,  
“and signed by the Council of Nine Men. Stuyvesant made  
“haste to prevent and thwart it. Van der Donck was flung  
“into jail. Nevertheless, this fine gentleman made his escape  
“and proceeded to Holland. Stuyvesant sent an ambassador  
“to Holland to oppose him, but the personal conduct of this  
“representative while there brought him into irreparable dis-  
“grace. Van der Donck soon awakened among the States  
“General a recognition of the rights of the colonists in New  
“Netherland. The States General issued a provisional order  
“in 1650 directing the *West India Company* to give New Am-  
“sterdam a government like that of Amsterdam. History is  
“replete with evidence that this order was the action of the  
“government of Holland and not of the *West India Company*.

“The *West India Company* as usual discredited Van der  
“Donck and, unfriendly to the action of the States General,  
“neglected to put the order into force and sent tidings of it to  
“Stuyvesant, secretly admonishing him to persist in his oppo-  
“sition. But Van der Donck remained at The Hague and,  
“after two years of agitation, this sturdy reformer brought  
“the *West India Company* to terms. The government of Hol-  
“land had become so persistent and determined in its orders  
“that in 1652 the *West India Company* gave way and declared  
“that New Amsterdam should have the right to elect ‘a Schout,  
“‘two Burgomasters and five Schepens,’ with all the powers  
“of city administration and government possessed by Amster-  
“dam itself. The order then went forth from them as well as

“from the States General that Stuyvesant must confer the charter.

“Upon the receipt of these commands Stuyvesant, having no other alternative, in pursuance of an old custom on the Feast of Candlemas, 1653, having summoned the people together, conferred upon them the Charter of The City of New Amsterdam. Van der Donck returned to take part in the new administration. The city doubled its population in the nine years remaining before the seizure of the colony by Great Britain. Everybody found relief in this beginning of civil liberty in New Netherland.

“New Amsterdam was a city. It had the public buildings and the offices requisite to all municipal purposes. It was known as a city to all the civilized nations of the world. It was a port of the utmost importance to commerce. It became a prize, long coveted and finally seized by Great Britain. But it cannot as a matter of history, and it cannot as matter of law, be obliterated from the legal and historical annals of the Western World.

“Such was the charter of 1653, as bestowed by the States General on New Amsterdam. It is true that it was resisted for two years by the West India Company. It is true that it was finally bestowed by that choleric and blustering tyrant, Governor Stuyvesant, in a speech which threatened its limited operation. It is true that he did personally and officially obstruct, hinder and oppose it in many ways, but it was, none the less, the Charter of New Amsterdam, and it was not obtained without much patriotic and heroic effort on the part of the friends of popular government. It stands to-day as the one single instrument of respectable civil government which marked the dominion of the Dutch over New Netherland.”

There is now ample authority for the following interesting and picturesque account of the birth of New York contained in

the "History of The City of New York" by Mrs. Martha J. Lamb:

"While these voyages were occupying the attention of the enterprising merchants of Manhattan, an interesting movement arrived. A new city appeared in the annals of the world. Its birth was announced on the evening of February 2, 1653, at the feast of Candlemas. A proclamation of the governor defined its exceedingly limited powers and named its first officers. It was called New Amsterdam. There was nothing in the significant scene which inspired enthusiasm. It came like a favor grudgingly granted. Its privileges were few, and even those were subsequently hampered by the most illiberal interpretations which could be devised. Stuyvesant made a speech on the occasion, in which he took care to reveal his intention of making all future municipal appointments, instead of submitting the matter to the votes of the citizens, as was the custom in the Fatherland; and he gave the officers distinctly to understand from the first, that their existence did not in any way diminish his authority, but that he should often preside at their meetings, and at all times counsel them in matters of importance. They were not to have a sheriff of their own, but Van Tienhoven, the provincial sheriff, might officiate for the corporation. Neither was it deemed requisite that they should have a scribe; but Jacob Kip, the newly appointed secretary of the province, was notified to attend their meetings and do such writing as seemed necessary.

"There were two burgomasters, Arent Van Hattam and Martin Cregier.

"There were five schepens, Paulus Van der Grist, Maximilian Van Gheel, Allard Anthony, Peter Van Couwenhoven and William Beekman.

"The bell-ringer was a notable and useful individual. He was the court messenger, the grave-digger, the chorister, the reader, and sometimes the school-master. He seems

"also to have been a general waiter upon the city magistrates. He kept the great room in which they assembled in order, placed the chairs in their proper and precise positions and rang the bell at the hour for coming together. It was the business of the sheriff to convoke and preside over this board, to prosecute offenders and to execute judgments. City officials in the Fatherland were invested with judicial and municipal powers; but, as no specific charter had been granted to our City Fathers, their authority was not well defined. They heard and settled disputes between parties; tried cases for the recovery of debt, for defamation of character, for breaches of marriage promise, for assault and theft, and even summoned parents and guardians into their presence for withholding their consent to the marriage of their children or wards without sufficient cause. They sentenced and committed to prison, like any other court of session."

Other writers have given us additional information in relation to the first struggle of the people of New Amsterdam for municipal government. In a work entitled "Civil List and Constitutional History of the Colony and State of New York," by Edgar A. Werner, we have the following statement:

"The Nine Men now prepared new charges against Stuyvesant. The Vice-Director and Schout-fiscal, on the 28th of February, 1651, drew up a long protest against the Director, who thereupon issued a peremptory order expelling the former from the Council, which he refused to recognize, whereupon he was arrested by soldiers and lodged in a guard-house. The conflict with the Patroon continued and the Director asserted his sovereignty by establishing a separate village government for Beaverwyck on the 10th of April, 1652. Meantime the States General revived the Provisional Order, the enforcement of which was favored by all the Chambers, except Amsterdam. The Amsterdam Directors were therefore compelled to yield in a



"measure to the popular demand ; and on the 4th of April, on  
 "the application of Van Der Donck, they granted an order  
 "directing the establishment of a burgher government in  
 "New Amsterdam, and making other concessions. In De-  
 "cember the Amsterdam Chamber censured the Patroon for  
 "endeavoring to maintain his manor as a principality inde-  
 "pendent of the Director. Burgher government was insti-  
 "tuted in New Amsterdam February 2, 1653. The burgo-  
 "masters and schepens constituted a Court of Sessions and a  
 "Common Council. Among their first acts in the latter capa-  
 "city was the taking of measures for the defense of the city  
 "and the raising of money therefor.

"In the beginning of the year 1657 an attempt was made  
 "to introduce one of those caste distinctions of the Nether-  
 "lands, which gave to the Dutch Republic marked peculiari-  
 "ties as contrasted with the English commonwealth. The  
 "'burgher right' was then tendered to New Amsterdam. This  
 "right conferred important legal, commercial and political  
 "privileges. Distinctions were introduced among the  
 "burghers of Amsterdam, in 1652, by dividing them into two  
 "classes, the Great and Small. The lesser citizenship only  
 "conveyed freedom of trade, and the privilege of being re-  
 "ceived into the respective guilds. The great burghers, who  
 "only could hold office, became such by official distinction,  
 "inheritance and purchase. This odious legalized system of  
 "an aristocratic official caste was formally introduced into  
 "New Amsterdam, February 1, 1657. To the honor of the  
 "Dutch founders of this imperial commonwealth be it said  
 "the attempt to sell the great burgher right failed. One year  
 "later (1st February, 1658), when the burghers were first  
 "permitted to make double nominations for magistrates,  
 "Stuyvesant was compelled to invest some of the more  
 "prominent citizens with the right in order to fill the offices.  
 "He, however, obtained thereby the power to exclude from  
 "the privilege of holding office whoever he saw fit, unless

“they paid for it. It was not until August 5, 1660, that a “separate Schout was obtained. Thus was finally secured “to New Amsterdam, a large portion of the municipal rights “intended to be conferred years before.”

It seems to be quite well established from the facts given somewhat at length that the first charter of New York was granted by legislative authority in 1652 and conferred upon the people of New Amsterdam by Governor Stuyvesant on the second day of February, 1653.

### **The First Lawyer in New York City.**

In “The American Metropolis,” by Mr. Frank Moss, the author tells us that in 1653, the year in which the City obtained its original Charter, the first lawyer appeared in New Amsterdam. “His name was Dirck Van Schelluyne. He got a license in Holland to practice in New York. There was no other lawyer for him to fight, and consequently there were no suits. He should have brought another lawyer with him. He performed the functions of a notary public in a store, selling groceries for his rent, and finally, he lost heart and migrated up the State.”

### **Early Colonial Records, 1664 to 1686.**

On August 27, 1664, the City was captured by the British, and Nicoll, the first Governor of that nationality gave to the colony its first English charter. In 1665 the name of “Mayor, Aldermen and Sheriff of New York” was given to the corporation, and the town was thereafter known as The City of New York.

The form of municipal government established by the Dutch was changed somewhat by the British. Instead of two Burgomasters and a Schout, the Governor of the colony appointed a Mayor and Sheriff, and instead of five Schepens, the people elected a Board of Aldermen.

Evidently attorneys were not held in high esteem at that period, and the necessity for a Counsel to the Corporation does not seem to have impressed the City authorities, for in the

minutes of the Common Council of the year 1677, held at the *Stadt Huys* (or State House), the following entry appears:

*Query.* Whether attorneys are thought to be useful to plead in courts or not. *Answer.* It is thought not. *Whereupon resolved and ordered,* that pleading attorneys be no longer allowed to practice in the government except in the pending cases."

On April 22, 1686, the famous "Dongan Charter" was given to The City of New York by Governor Dongan and the name of the Corporation was changed to "The Mayor, Aldermen and Commonalty of The City of New York"; another charter, ratifying the former ones, was granted by Governor Montgomerie on January 15, 1730. The charter rights of The City of New York were confirmed by a law of the colony on October 14, 1732.

#### **The Recorder as Chief Counsel for the City, 1686 to 1800.**

It appears that the Recorder originally acted as counsel and attorney for the City, in addition to the performance of his other duties.

The office of Recorder of The City of New York was created by Governor Dongan, on January 15, 1683, three years before the granting of the "Dongan Charter." A petition had been presented by the Mayor and Aldermen of the City asking that a Recorder be appointed "to be assistant to the Mayor and Aldermen in the Government of this City and to aid in the administration of justice in the courts."

James Graham, a Scotchman, was appointed by royal patent as the first Recorder, and he held the office, with the exception of an interval of about two years, from 1683 to 1701. That he was held in high public esteem is indicated by the fact that for many years he held not only the important office of Recorder, but also the office of Attorney-General of the Province, acted as Counsel for the City, and was the City's sole representative in the Provincial Assembly.

Until the year 1831 both the Mayor and the Recorder were members of the Common Council. The Recorder was also judge of the Mayor's Court. For over one hundred years the Recorder was the chief legal officer of the City.

From the time of the granting of the Dongan Charter in 1686 down to about the close of the year 1800 the minutes of the Common Council contain numerous entries as to matters that were referred to the Recorder for action or advice. He was directed to institute proceedings on behalf of the corporation and to defend actions brought against the corporation, and was frequently asked to prepare leases, ordinances and memorials or petitions to the Governor or the King. The following entry in the minutes of the Common Council of December 8, 1691, shows the manner in which the Recorder was paid for his services as counsel:

“Ordered that the Recorder have Twelve shillings for each Patent of the Severall Lotts granted by the City, one halfe to be paid by the City, the other halfe by the Buyer.”

The names of the Recorders of The City of New York from the creation of the office in 1683 to the time when the Recorder apparently ceased to act as Counsel for the City are as follows:

- James Graham, from 1683 to 1688.
- (Vacant in 1689 to 1690.)
- William Pinhorne, from 1691 to 1693.
- James Graham, from 1693 to 1701.
- Abraham Gouverneur, from 1701 to 1703.
- Sampson Shelton Broughton, from 1703 to 1705.
- John Tudor, from 1705 to 1709.
- May Bickley, from 1709 to 1712.
- David Jamison, from 1712 to 1725.
- Francis Harrison, from 1725 to 1735.
- Daniel Horsmanden, from 1735 to 1747.
- Simeon Johnson, from 1737 to 1769.
- Thomas Jones, from 1769 to 1773.
- Robert R. Livingston, from 1773 to 1774.

John Watts, Jr., 1774 to 1776.

(No records during the Revolutionary War.)

Richard Varick, from 1783 to 1789.

Samuel Jones, from 1780 to 1796.

James Keat, from 1796 to 1798.

Richard Harrison, from 1798 to 1800.

About the year 1691, entries begin to appear in the minutes of the Common Council showing the employment of other counsel either to assist the Recorder or to render specified legal services to the Council. This custom of retaining special counsel lasted down to the time of the Revolution in 1776.

#### **Earliest Records of the Retainer of Other Counsel, 1691 to 1776**

The first record of the employment of Counsel on behalf of the City appears in the minutes of the Common Council of July 7, 1691. The Council had adopted a resolution as follows:

“Ordered, that the Sheriffe Seize all Flower or bread that Shall come to this Citty which haue been boalted or bakt without the Libertyes of the Same.”

In order that this resolution might be carried into effect the Council made the following order:

“Ordered, that Capt. Skuyler & Capt. Willson [Aldermen Brandt Schuyler and Ebenezer Willson] reteine three Lawyers on behalfe of the Citty.”

The earliest mention of any name other than that of the Recorder in connection with a retainer as Counsel for the City is contained in the following resolution, which appears in the minutes of the Common Council of September 29, 1691:

“Att a Meeting att the Citty hall of Said City on Tuesday the 29th Septemb A° 1691:

Present—John Lawrence, ESqr Mayor, etc.

Ordered that a new Address be drawne up by Mr. Emett to the Gouvernor and Council! Relaeting to a bill passed the house of Representatiues concerning the Priuiledges of the Citty \* \* \*.

Ordered that the former Attorneys appointed by the Common Council for the Accon of the fflower be Employed and payd their ffees by the Treasurer in an accon Comenced by the Widdow Banker against Thomas Clarke.”

A sequel to the foregoing is found in the minutes of October 7, 1691, in which it was

“ORDERED that the Treasurer pay unto Attorneys Thirty Shillings a ps. that are retained about the fflower and unto the Attor Generall Three pounds.”

It was at the same meeting also directed that six pounds be paid unto “Mr. Greyham” [probably James Graham, the first Recorder] for drawing up the act for the privilege of the City.

At a meeting on October 15, 1691, it was

“Ordered, that if any matter or Suit att Law relating to this City be commenced att the next Supream Court of Judicatur that the Lawyers formerly Retain'd by the City be feed as formerly to Defend the Same.”

The Council minutes of October 5, 1692, show who the “three attorneys” were, who are mentioned as having been retained during the preceding year in the “Flour Case.” At that meeting it was

“Ordered, that the Treasurer pay to the Attorney Generall three pounds and to the other attorneys, Mr. Emmett and Tuder, each one Pound Tenn Shillings for their ffees on acctt of the fflower to appear at the Supream Court on behalfe of the City.”

The Attorney-General referred to was Mr. James Graham, the first Recorder of the City. During that period he held the two offices of Attorney-General of the Province of New York and Recorder of the City of New York. The minutes of the Council contain many references to the allowance of his bills for services rendered as counsel for the City, but this remarkable entry appears in the minutes of October 13, 1694:

“RESOLVED that in Consideration of ye Many Services done for this City by James Graham ESqr Recorder of the Same a Certaine Lott of Ground lying in the Queen Street [now Pearl street] in the Said City being thirty foot in breadth fronting to the Said Street, & fourty foot in the Rear be Granted unto him as an Acknowledgment thereof & ORDER'D that the Mayor Execute A Deed Accordingly for the Same.”

Mr. Graham, in addition to his other offices, was also a member of the Assembly at this same period. We find the following record in the minutes of June 11, 1697:

“ORDERED that ye Mayor Direct A Warrant to the Treasurer to pay to James Graham ESqr the Sum of fourteen pounds ten Shilings Currnt Money of New Yorke, itt being for twenty Nine days Service as A Representative of this City in the last Sessions of Assembly.”

Mr. James Emott is the first counsel for the City other than the Recorder whose name is given in the Council minutes. He seems to have had numerous retainers from time to time in various actions pending, particularly in relation to the ferries and in relation to lands under water. The first reference to Mr. Emott in the minutes is given above as one of the three attorneys in the “Flour Case.” The last time his name is mentioned is in a statement submitted at the meeting of the 15th of November, 1709, from which it appears that he had been paid on account of the judgment in “the old Ferry House matter” thirty-five pounds. He afterwards retired to New Jersey, as appears from references in the Colonial Records, and died at his country estate there.

The “Mr. Tudor” referred to as the third attorney in the “Flour Case,” was John Tudor, who subsequently was appointed Recorder and held that office from 1705 to 1709.

A minute taken from the meeting of November 2, 1700, indicates the course of the City's law business at the time:

“ORDERED that the Recorder (Calling such to his Assistance as he shall think fitt) Examine into the Laws, Or-

ders and Ordinances of this City and make reporte of such of them as will be needful to be continued and of such as Ought to be repealed and also to Report to this Courte by the first conveniency wt Laws are Nessessary to be made and Added to the same for the better Rule and Government of the Inhabitants thereof."

It was at the same meeting directed that the "Mayor fee Council for the City for the suing att law the said John Euwatse," the action being in relation to the ferry. John Euwatse had taken a lease of the ferry from Manhattan Island to Nassau [Long] Island, and had failed to pay the rent. A new lease of the ferry had been made to Dirck Benson, but Mr. Benson refused to comply with certain orders of the Council as to the ferry house.

It was at the meeting of February 15, 1702,

"ORDERED that Mr. Recorder and Mr. James Emott be the Council of the City And in the Name of this Corporation Commence process Against the said Dirck Benson. According to such speedy Methods for the Recovery of the same as they Shall think fitt and that the Mayor Issue his Warrt. to the Treasurer for the payment of the Charge thereof."

A third lease of the ferry was made, this time to Isaac D. Riemer, who was afterwards appointed Mayor of the City.

At a meeting on March 9, 1702 (3), it was

"ORDER'D further that the Council in the Name of this Corporation Commence an Action Against Mr. Isaac D. Riemer for the Rent of the house att the Ferry due to this City. And also that Mr. Emott speak to John Euwoutse to pay the Money he Owes this Corporation & that if he Refuses so to doe that Mr. Emott take out Process Agt. him."

The Recorder acted as counsel for the City in numerous matters without the assistance of outside counsel. This is shown by



an entry in the minutes of October 11, 1710, at which meeting it was

“ORDER'D that the Mayor Issue his Warrant to the Treasurer to pay to May Bickley Esqr. or Order the sum of Eleaven pounds ten shillings Curr. Money of New York it being for fees in the Action of sickles ads. Turneur in 1708, fees for Attending the Council for Opposing the passing the Bills about the Repair of the highways and for Attending the Assembly several times to Oppose the passing of the Bill for Enforcing the Covenants of the Lease of the ferry which is Allowed.”

May Bickley was at this time Recorder of the City and the entry indicates that the City even at that early date was represented by counsel before the Legislature.

That the Recorder received fees for his services as counsel in addition to the salary of his office also appears from the following entries:

At the meeting of August 26, 1713, it was ordered that

“David Jamison, Esq., Recorder of this City, do file A Declaration in Ejectment agt. some Casual Ejector and do what Else may be Proper in the Law to Assert the Right of this Corporation to the Lands and Commons of this City on this island Manhattans to Low water Marke.”

At the meeting of June 7, 1726, it was

“Order'd the Mayor Issue his Warrant to the Treasurer to pay to Francis Harison, ESqr., Recorder of this City or Order the sum of Nine pounds Curr. Money of New York for Sundry services done for this Corporation Mentioned in his Memorial Exhibited to this Court on the 18th day of April last past which was Considered Audited and Allowed.”

At the meeting of March 24, 1726, it was

“Order'd that in Case any prosecution be Commenced agt. this Corporation or the Justices of this City and County who

are the Mayor, Recorder and Aldermen of this Corporation for the Incommodiousness and Insufficiency of the Gaols; that Mr. Recorder and Mr. Joseph Murray and Mr. John Chambers, Attorneys-at-Law be Retained as Council for this Corporation to defend the same, And that Mr. Mayor Issue Warrants to the Treasurer to pay to each of them five pounds as a Retaining fee."

Mr. John Chambers was a native of the City of New York, who, during this period, seems to have filled numerous offices in connection with the City Government. He was an Assistant Alderman from 1729 to 1733. He was retained on several occasions as counsel apparently at times when he was not otherwise connected with the Corporation, and he subsequently (as appears from the meeting of the Common Council of July 30, 1728) returned the retaining fee which he and Mr. Murray received, "expressing their zeal and Affection for the good and Welfare of this Corporation, and that they shall always to the utmost of their power defend this Corporation against any Attempts to disturb or molest them in their lawful rights and priviledges." The freedom of the City was at this meeting conferred both upon Mr. Chambers and upon his associate, Joseph Murray.

The William Smith retained with Mr. Chambers was a nephew of "Tangier" Smith and "Port Royal" Smith. He was an Alderman from 1702 to 1712. He was first retained in an action "in ejectionment" wherein Casper Kimber, on the demise of Cornelius Cortrecht and others, were plaintiffs, and Thos. DeKey defendant; his account in the sum of nine pounds nine shillings 3 pence was ordered paid at a Common Council meeting of February 28, 1827. He had numerous retainers from the Council.

A custom began apparently about 1743 of engaging counsel upon general retainers, for at the meeting of July 30, 1743, it was

"Order'd the Mayor Issue his Warrant to the Treasurer to pay to Richard Nicholls, or order, the sum of eight pounds current money of this Colony, to be by him paid to James Alexander; Joseph Murray; William Smith and John Cham-

bers, Esqrs. (that is to say, fforty shillings to each of them) As a General Retainer as Council for this Corporation in all causes to be bro't by or against them."

The habit still continued of giving the Recorder general supervision, however, as is evidenced by an entry in the minutes of February 1, 1745 (6), as follows:

"Mr. Mayor produced to this Board a Copy of a Petition preferred to the Generall Assembly by the Trustees of the Township of Brookland [Brooklyn] which Copy was delivered him by the Clerk of the Generall Assembly.

Whereupon this Board Ordered That the Mayor be Desired to Give Daniel Horsmanden and Joseph Murray, Esqrs. five pounds, twelve shillings Each As a Retainer for this Corporation, and That he Desire them to Appear for this Corporation before the Generall Assembly As soon as Conveniently May be and Oppose the Granting the Prayer of that Petition by Such Arguments as they Shall Think Most Proper."

Daniel Horsmanden was Recorder of The City of New York from 1735 to 1747. He was subsequently a member of the Governor's Council and later Chief Justice of the Supreme Court of Judicature. The last reference to his services in the city records is at the meeting of October 2, 1747, at which it was

"ORDER'D the Mayor to Issue his Warrant to the Treasurer to pay to Daniel Horsmanden, Esqr., Late Recorder of this City, Or Order, the Sum of seventy pounds Current money of this Colony in full for Services by him done for this Corporation for Seven Years last past."

Abraham Lodge is the next counsel of whom we have any record. At a Common Council meeting held on September 12, 1750, it was

"ORDERD that an action of Trespass and Ejectment be brought on the Demise of this Corporation against John Van Zandt for Incroaching on and Enclosing part of the Common Lands of this Corporation, and that Abraham Lodge be At-

torney on Record in prosecuting said action and that he Draw a warrant of Attorney for prosecuting said Action, and that he affix the seal of this Corporation thereto, and that the Same be signed by the Mayor."

Abraham Lodge appears to have been first connected with the Corporation in the capacity of Deputy Clerk to the Common Council. He was retained in several matters, particularly in the "Harlem land dispute," and in an action brought against the Mayor in relation to the market fees, and his last official connection with the City as Counsel is disclosed by an entry in the Council minutes of July 22, 1757, directing the commencement of an action "to determine whether the fees of the stalls and standings of the several markets of this City belong to the said Mayor as Clerk thereof, or to this corporation."

That there was no exclusive retainer in behalf of any individual counsel, is shown by the record of a meeting of the Common Council held September 6, 1753, at which there was retained Mr. Joseph Murray, Mr. William Smith, Mr. Benjamin Nicoll and Mr. William Smith, Jr., for an opinion

"whether the Ground and Soil from high to Low Water Mark at Brookland Ferry be in this Corporation or not and if they Should be of Opinion that the said Ground and Soil belong to this Corporation that an Action of Trespass and Ejectment be forthwith Commenced in the name of this Corporation against Jacob Remsen for an Encroachment By him made on the part of the said Ground and Soil at the said Brookland Ferry."

Benjamin Nicoll appears first in the City records as having been engaged chiefly in matters adverse to the City. He seems to have had only one other retainer in addition to the matter in relation to the ferry, and this was when, at a meeting of the Common Council, held March 26, 1759, it was

"ORDER'D that the Clerk of this Board prepare a warrant of attorney To alderman Scott to Enable him to Bring an Action of Trespass and Ejectments in the Name of the Mayor

aldermen and Commonalty of the City of New York against the Executors or Devisees of David Jonathan Provoost Deceased and that the Said Clerk Affix the Seal of this Corporation thereto to be Signed by Mr. Mayor and further ORDER'D that Mr. Nicoll be appointed to assist Mr. Scott in the Carrying on and Prosecuting of the Said Action to Effect."

The following minute is from the records of the Common Council of July 30, 1765:

"Alderman Hicks, who was Authorized By two Certain Orders of this Board, the one made and entered on the 19th of February Last and the other on the 22d of April, following to take the Opinions of William Smith, Junr, John Morine Scott and William Livingston, Esqrs., whether the Recorder when the Mayor calls a Common Council and is present and it has a Right to set and Vote in Common Council as a member thereof; reported to this Board that he made a State of the Case," etc.

John Morin Scott appears to have been first officially connected with the City's administration as an Alderman for "The Out-Ward," from 1757 to 1762, and served on numerous committees of the Common Council. He had several retainers in addition to those hereinbefore shown, the last of these being shown in the following minute of the Common Council of October 14, 1772:

"This Board being in Doubt, whether Benjamin Blagge, Esqr. Can Legally Execute the Offices of Coroner and Justice of the peace for this City & County together, and in order to remove said Doubt, have agreed to take the opinion of the following Gentlemen of the Law (to wit) the Attorney General [John Tabor Kempe], Mr. William Smith, Mr. Scott, Mr. Duane, Mr. S. Jones, Mr. Kissam, Mr. [Peter] Jay & Mr. Ths. Smith: ORDER'D that Mr. Recorder be desired to make a Case for them agreeable to the directions of the Charter."

James Duane was retained in the "Hunter's Quay Case," in which he was assisted by William Smith, Jr., William Livingston and Benjamin Kissam, as appears from the records of the Common Council of August 24, 1767. He was also employed by resolution of January 24, 1771, to defend an indictment brought against the City by the Grand Jury on that day, for a nuisance in maintaining what was then called the "Oswego Market."

Mr. Duane was afterwards elected Mayor of the City and held that position from 1783 to 1788. He was the first Mayor after the evacuation of the City by the British troops.

The retainers of Benjamin Kissam in behalf of the City, seem to have been limited to the two which we have above noted.

William Livingston's name first appears in the minutes of the Common Council of May 1, 1752, in the following resolution:

"ORDERD that a fee of Three Pounds Be Given to Mr. William Livingston to Be an Assistant to Mr. Lodge who was appointed by this Board on the 12th of September, 1750 to Be Attorney on Record to Commence an Action of Trespass and Ejectment on the Demise of this Corporation against John Van Zandt."

He does not appear to have been retained in any matters other than those already mentioned.

Samuel Jones, in the revolutionary period, was retained in the "Oswego Market Indictment," and in the other matter of the double office holding of Coroner Blagge before mentioned. In the post-revolutionary period his opinion seems to have been sought somewhat freely; amongst other matters referred to him (this time in conjunction with Alexander Hamilton) being the Van Zandt-Clarke-Provoost dispute respecting a water lot facing on the Burling slip at Pearl street, the subject matter of which litigation is now involved in a pending action open on the books of the Corporaton Counsel. After the Revolution Samuel Jones was Recorder of the City, serving from 1780 to 1795, inclusive.

There may have been other persons retained by the Common Council, but the names mentioned are the only ones appearing in the minutes down to the time of the Revolution in 1776.

#### **The Revolutionary Period, 1776 to 1783.**

During the Revolutionary period from 1776 to 1783 the City was under military rule, with a Provost Marshal at the head of the government. The treaty of peace of December, 1783, between the United States and Great Britain, under which the Colonies separated from the mother country, did not change the character of the City Government. The Governor of the State and his Council appointed the Mayor, Recorder, Sheriff and Coroner, but the Aldermen and other municipal officers were elected.

#### **The Post-Revolutionary Period, 1783 to 1800.**

From the time of the evacuation of New York by the British troops on November 25, 1783, down to and including the year 1800, the legal affairs of the City appear to have been administered entirely by the Recorders of the City. Richard Varick was Recorder from 1783 to 1789, Samuel Jones from 1780 to 1795, James Keat from 1796 to 1798 and Richard Harrison from 1798 to 1800.

At the Charter election held in November, 1800, the *Federalists*, who had been in power since the Revolution, were defeated by the *Anti-Federalists*, who at that time began to assume the name of *Republicans* and were called by their opponents *Democrats*. Richard Varick was then Mayor and John J. Prevoost Recorder; the former had held the office uninterruptedly since the year 1789.

#### **The First "Corporation Attorneys," 1801 to 1839.**

The office or position of "Attorney of the Corporation" was first created by the Common Council in 1801. On March 23d of that year Anthony Dey was appointed as "Attorney to this Corporation" and was directed to take charge of all proceedings to collect penalties. His fees were fixed at one-half of the amount of

penalties recovered. This was the origin of the office of "Corporation Attorney" which existed down to the time of the consolidation of the Greater New York on January 1, 1898, when the name of the office was changed to the "Bureau of Penalties."

In the earliest revisions of the City ordinances, the first ordinance in each case relates to "the due observance of the Lord's day, called Sunday." Before the year 1801 the "High Constable" was charged with the duty of enforcing this law. During that year the law was amended and the Attorney for the Corporation was directed to take charge of all such proceedings.

In 1801 Edward Livingston received the appointment of Mayor of New York.

The election of Aldermen in 1802, which carried with it political control of the City, was marked by extreme violence. DeWitt Clinton, a nephew of Governor George Clinton, was the leader of the *Republicans* and was opposed by the family of the Livingstons, a wealthy and powerful combination, and a faction led by Aaron Burr. A duel was fought between DeWitt Clinton and Robert Swartwout, a friend of Aaron Burr, in which Mr. Swartwout was wounded. The *Federalists* defeated the *Republicans*.

On August 8, 1803, at a meeting of the Common Council a resolution was adopted removing Anthony Dey from the position of Attorney for the Corporation and appointing in his place Isaac A. Van Hook, with the title of "Attorney and Counsel of the Board."

During the year 1803 Edward Livingston, who had received an appointment as United States District Attorney for the District of New York, resigned the office of Mayor and was succeeded by DeWitt Clinton, at that time a United States Senator, who had resigned his position for the Mayoralty.

On November 10, 1804, Maturin Livingston was appointed Recorder of New York. The City Government up to that time had been kept in the hands of the *Federalists*, but during this year for the first time the *Republicans* obtained a majority in the Board. At a *Republican* caucus in 1804, at which the Mayor (DeWitt Clin-



ton), the Recorder (Maturin Livingston) and eleven Aldermen were present, the following action was taken:

“Proceedings to be Confidential.”

“Street Commissioner to be removed—Unanimous.

“Comptroller to be removed—Unanimous.

“Superintendent of Alms House to be removed—Unanimous.

“Superintendent of Scavengers to be removed—Unanimous.

“Commissioner of Public Repairs to be removed—Unanimous.

“Attorney of the Board to be removed—Unanimous.

“Counsel of the Board to be removed—Unanimous.

“Etc., etc.”

As a result of this caucus Isaac A. Van Hook was removed by the Council on December 24, 1804, and Samuel Cowdrey was elected as “Attorney for the Corporation.” Mr. Cowdrey subsequently complained that the fees of his office were too uncertain, and a resolution was adopted by the Council fixing the fees of the Attorney at \$2 for all proceedings where the penalty was under \$25, and \$5 for all proceedings where the penalty recovered amounted to \$25 or over.

At the election of 1806, the *Federalists* and “*Lewisites*” combined, obtaining a majority over the “*Clintonians*,” and the Mayor, Recorder and all other municipal officers, including the Attorney to the Corporation, were removed. Marinus Willett was appointed Mayor and Maturin Livingston, Recorder. Samuel Cowdrey was removed from the position of Attorney and Isaac A. Van Hook was appointed Attorney for the second time.

In 1807 the *Clintonian Republicans* regained the ascendancy in the State and DeWitt Clinton was reappointed Mayor and Pierre C. Van Wyck, Recorder.

On December 21, 1807, Mr. Van Hook was removed for the second time from the position of Attorney to the Corporation, and Samuel Cowdrey was appointed for the second time to the position.

On December 28, 1807, an amended law was passed by the Common Council "for the due observance of the Lord's Day, called Sunday," and one of the provisions of this law was that the Attorney of the Board should be authorized after the recovery and receipt of any penalty to pay over to the person giving information upon which a conviction was obtained, one-half of the fine or penalty, and directing all Constables and Marshals to apprehend all offenders against the ordinance and to give such information to the Attorney for the Corporation.

At the election in the fall of 1808, the *Republicans* were again successful, but in the State election of 1809 the *Federalists*, for the first time since 1799 carried the State. On December 18, 1809, Samuel Cowdrey was removed for the second time from the position of Attorney to the Board and Isaac A. Van Hook was reappointed for the third time to the position. The Council of Appointment at Albany at their first meeting, early in the year 1810, removed Mr. Clinton from the office of Mayor and Mr. Van Wyck from the office of Recorder, appointing in their places Jacob Radcliff, Mayor, and Josiah Ogden Hoffman, Recorder.

At the State election for the year 1811, the *Republicans* were again successful, and the consequence was the reappointment in the spring of 1811 of DeWitt Clinton as Mayor and Pierre C. Van Wyck as Recorder. On January 20, 1812, Mr. Van Hook was removed from the position of Attorney to the Board for the third time, and David S. Jones was appointed "Attorney and Counsel to the Board."

The Charter of the City was revised in 1813, but it contained no reference to any department to be known as the "Law Department" or to any officer to be known as Attorney or Counsel to the Corporation.

In March, 1815, DeWitt Clinton was removed from the office of Mayor and John Ferguson was appointed in his place; Mr. Ferguson resigned in the following June and the Council appointed Jacob Radcliff, Mayor.

In the Charter election in the spring of 1816, the *Republicans* for the first time adopted the name of *Democrats*. They carried the election and soon afterwards David S. Jones, Attorney to the Corporation, was removed and Ogden Edwards was appointed as "Counsel to the Corporation" and Alpheus Sherman as "Attorney to the Corporation." This was the first time when the offices of Counsel and Attorney were held by different persons. Mr. Edwards held office from 1816 to 1823; in 1823 he was elected a Justice of the Supreme Court and held that position until 1840. Mr. Sherman was Attorney to the Corporation up to May 14, 1821, when he was succeeded by Michael Ulshoeffter. Ogden Edwards was the first Corporation Counsel elected to the Bench.

By a law or ordinance of the Common Council passed the 5th day of May, 1817, it was directed that all fines and penalties imposed by law should be sued for and recovered in the name of the Mayor, Aldermen and Commonalty of The City of New York, and that one-half of the penalty recovered should be paid to the person giving the information upon which conviction was obtained, and that the Attorney should make a report to the Comptroller once each month of the actions commenced and the moneys recovered and paid to informers. By an ordinance passed May 28, 1821, the salary of the "Counselor to the Board" was fixed at \$400.

The *Republicans* were defeated at the election in 1823 by the "*People's Party*," and William Paulding was appointed Mayor.

In October, 1823, Michael Ulshoeffter was appointed "Attorney and Counselor," and held those two offices until 1829. Mr. Ulshoeffter was elected a Judge of the Court of Common Pleas in the year 1834 and held that office until 1850.

In the year 1829 after the election contest between the friends of Jackson and Adams, which resulted in favor of the Jackson ticket, Walter Bowne was appointed Mayor. The Common Council in that year appointed Robert Emmett as "Counsel to the Corporation," and he held the position for the following eight years. Mr. Emmett was elected a Justice of the Supreme Court in 1852, and served until 1855.

On April 7, 1830, the Legislature revised the Charter of The City of New York, providing for separate meetings of the two Boards composing the Common Council, and leaving out the Mayor and Recorder as members of the Council, but giving to the Mayor the power of approving or disapproving the acts of the Common Council.

In section 21 of the act referred to the right to create executive departments was given in the following terms:

“The executive business of the corporation of New York shall hereafter be performed by distinct departments, which it shall be the duty of the common council to organize and appoint for that purpose.”

The Common Council soon afterward did create a number of municipal departments, but the Law Department was not one of them.

At the election in the spring of 1837, Aaron Clark, *Whig*, defeated John J. Morgan, *Democrat*, and Mr. Emmett was removed from the position of Counsel to the Corporation and George F. Tallman was appointed in his place. Mr. Tallman held office from 1837 to 1839.

#### **From 1839 to 1849—The Office of “Counsel to the Corporation” Created.**

On May 14, 1839, the positions of “Counsel to the Corporation” and “Attorney to the Corporation” were made permanent city offices by the following ordinance or law of the Common Council, which was adopted under the authority conferred by the Charter Revision of 1830:

“The Mayor, Aldermen and Commonalty of The City of New York, in Common Council convened, do ordain as follows:

“Section 1. A suitable person of the degree of counsellor at law in the Supreme Court shall be appointed as Counsel to the Corporation; it shall be his duty to advise the two boards and their committees and officers on such legal questions as

may from time to time arise in relation to the business of the corporation, and to perform all such other services in the line of his profession connected with the business of the corporation as are not comprised in the duties of the Attorney.

"Sec. 2. It shall be the duty of the Counsel, at the expiration of every three months, to make a written report to the Comptroller of the items of fees and moneys received by him and due to him for services performed in matters not relating to or connected with the business which he is authorized to transact as Counsel to the Corporation, and if it shall appear at the end of each year that he shall not have received the gross sum of \$4,000 he shall be entitled to receive from the Corporation payment of the customary costs and fees for such services as he may have been required to render to an amount not exceeding such deficiency, but if the sum received by and due to him from persons other than the Corporation shall exceed the sum of \$4,000 he shall not be entitled to receive from the Corporation payment for any services rendered by him for them, and shall be considered as fully remunerated by the emoluments derived from services rendered to others.

"Sec. 3. All ordinances and resolutions inconsistent are hereby repealed."

The same ordinance continued the office of "Attorney to the Corporation" in the following terms:

"Section 1. A suitable person of the degree of attorney at law in the Supreme Court shall be appointed as Attorney to the Corporation. It shall be his duty to commence and prosecute all suits for breaches of the laws and ordinances of the Corporation; all suits arising under the charter of this City, and all actions upon the laws of this State, in cases where the penalty is given to this Corporation or to the Overseers of the Poor of this City.

"Sec. 2. The Attorney of the Corporation shall hereafter receive a salary of two thousand two hundred and fifty dollars per annum, payable quarterly, and the further sum, in lieu of

Clerk hire, of seven hundred and fifty dollars per annum, payable quarterly, in lieu of all fees or other charges against the Corporation, or against any other person or persons, on any complaint for a violation of any ordinance of the Common Council, but this provision shall not be construed to prevent him from collecting or receiving from any person, other than the Corporation, his taxable costs in any suit in any court of record, and in case he shall not collect such costs from such person they may be certified against the City upon four days' notice to the Counsel to the Corporation, and upon filing a copy of such certified bill with the Comptroller that officer shall audit and pay the amount thereof, or the Attorney may retain the same out of any moneys in his hands belonging to the Corporation.

"Sec. 3. No certiorari or writ of error shall be brought by the said Attorney in any suit in which judgment shall have been given against the Corporation, unless upon a report of the facts by the said attorney, the Common Council shall order such certiorari or writ of error to be brought.

"Sec. 4. All ordinances or parts of ordinances inconsistent with the preceding provisions are hereby repealed."

By this ordinance, the duties of the Counsel to the Corporation and the Attorney to the Corporation were for the first time clearly defined. It appears that prior to the adoption of the ordinance there had been considerable confusion on this point. The provision as to the salary of the Counsel to the Corporation appears to us at this date to be somewhat unique.

### **The First "Counsel to the Corporation."**

PETER A. COWDREY was the first person to hold the office of Counsel to the Corporation as thus established, and he remained in office from May, 1839, until May 31, 1842. Mr. Cowdrey's office was at No. 140 Nassau street. The Attorney to the Corporation during that period was John McKeon, of No. 109 Fulton street, and the Public Administrator, Elijah Morrill, of

No. 4 Spruce street. The salary of the Public Administrator at that time was \$1,250 per annum.

On January 22, 1841, by an ordinance of the Common Council, the Counsel to the Corporation was allowed the sum of \$1,200 in lieu of all charges for Assistants and Clerk hire, but the amount was reduced to \$600 by the "Salary Bill" passed September 12, 1842. The salary of the Attorney to the Corporation had been fixed by the ordinance of 1839 at \$2,250, but was reduced by resolution passed May 29, 1844, to \$2,000.

The Counsel to the Corporation, the Attorney and the Public Administrator during the period I am now describing transacted the public business in their private offices in connection with their own law business.

Up to the year 1849 the offices of the "Counsel to the Corporation," "Attorney to the Corporation" and "Public Administrator," were separate and distinct; each of these officials was appointed by the Common Council.

It might be mentioned here that the office of Public Administrator continued to be a bureau of the Law Department from April 2, 1849, until May, 1895, when, by an Act of the Legislature, it was made a separate bureau and the power to appoint and remove the Public Administrator was vested in the Surrogates of New York County.

DAVID GRAHAM, JR., succeeded Peter A. Cowdrey as Counsel to the Corporation, and held the office from May 31, 1842, to May 9, 1843. Mr. Graham's office was at the corner of Beekman and Nassau streets. At this period the Attorney to the Corporation was Alexander W. Bradford, of No. 51 William street, and the Public Administrator Edgar Ketchum, of No. 56 John street.

The oldest record in the present Corporation Counsel's office is a Register containing the actions pending in 1842, transferred from Peter A. Cowdrey to David Graham, Jr. Whatever records there were prior to that date were probably contained in the private registers of the different counsel.

PETER A. COWDREY was reappointed Counsel to the Corporation on May 9, 1843, and held office during the years 1843 and 1844.

SAMUEL J. TILDEN was Attorney to the Corporation during Mr. Cowdrey's second term of office. He was later elected Governor of the State and was the Democratic candidate for President of the United States against Rutherford B. Hayes. Mr. Tilden had an office at No. 14 Pine street. He had a Clerk, a Marshal and a Constable as his office force. The Public Administrator during this period was William M. Mitchell, whose office was at No. 52 John street.

The salary of Counsel to the Corporation was fixed, in the latter part of 1843, at \$3,000, the salary of the Attorney to the Corporation at \$2,500 and the salary of the Public Administrator at \$1,250.

JOHN LEVERIDGE, of No. 145 Cherry street, was appointed Counsel to the Corporation in 1844; Stephen Sammons, of No. 7 Chambers street, was Attorney to the Corporation, and Harris Wilson, of No. 13 Chambers street, Public Administrator. A resolution, passed May 29, 1844, reduced the salary of Counsel to the Corporation to \$2,000, but allowed \$1,600 for Clerk hire.

JAMES T. BRADY was appointed Counsel to the Corporation in 1845, and Peter B. Sweeny and three other persons were employed as Clerks in the office. Allan W. Sniffen was appointed as Attorney to the Corporation and H. P. Wannmaker, Public Administrator. James T. Brady was a brother of John R. Brady, a Justice of the Supreme Court. In 1846 Eugene Casserly succeeded Allan W. Sniffen as Attorney to the Corporation.

WILLIS HALL was appointed Counsel to the Corporation in 1847; he had previously held the position of Attorney General of the State of New York; James Green was appointed as his Assistant and he was allowed three Clerks. Theodore E. Tomlinson was appointed Attorney to the Corporation and James S. Thayer, Public Administrator. The office of Counsel to the Cor-



poration at that period was at No. 14 Wall street, and the office of the Attorney to the Corporation in the "Old Alms House;" the office of the Public Administrator was at No. 7 Nassau street.

Mr. Hall continued to act as Counsel to the Corporation until May, 1849.

In 1847 a resolution was passed by the Common Council reciting the fact that the former resolution of May 29, 1844, had limited the salary of Counsel to the Corporation to \$2,000, and that bills had been presented to the Joint Finance Committee amounting to nearly \$25,000, for alleged extra services rendered by persons theretofore occupying the situation of Counsel to the Corporation in violation of the spirit, if not the letter, of the ordinance allowing a definite salary to the Counsel, in lieu of any and all fees, and directing that the salary of \$2,000, and the allowance of \$1,600, for Clerk hire was intended to cover all disbursements for legal services of every kind rendered by the Counsel and refusing to audit and allow any bills for additional services.

In May, 1848, however, another ordinance was passed creating a department to the city government to be known as the Law Department, "the chief officer whereof shall be denominated as the Council of the Corporation" (spelled in that manner) and ordering that the said officer should keep his office in rooms in the City Hall; that he should be appointed by the Common Council and receive a salary of \$3,500 per annum, which salary should be in full for all services as Attorney, Counsel, Solicitor, Proctor, or Conveyancer, and that the said salary should be in lieu of all costs at law or in equity and of all fees and other charges against the Corporation, Supervisors or Departments.

The ordinance further provided that the "Council" should take an oath of office and file a bond in the sum of \$2,000, before entering upon his duties, and that he should attend to all business not committed to the Attorney of the Corporation.

The ordinance also provided that all fees and costs collected should be paid into the City Treasury at the close of each month,

and that two Clerks might be appointed, one at a salary of \$1,000 and the other at a salary of \$600.

The Registers of the present Law Department are continuous, beginning with the year 1848. The resolution of May, 1848, therefore accomplished at least one good result by providing for a separate office where proper books and records might be kept.

### **The "Law Department" Created by the Legislature, 1849 to 1856.**

The Law Department was first created by legislative authority as an executive department of The City of New York by the Act of April 2, 1849, which amended the Charter of The City of New York.

By this Act the office of "Counsel to the Corporation" was made elective. The term of office was fixed at three years. The office of the "Attorney to the Corporation" was made a bureau of the Law Department, the head of which was to be known as the "Corporation Attorney." The office of the Public Administrator was also made a bureau of the Law Department and the appointment of both of these officers was vested in the Counsel to the Corporation.

The section of the law referred to, said:

"There shall be an executive department, known as the 'Law Department,' which shall have the charge of and conduct all the law business of the corporation and of the departments thereof and all other law business in which the City shall be interested when so ordered by the corporation; and shall have the charge of and conduct the legal proceedings necessary in opening, widening, or altering streets; and draw the leases, deeds and other papers connected with the Finance Department; and the chief officer thereof shall be called the 'Counsel to the Corporation.'"

HENRY E. DAVIES (the father of Julien T. Davies) was the first person elected to the office of Counsel to the Corporation, which position he held from May, 1849, to December 31, 1852. Mr. Davies reappointed Theodore E. Tomlinson as Corporation

Attorney and James S. Thayer as Public Administrator. After the expiration of his term of office, he formed the partnership of Davies & Scudder (Henry J. Scudder), and in that firm Mr. James C. Carter filled the position of managing clerk. Henry E. Davies was elected to the Supreme Court bench and was a Justice of that Court from 1855 until 1859, when he was elected a Judge of the Court of Appeals for a term of eight years. During the last two years of his term he was Chief Judge of that Court.

ROBERT J. DILLON was the next Counsel to the Corporation. He was elected in 1852 and held office from January 1, 1853, to January 1, 1856. The salary of the Counsel to the Corporation was \$3,500 at this time, but he was allowed to tax fees in street opening proceedings. By an act of the Legislature passed April 1, 1854, a yearly allowance of \$6,500 was granted in lieu of all fees in street opening matters. This gave the Corporation Counsel a total salary of \$10,000. Daniel E. Sickles was Corporation Attorney during the first year of this administration and Peter B. Sweeny was Public Administrator. While Mr. Dillon was Corporation Counsel, Abraham R. Lawrence, subsequently a Justice of the Supreme Court, became a Clerk in the office. Daniel E. Sickles, the Corporation Attorney under Mr. Dillon, was succeeded by John B. Haskin. The offices of all of the branches of the Law Department at that time were located at No. 51 Chambers street.

LORENZO B. SHEPARD (the father of Edward M. Shepard) was the last Corporation Counsel in the period that I am now describing and he held office from January 1, 1856, until the time of his death in September, 1856. George H. Purser was Corporation Attorney during that time and Peter B. Sweeny was Public Administrator.

RICHARD BUSTEED was appointed in 1856 to fill the unexpired term of Mr. Shepard, and was elected in the fall of that year to serve for the three years commencing on January 1, 1857, and ending on January 1, 1860.

The Revised Ordinances of 1856 set forth very fully the duties of the Law Department and its two bureaux, but the ordinances are substantially a re-enactment of the Act of the Legislature passed in 1849.

This completes the list of Corporation Counsels down to the year 1857, and I have already given, at the beginning of this report, the names of the persons holding office during the fifty years from 1857 to 1907.

### **The New York Office in 1856.**

It is very interesting to compare the office as it existed in 1856 with the Department at the close of 1906.

Mr. Campbell, our Chief Clerk, informs me that he was appointed to the position of Copyist in 1857 by Hon. Abraham R. Lawrence, who was an Assistant under the then Corporation Counsel, Hon. Richard Busteed. Mr. Busteed had at that time two Assistants, Abraham R. Lawrence and Moses Ely. The entire force of the office, in addition to the Corporation Counsel, consisted of the Assistant just named, a Street Clerk, a Real Estate Clerk, a Law Clerk, two Copyists and one Messenger—nine persons in all.

The office of the Law Department in 1857 was on the second floor of No. 237 Broadway. It continued there until 1860, when it was removed to No. 82 Nassau street. In 1874, while Hon. E. Delafield Smith was Corporation Counsel, the offices were removed to the "Staats Zeitung" Building at No. 2 Tryon Row, where they remained until the latter part of 1906. At that time the present quarters in the new Hall of Records, although not completed, were made tenantable and the main office is now comfortably housed in that beautiful building.

Mr. William C. Trull, now an eminent member of our bar, became connected with the office of the Corporation Counsel in 1861, when Greene C. Bronson filled that office. Mr. Trull and Henry H. Anderson were Assistants. In 1863 John E. Develin succeeded Judge Bronson and John K. Hackett was appointed to succeed Mr. Anderson. Mr. Trull continued in office during the term of Mr. Develin, who was succeeded by Hon. Richard O'Gor-

man. Mr. David J. Dean, of whom I shall have occasion to speak hereafter, became Judge O'Gorman's Assistant.

In 1856 the entire appropriation for the Law Department, including the salary of the Corporation Counsel, clerk hire and office rent and all disbursements, was \$36,550. In 1906 the appropriations for the Corporation Counsel's office amounted to \$685,000, and this sum did not include office rent, printing, stationery or the cost of conducting the Bureau of Street Openings, which is paid from the "Street and Park Opening Fund." But during the same period the number of persons employed had increased from 9 to 326, and the business transacted had also increased at a similar rate.

#### The Office as a Stepping Stone to the Bench.

The office of Corporation Counsel has been popularly considered, and not without reason, as a stepping stone to the bench.

Of the gentlemen who have filled the office of Corporation Counsel of The City of New York, the following twelve have been elevated to seats on the bench of State and Federal Courts:

Ogden Edwards.	Richard O'Gorman.
Michael Ullshoeffter.	George P. Andrews.
Robert Emmett.	E. Henry Lacombe.
Henry E. Davies.	Morgan J. O'Brien.
Richard Busteed.	Henry R. Beekman.
Greene C. Bronson.	Francis M. Scott.

Almet F. Jenks and Joseph A. Burr, former Corporation Counsels of The City of Brooklyn, are now Justices of the Supreme Court in Kings County.

Nineteen of the Assistants of the Corporation Counsel have also been promoted to the bench.

John K. Hackett became Recorder of the City.

Howard J. Forker is a Justice of Special Sessions, Brooklyn.

Martin T. McMahan was elected a Judge of the Court of General Sessions.

Abraham R. Lawrence, Charles L. Guy, John J. Brady, William J. Carr, Henry Bischoff, Jr., and John Proctor Clarke became Justices of the Supreme Court. The last named is now one of the Justices of the Appellate Division, First Department.

Charles S. Whitman, John B. Mayo, Henry J. Steinert, William A. Sweetser, Arthur C. Butts, Charles N. Harris and Frederic L. Kernochan were appointed City Magistrates.

Henry W. Unger was appointed a Justice of the Municipal Court, Manhattan.

Philip D. Meagher and John J. Walsh are now Municipal Court Justices in Brooklyn.

Altogether thirty-three Corporation Counsels or Assistants have been elected or appointed to judicial positions.

#### **A Famous Assistant.**

Probably one of the most justly famous Assistants of the Corporation Counsel since the establishment of the office was David J. Dean. As a jurisconsult in Municipal law he had no superior. The sweetness of his disposition and the nobleness of his character are still remembered by those who were his associates. His capacity for hard work was unlimited, and yet at any time he would turn aside from the most exacting labors to open the great storehouses of his legal knowledge to the humblest Assistant. He was as modest as he was learned, and as unassuming as he was profound. A man among men, his daily life was adorned by unostentatious piety. He won and retained the admiration and respect of all his associates, to whom he was not only the ever ready and willing counsellor, but also the self-sacrificing and sympathetic friend. As a soldier he served his country. As a lawyer he ministered at the altar of justice of this City and State. The day is yet far distant when his fame will be forgotten and his name unspoken by those who knew and loved him.

### Prominent Lawyers Formerly Associated with the Office.

A large number of lawyers who are now prominent at the Bar have been connected at various times with this Department, and many of them received their best training while serving as members of the office staff. In addition to the persons who have held the office of Corporation Counsel or who have been elevated to the Bench I might mention the following:

- Francis L. Stetson, No. 35 Wall street, New York.
- William L. Turner, No. 84 Cotton Exchange, New York.
- William C. Trull, No. 32 Nassau street, New York.
- William H. Rand, No. 63 Wall street, New York.
- Rollin M. Morgan, No. 38 Park row, New York.
- Francis L. Wellman, No. 15 Wall street, New York.
- Daniel E. Sickles, No. 23 Fifth avenue, New York.
- Luke D. Stapleton, No. 15 William street, New York.
- R. Percy Chittenden, No. 189 Montague street, Brooklyn.
- James McKeen, No. 40 Wall street, New York.
- Walter S. Brewster, No. 40 Wall street, New York.
- Herbert B. Brush, No. 189 Montague street, Brooklyn.
- Chase Mellen, No. 60 Wall street, New York.
- Henry De Forest Baldwin, No. 49 Wall street, New York.
- John H. Judge, No. 29 Broadway, New York.
- Frank A. Irish, No. 40 Wall street, New York.
- Arthur H. Masten, No. 49 Wall street, New York.
- Thomas P. Wickes, Englewood, N. J.
- Charles Blandy, No. 7 Wall street, New York.
- Charles W. Ridgway, No. 100 Broadway, New York.
- Thomas F. Grady, No. 74 Broadway, New York.
- Thomas E. Rush, No. 30 Broad street, New York.
- Montgomery Hare, No. 30 Broad street, New York.
- Arthur F. Cosby, No. 32 Nassau street, New York.
- Martin Saxe, No. 280 Broadway, New York.
- Adrian T. Kiernan, No. 35 Nassau street, New York.
- Edward H. Hawke, Jr., No. 66 Broadway, New York.
- David Rumsey, No. 32 Liberty street, New York.

Gratz Nathan, No. 108 Fulton street, New York.  
 Peter B. Sweeny, Seventy-second street and Riverside drive,  
 New York.

Robert L. Wensley, No. 11 Broadway, New York.  
 Thomas F. Gilroy, Jr., No. 49 Wall street, New York.  
 William W. Ladd, No. 20 Nassau street, New York.  
 Henry A. Brann, No. 302 Broadway, New York.  
 Henry B. Twombly, No. 170 Broadway, New York.  
 Edward J. McGuire, No. 52 Wall street, New York.  
 John Walsh, No. 60 Wall street, New York.  
 Frank A. Acer, No. 277 Broadway, New York.  
 Andrew D. Parker, No. 220 Broadway, New York.  
 Matthew C. Fleming, No. 71 Broadway, New York.  
 Charles V. Gabriel, No. 320 Broadway, New York.  
 Arthur Berry, No. 180 Broadway, New York.  
 Carroll Berry, No. 180 Broadway, New York.  
 Oscar F. G. Megie, No. 302 Broadway, New York.  
 Alexander McKinney, No. 215 Montague street, Brooklyn.  
 William C. Courtney, No. 350 Fulton street, Brooklyn.  
 Michael E. Finnigan, No. 44 Court street, Brooklyn.  
 John E. Walker, No. 164 Montague street, Brooklyn.  
 Samuel H. Evins, No. 30 Broad street, New York.  
 Albert E. Hadlock, No. 135 Broadway, New York.  
 William H. Hutchinson, No. 170 Broadway, New York.  
 Alvin S. Hall, No. 37 Liberty street, New York.  
 George Landon, No. 37 Liberty street, New York.  
 William J. O'Sullivan, No. 256 Broadway, New York.  
 Wilmot T. Cox, No. 49 Wall street, New York.  
 John J. Townsend, No. 45 Cedar street, New York.  
 Leroy D. Ball, No. 290 Broadway, New York.  
 Edwin L. Abbott, No. 302 Broadway, New York.  
 John A. Beall, No. 31 Liberty street, New York.  
 Thomas J. O'Callaghan, No. 200 Broadway, New York.  
 Alfred J. Talley, No. 299 Broadway, New York.  
 John F. Cowan, No. 280 Broadway, New York.  
 Sidney J. Cowen, No. 302 Broadway, New York.



E. Crosby Kindleberger, District Attorney's office.  
 John C. Wait, No. 220 Broadway, New York.  
 George Hill, No. 41 Park row, New York.  
 Oliver C. Semple, No. 52 William street, New York.  
 Harold S. Rankine, Buffalo, N. Y.  
 Henry M. Powell, No. 280 Broadway, New York.  
 Thomas B. Clarkson, No. 170 Broadway, New York.  
 Harold M. Smith, Hall of Records.  
 Cornelius J. Earley, No. 271 Broadway, New York.  
 Lamont McLoughlin, No. 309 Broadway, New York.  
 Spencer G. McNeary, No. 99 Nassau street, New York.  
 George E. Blackwell, No. 63 Wall street, New York.  
 Denis O'Leary, Long Island City.  
 William E. Ewing, No. 176 Broadway, New York.  
 Charles Malloy, No. 277 Broadway, New York.  
 Richard J. Morrisson, No. 135 Broadway, New York.  
 George Lavelle, No. 220 Broadway, New York.  
 Woolsey Carmalt, No. 82 Beaver street, New York.  
 William A. Boyd, No. 146 Broadway, New York.  
 Louis Hanneman, No. 140 Nassau street, New York.  
 Charles S. Beardsley, No. 32 Nassau street, New York.  
 Louis Steckler, No. 302 Broadway, New York.  
 Charles E. Lydecker, No. 30 Broad street, New York.  
 John G. H. Meyers, No. 150 Nassau street, New York.  
 William M. Hoes, No. 69 Wall street, New York.  
 Robert Grier Monroe, No. 15 Wall street, New York.  
 John Callahan, No. 280 Broadway, New York.  
 P. J. Walsh, Supreme Court.  
 Albert E. Henschel, No. 11 Broadway, New York.  
 Robert C. Beatty, No. 43 Cedar street, New York.  
 Albert Bach, No. 66 Broadway, New York.  
 Fielding L. Marshall, No. 32 Nassau street, New York.  
 Douglas Mathewson, No. 265 Broadway, New York.  
 Merle O. St. John, No. 31 Nassau street, New York.  
 William F. Wilber, No. 32 Nassau street, New York.  
 Simon C. Noot, No. 320 Broadway, New York.

Richard H. Smith, No. 277 Broadway, New York.

Ralph R. Jacobs, No. 367 Fulton street, Brooklyn.

Peter P. Smith, County Court House, Brooklyn.

Joseph P. Conway, No. 44 Court street, Brooklyn.

A few of the men just mentioned left the department because of political changes, but the great majority of them left the service voluntarily to enter private practice, because it offered greater remuneration.

### Long Service of Some Present Employees.

A number of persons are now employed in the department who have been in the service for a long term of years. Those on the present payroll who have served continuously for more than fifteen years are as follows:

Andrew T. Campbell, Chief Clerk, fifty years.

William J. Hodge, Messenger, forty-one years.

Richard B. Greenwood, Assistant (Brooklyn Office), thirty-two years.

James M. Valles, Librarian, thirty-two years.

James J. McGrath, Clerk (Bureau of Penalties), thirty-two years.

Edwin J. Freedman, Assistant, twenty-six years.

William H. Lake, Examiner, twenty-three years.

Thomas E. Kennedy, Messenger, twenty-three years.

George L. Sterling, Assistant, twenty-two years.

John L. O'Brien, Assistant, twenty-two years.

John H. Greener, Assistant Chief Clerk, twenty-one years.

Charles A. O'Neil, Assistant, twenty years.

Charles D. Olendorf, Assistant, eighteen years.

William E. Fay, Clerk (Bureau of Penalties), eighteen years.

Jeremiah Maher, Clerk, eighteen years.

A. T. Campbell, Jr., Assistant, eighteen years.

Terence Farley, Assistant, seventeen years.

Patrick H. Curran, Process Server (Bureau of Penalties), seventeen years.

Theodore Connolly, Assistant, sixteen years.

Among the female Stenographers one has been in the office for twenty years, one for nineteen years, four for eighteen years, one for sixteen years and one for fifteen years.

### **“Counselor Nolan.”**

Soon after Mr. Whalen assumed office, he appointed Thomas F. Nolan as an Assistant in the Bureau of Penalties.

The “Great Irish Barrister” continued a member of the office force until the time of his death in 1900. He was a well-known figure in all of our courts, and a volume of reminiscences and sayings of the Counselor has been published. It is probable that he was not responsible for a large part of the stories that are attributed to him, but he had a keen and ready wit, which, coupled with a fine, rich brogue, made him a most interesting personality.

He will be long remembered as one of the most picturesque characters in the legal fraternity.

### **Conditions Prior to Consolidation of the Greater New York.**

At the close of the year 1897, just prior to consolidation, when the City and the County of New York were coterminus, fifty-six persons were connected with the main office of the Law Department, including twelve Assistants and five Junior Assistants. In the Bureau of Street Opening there were in all forty-three persons, including Assistants. In the Bureau of the Corporation Attorney, changed to the “Bureau of Penalties” by the Charter of 1897, there were nine persons. To the Department of Street Improvements of the Twenty-third and Twenty-fourth Wards, one Assistant was assigned, and there were but four persons in the Bureau for the Collection of Arrears of Personal Taxes. The entire force of the Law Department then numbered one hundred and fourteen.

The Corporation Counsel’s office before consolidation was a great law office.

In the year 1897 the number of actions and proceedings pending at the close of that year was 3,925. The number of actions and

proceedings commenced during the year was 3,329. The number of actions tried in court was 138. The number of appeals argued at the Appellate Division and Appellate Term of the Supreme Court was ninety-two. The number of appeals argued in the Court of Appeals was thirty. The number of appeals argued in the United States Circuit Court of Appeals was one, and the number of appeals argued in the United States Supreme Court was one.

### **The Greater New York.**

On January 1, 1898, The Greater New York Charter took effect, under the provisions of which ninety-four municipal corporations, including three cities and four counties, were welded by law into one great city. The Law Department had not only its own organization and system to establish, but that of other departments and branches of the City government. A multitude of questions suddenly arose, which in many cases were of the utmost importance. It seemed as if every question of law that could arise, and that, too, in its most complicated form, was referred to the Corporation Counsel for advice. Probably no head of a law department was ever called upon to construe so many apparently conflicting laws and advise heads of departments as to the proper course to pursue. Some of these questions were of the gravest importance, involving such matters as the City's debt limit, the status of various bond issues, and Civil Service questions brought about by the consolidation of counties, cities, villages, school districts, etc.

Most of this work fell upon the shoulders of two Assistants in the office, Theodore Connolly and George L. Sterling, and to those two men there is due from this City a large debt of recognition and gratitude.

After consolidation under the Charter of 1897, the marvellous changes and stupendous growth commenced which have made the Corporation Counsel's office of New York beyond all doubt the largest law office in the world.

### Growth of Business Transacted.

Immediately after consolidation, the business of the Law Department began to increase rapidly. The following comparative table showing the results accomplished during the first year of the Greater City and the year 1906 will illustrate this point:

	1898.	1906.
Number of action and proceedings pending in main office at close of year .....	5,512	25,440
Number of actions tried in court....	118	389
Number of Appeals argued at Appellate Division .....	157	204
Number of appeals argued at Court of Appeals .....	35	51
Number of motions argued.....	616	1,124
Number of written opinions rendered to departments .....	523	1,766
Number of contracts drafted, approved as to form, etc.....	636	2,957
Number of judgments against City...	2,015	394
Amount of judgments against City... \$1,454,214 04		\$506,334 09
Number of judgments in favor of City.	88	200
Amount of judgments in favor of City.	\$17,238 48	\$76,210 21
Amount collected by main office.....	18,727 88	170,932 87
Amount collected by whole department.	60,748 50	323,610 52
Number of persons in department....	115	321

The great increases will be noted in each of the above items except the number of judgments against the City and the amount of those judgments. The Corporation Counsel is very glad to be able to report that the number and amount of such judgments was less in 1906 than in any year since consolidation.

## PRESENT ORGANIZATION OF THE DEPARTMENT.

Section 255 of the Charter provides: "There shall be a Law Department of The City of New York, the head of which shall be called the Corporation Counsel, who shall be the attorney and counsel of The City of New York, the Mayor, Board of Aldermen, and each and every officer, Board and Department of said City."

By virtue of section 257 of the Charter, there must be an office of the Corporation Counsel located in the Borough of Brooklyn. In his discretion, the Corporation Counsel may establish branch offices in each of the boroughs of Richmond, Queens and The Bronx. Connected with and a part of the Law Department are the Bureau of Street Openings, the Bureau of Penalties and the Bureau for the Collection of Arrears of Personal Taxes. There are also assistants of the Corporation Counsel assigned to the Tenement House Department and the Bureau of Public Buildings.

Section 255 of the Charter further provides that the Corporation Counsel "shall have charge and conduct of the legal proceedings necessary in opening, widening, the altering and closing of streets, and in acquiring real estate or interest therein for the City by condemnation proceedings, and the preparation of all leases, deeds, contracts, bonds and other legal papers of the City or of or connected with any Department, Board or officer thereof, and he shall approve as to form all contracts, leases, deeds and other legal papers. The Corporation Counsel, except as otherwise herein provided for, shall have the right to institute actions in law or equity and proceedings provided by the Code of Civil Procedure or by law in any court, State or National, to maintain, defend or establish the rights, interests, revenues, property, privileges, franchises or demands of the City, or any part or portion thereof or of the people thereof, or to collect any money, debts, fines or penalties, or to enforce the laws and ordinances."

Under the authority of the section of the Charter above cited, the Department is now organized as follows:

THE MAIN OFFICE, in the Hall of Records, Borough of Manhattan.

THE BROOKLYN BRANCH OFFICE, in the Borough Hall, in that borough.

THE BUREAU OF STREET OPENINGS, at No. 99 West Broadway, Manhattan.

THE BUREAU OF PENALTIES, at No. 119 Nassau street, Manhattan.

THE BUREAU FOR THE COLLECTION OF ARRÉARS OF PERSONAL TAXES, at No. 280 Broadway, Manhattan.

THE TENEMENT HOUSE DEPARTMENT AND BUILDING BUREAU BRANCH OFFICE, at No. 44 East Twenty-third street, Manhattan.

### **THE MAIN OFFICE.**

#### **Removal of Office.**

For many years the work of the main office was handicapped by the lack of proper office room and accommodations. Several assistants were crowded into each small room and the stenographers and clerks, during the latter years, were obliged to work under conditions which would not have been tolerated in a factory or "sweatshop." During the early part of November, 1906, the Corporation Counsel and his personal staff took possession of the partly finished quarters in the new Hall of Records, and the moving of the office took place gradually until about December 15, 1906, when the entire force was installed in the new building.

It was necessary to move the records and papers with the utmost care to prevent confusion and the work was not completed until February 20, 1907. The papers in hundreds of thousands of actions, and letters and other documents which probably numbered in the millions, all the records of the Law

Department for fifty years, the large library and the books and papers of about sixty assistants were moved with almost no interruption of business. Considering the great difficulty of the task and the opportunities for losing or mislaying papers the moving was accomplished in a most orderly and successful manner.

### **The New Building.**

The new quarters in the Hall of Records include the sixth, seventh and eighth floors. The building was not well designed for division into separate offices for assistants, and the contractor has only recently completed the furnishings, but for the first time in many years the office staff are provided with large, well lighted rooms in which their work may be done under healthy and comfortable conditions. It was a most grateful change and there is no doubt that these improved accommodations will result in a greater activity and efficiency throughout the office.

The Hall of Records is probably as nearly fireproof as a building can be made. The construction throughout is of steel and masonry, the floors are of mosaic, the walls are of fireproof brick, the stairways, wainscoting and door and window frames are of marble. New furniture was provided for the entire building. The desks, chairs and tables are made of mahogany with marble bases, and all filing cases, bookcases, wardrobes and shelving are of steel. The electric lighting fixtures are of bronze and are unusually handsome. The building is equipped with a vacuum cleaning system, and an automatic system of heating and ventilation. Filtered ice water is provided at a tap at each basin. Nothing seems to have been omitted which was necessary to make the building a first class, up-to-date structure, and the results reflect the greatest credit on the architects, engineers and contractors and the City officials who were employed on the work.

The library of the Department, containing about 8,000 volumes, occupies a floor space of about 32 feet by 130 feet. The



law books are arranged in steel cases built in alcoves and the room is well supplied with reading desks and tables, making it one of the most handsome and complete law libraries in the City.

The rooms provided for the assistants are occupied by two persons on an average, and each desk is supplied with special electric lighting, a telephone extension and call bells for stenographers and office boys.

The quarters assigned to the clerical and stenographic force are large, airy and well lighted.

On the eighth floor several very large rooms are devoted to the files for papers in "Done" suits and proceedings, communications, printed papers and other documents. It is one of the largest systems of metal files ever built.

When the Hall of Records was designed it was the purpose of the Corporation Counsel to bring together under one roof all of the bureaus and branch offices except the one in Brooklyn, but the Department had increased to such an extent by the time the building was completed that it was found impossible to accommodate more than the main office, and the time will surely arrive, and perhaps it may not be many years hence, when even the main office will again become crowded.

The growth of the Greater New York is marvellous, and the work of the Law Department becomes greater in volume and more complicated in its nature each year.

#### **Reorganization of Main Office.**

I have already alluded to the fact that while the Honorable William C. Whitney was Counsel to the Corporation, the business of the main office had grown to such an extent that it became necessary to reorganize the office, and that Mr. Whitney first inaugurated the plan of dividing the office work according to the subject matter involved, and assigning each distinctive class of litigation to a particular Assistant. That system was continued by the Hon. George P. Andrews, who succeeded Mr. Whitney, and by the Hon. E. Henry Lacombe, who followed Judge Andrews.

Soon after Mr. Lacombe assumed office, the Mayor, Hon. William R. Grace, appointed Horace E. Deming, Esq., to make a thorough examination of the office of the Corporation Counsel, and report as to conditions existing, and to make such recommendations as seemed proper for the improvement of the Law Department. On May 2, 1885, Mr. Deming submitted a report upon the Law Department, and some of his recommendations were so well considered that I will quote from the report :

"No one will question that each department of the City government should be so organized that its appropriate work will go on with reasonable efficiency and certainty whoever may be its accidental chief. \* \* \* There is already enough accrued and current business not only to justify, but in my opinion to compel for the orderly, economical and efficient conduct of the City's law business, the establishment of bureaus or divisions, each equipped for its appropriate work, which would include in the case of each Division an Assistant as the responsible head, with a proper corps of subordinates. The advantages of such a course are numerous and manifest.

"It is clearly impossible for the Corporation Counsel to have direct personal knowledge of the details of the immense volume of business transacted by the Department of which he is the head. The larger share of the business of necessity is transacted by his subordinates. \* \* \*

"Without some such classification as is above recommended of the work of the office by subject matter into appropriate Bureaus or Divisions, the very nature and extent of the legal business, which demands the attention of the Corporation Counsel's office, so diffuses the responsibility that neither credit nor blame can be properly apportioned among the numerous individuals who may have had to do with any particular piece of business, and a careful and critical supervision of the office is impossible to the Corporation Counsel. Given, however, such Assistants and system as is hereby recommended, all miscellaneous business of minor importance will pass naturally

into the proper hands without need for specific directions. The more important questions and cases, while coming to the Corporation Counsel in the first instance, would in due course and without friction, find their way also to the appropriate Division.

\* \* \* Several men would have knowledge at any given time of the condition of any given piece of business, and the work of the Division would go on without great delay or inconvenience, in spite of the vacations, resignations or illness of some one individual. Each Division would be a school in which several men were learning to transact its business. \* \* \* Consultations with the heads of the Divisions \* \* \* would keep the Corporation Counsel thoroughly advised of the condition to his Department, and the progress of its work, while the subordinates of the Division in turn would keep the Chief of the Division thoroughly advised as to the condition of the department of work intrusted to his charge."

Although this report was made in 1885—twenty-two years ago—long before the creation of the Greater New York, and at a time when the volume of business was just about one-fifth of what it is at present, it expresses with entire accuracy the greatest need of the Department down to the time of my administration—thorough organization.

This subject of reorganizing the main office is one to which each of my predecessors since the time of Judge Lacombe has given considerable attention. Two great difficulties have always been met with—an insufficient number of Assistants and lack of office space. The latter named difficulty has now disappeared, but the former still exists.

Recognizing, however, that the necessity for proper organization becomes greater each year, I have rearranged the staff of Assistants allowed to the main office and have created a number of "Divisions," placing a Senior Assistant at the head of each and dividing the remaining Assistants, Junior Assistants and Law Clerks among the various Divisions.

The following shows the organization and personnel of the Department as it exists on May 15, 1907:

### MAIN OFFICE.

THE CORPORATION COUNSEL.

WILLIAM B. ELLISON.

David Ryan, *Secretary*.

In the general administration of the Department business, the Corporation Counsel is assisted by a Senior Assistant and a Junior Assistant. The Assistant assigned to this work also supervises the preparation of opinions; he has a general designation as Acting Corporation Counsel, and performs the duties of the head of the department in the absence of the latter, and takes charge of such other matters as the Corporation Counsel may direct.

One of the most important duties of the Corporation Counsel is to render advice to the Mayor and heads of Departments. The extent of this part of the office business is indicated to some extent by the fact that during 1906, 1,766 written opinions were rendered. The questions presented for consideration and advice are apt to become the subject of litigation. It has been most gratifying in the past to observe the frequency with which the opinions of this Department have been upheld by the courts.

I have not made a special division of this opinion work, because I find that it is necessary to use the most experienced men in all branches and divisions of the office to examine into the matters concerning which my opinion is asked and to draft opinions relating to subjects with which they are especially familiar. The best plan that I have been able to devise is to have each request for advice assigned to the Assistant most familiar with the subject under consideration, who prepares the draft of the proposed opinion.

In the work of general administration and the supervision of opinions, the Corporation Counsel is assisted by:

George L. Sterling, *Assistant*.

Charles W. Miller, *Junior Assistant*.

### Division of Appeals.

One division of the main office force is that assigned to the argument of appeals and other similar matters. A Senior Assistant is in charge of this part of the office business, and several Assistants are detailed to aid him.

During the year 1906, 258 appeals were argued or submitted.

The office is very successful in the Appellate Courts. Care is exercised to appeal only those cases where there is involved some important principle of law which is general in its application, or where an error seems clearly to have been committed in the court below.

In the appeal work, as with the opinions, it is not advisable to attempt to have all of the work done by a separate force of assistants. It is frequently necessary, because of the quantity of the work, to employ assistants in other divisions to prepare the briefs, and it is often desirable to have an appeal argued by the Assistant who tried the case, or has special knowledge of the subject.

This division is organized as follows:

Theodore Connoly, *Assistant in Charge*; Terence Farley, Thomas F. Noonan and Royal E. T. Riggs, *Assistants*, and Alexander L. Strouse, *Junior Assistant*.

### Division for Real Estate Matters and Condemnation Proceedings Where the Land is Within The City of New York.

Another division of the office conducts condemnation proceedings other than street openings. A Senior Assistant is in charge of this division and he and the Assistants assigned to him try all proceedings to acquire title to lands within the City needed for dock purposes, bridge approaches, sites for public schools, libraries, fire houses, pumping stations, and for other public purposes.

During 1906 this division, among other things, closed twenty-two proceedings by confirmation of reports in which the awards amounted to \$5,150,985.90.

The persons comprising the division are as follows:

Charles D. Olendorf, *Assistant in Charge*; Edwin J. Freedman, Joel B. Squier, Oliver Goldsmith and Francis J. Byrne, *Assistants*, and Henry W. Mayo, *Junior Assistant*.

**Division for Real Estate Matters and Condemnation Proceedings  
Where the Land is Not Within the City of New York.**

The counsel who attend to matters relating to the City water supply are included in this division. The proceedings now being commenced to acquire title for the new "Catskill Water Supply" will make this part of the office work in the near future one of the most important divisions of the office force.

A report as to the present condition of these proceedings is given later:

The Counsel now employed in these proceedings are:

Henry T. Dykman, Isidor J. Beaudrias, John J. Linson and Henry W. Wheeler.

**Division for Tax Matters.**

To another division are assigned all certiorari proceedings to review assessments for taxation on real and personal property (of which there are now 1,660 pending), franchise tax cases and water rate proceedings.

This division is composed of:

George S. Coleman, *Assistant in Charge*; Andrew T. Campbell, Jr., William H. King and Curtis A. Peters, *Assistants*.

**Division for Franchises.**

Another division has charge of the actions now being tried to test the constitutionality of the eighty-cent gas bill, and all other similar cases brought by gas, electric light and other public utility corporations.

The division consists of:

William P. Burr, *Assistant in Charge*; Louis Hahlo, Alfred W. Booraem and William J. Clarke, *Assistants*.

### **Division for Legislation and Elections.**

It has always been necessary to detail one of the Assistants to attend at Albany during the sessions of the Legislature to protect the right of the City. Many bills are introduced at every session for the purpose of legalizing unjust claims against the City, and there is a great quantity of other attempted legislation which would be prejudicial to the City's interests.

The Assistant Corporation Counsel in charge of this work appears before the various committees and opposes all such legislation.

I have placed one of my Assistants, Mr. Arthur C. Butts, in charge of this Division. At other times during the year Mr. Butts is engaged in election cases, and other matters.

### **Division for Contract Litigation.**

Another division consists of those Assistants who are assigned to try the numerous actions on contract against the City.

The following persons are assigned to this division:

James T. Malone, *Assistant in Charge*; Thomas F. Byrne, *Assistant*; Francis Martin, *Junior Assistant*, and Thomas G. Price, *Late Clerk*.

### **Division for Actions in Tort.**

Another division contains the Assistants who try personal injury actions. On account of the addition of six additional Justices to the trial parts of the Supreme Court in New York County, it has been necessary recently to increase the force assigned to try accident cases, and the division now contains:

Cornelius F. Collins, *Assistant in Charge*; John C. Breckinridge, Josiah A. Stover, Solon Berrick, J. Gabriel Britt, Francis X. McQuade and John W. Goff, Jr., *Assistants*, and I. Townsend Burden, Jr., and Frank E. Smith, *Junior Assistants*.

### Division for Affirmative Actions.

When I assumed office I discovered that one class of cases had apparently not received adequate attention. I refer to the actions in which The City of New York is plaintiff. I therefore created a "Division of Affirmative Actions" to handle such matters exclusively.

During the past six months 238 actions have been brought against the New York City Railway Company on claims for paving between its tracks, in which the amount claimed is \$1,403,688.48. All paving claims transmitted to this Department up to January 1, 1907, are now in suit, and a number will be tried before the courts adjourn for the summer.

Actions have also been commenced against the New York City Railway Company for car license fees on all claims down to the year 1906. The amount claimed in these suits is \$408,990, and some of the cases will be tried during May or June.

No part of the office business is more important than the vigorous prosecution of actions in which the City is plaintiff. In order that these cases may receive proper attention I have assigned to the work the following:

Frank B. Pierce, *Assistant in Charge*; and Seymour P. Danzig, *Law Clerk*.

### Division for the Mayor's Office.

It has been the custom for many years to assign one of the Assistants permanently to the office of the Mayor. I have designated Mr. Franklin Chase Hoyt for that work.

### Division for Board of Education.

The number of cases brought against the Board of Education has increased to such an extent of late that, at the request of the Board, I have created a separate division to attend exclusively to such actions, and have placed in charge of the division one of my assistants, Mr. Stephen O'Brien, and have assigned Mr. Charles McIntyre, *Assistant*, to aid him.



### **Division for Civil Service Matters.**

The number of actions and proceedings involving Civil Service questions has made it necessary to make a separate division of such cases, and I have placed Mr. William B. Crowell, *Assistant*, in charge of this line of cases, and assigned Henry J. Shields, *Clerk*, to assist him.

### **Division for Preparation and Approval as to Form of Documents.**

During the year 1906 two thousand nine hundred and fifty-seven contracts were approved as to form, and three hundred and fifty-three other contracts were revised and seven hundred and twenty advertisements for bids approved as to form. The number of bonds, leases, releases, agreements and deeds approved as to form brought the total number of documents considered and acted upon by this Department up to a total of four thousand eight hundred and seventy-one.

Mr. John L. O'Brien, an Assistant, has been assigned to take charge of this division, and he is assisted by George H. Cowie, *Law Clerk*.

### **Division for Miscellaneous Business.**

In addition to these separate divisions, it is also necessary to maintain a general office force for the trial of actions not embraced under the subjects mentioned, such as Civil Service cases, mandamus and certiorari proceedings, actions for damages to property, actions for wages and salary, for goods sold and delivered or for services rendered, suits to foreclose liens and mortgages, admiralty suits, injunction suits, taxpayers' actions, real property actions, and all other cases not handled by the other divisions. There is a great quantity of miscellaneous litigation which it is not possible to accurately classify for which a large general office force is necessary. Under this division are included also those Assistants who handle the litigation in the Boroughs of Queens, Richmond and The Bronx.

The persons comprised in this division are as follows :

Edward S. Malone, Richard H. Mitchell, John Widdecombe, Charles A. O'Neil, John F. O'Brien, James P. Keenan, Arthur Sweeny, George P. Nicholson, Edmund C. Viemeister and Leonce Fuller, *Assistants*; William H. Doherty and Loring T. Hildreth, *Junior Assistants*.

The remainder of the main office force is organized as follows :

### CHIEF CLERK'S OFFICE.

#### CHIEF CLERK.

Andrew T. Campbell.

#### ASSISTANT CHIEF CLERK.

John H. Greener.

#### *Clerks.*

John R. Salmon, William H. Kehoe, Joseph H. Johnston, John F. Flynn, Jeremiah Maher, David F. Dennehy, George F. Brennan, Henry A. McCrimlisk, John W. Brophy and John A. Leddy.

#### *Junior Clerks.*

James S. Robinson, Leo P. LeBlanc, Victor D. Hosey, Louis Pittarelli, Frank Oggeri, James Padian, Thomas F. Ward, Arthur H. Kerns, Lester N. Bennett, William Augenmeyer, Albert L. Ward, John J. McGovern and Martin J. Devine.

#### *Office Boys.*

Joseph Maas, Joseph A. McKeever, Anthony Horn, Thomas J. J. Condon, Frank X. Leonard, John A. McGuane, Charles M. Pregonzer, Thomas A. Finn, Edward J. Spears and George J. Joyce.

#### *Male Stenographers and Typewriters.*

James F. Campbell and John J. Finnigan.

#### *Stenographers and Typewriters.*

Alice Meany, Adelaide B. Mulcahy, Margaret E. O'Reilly, Martha J. Neville, Margaret A. Cooney, Agnes M. Colleton, Mary

H. O'Connell, Agnes C. Boggs, Elizabeth Vibbard, Mary F. Manggan, Gertrude A. Walsh, Kathryn L. Masterson, Margaret Macdonald, Margaret A. Leary, Ella L. Garland, Clara M. Zimmermann, Mary B. Faulkner, Margaret C. Kissinger, Mary A. Lenz and Anna Albert.

*Typewriting Copyists.*

Mary Doran Byrnes, Minnie E. Flood, Catherine H. Duffy, Josephine McGown, Margaret T. Pyne, Katherine B. Duval and Nellie V. Clark.

*Librarian.*

James M. Valles.

*Examiners.*

William H. Lake, Eugene J. Hughes, Joseph H. Miles and James M. Donohue.

*Messengers.*

William J. Hodge, Thomas E. Kennedy and Joseph G. Fuller.

*Process Server.*

Peter Donnelly.

*Attendant to Corporation Counsel.*

Anthony McCarthy.

*Summary of Main Office Force.*

The force of the main office at the present time is made up as follows:

The Corporation Counsel, his Secretary and Attendant, forty-three Assistants, seven Junior Assistants, four Law Clerks, one Librarian, the Chief Clerk, the Assistant Chief Clerk, ten Clerks, thirteen Junior Clerks, ten Office Boys, twenty-two Stenographers, seven Typewriting Copyists, four Examiners, three Messengers and one Process Server.

Total number of persons in the main office is one hundred and thirty.

### Brooklyn Office.

The branch office in Brooklyn handles cases brought in Kings County and other matters affecting the Borough of Brooklyn. The great number of actions begun in the County of Kings would perhaps make it necessary to always maintain a branch office in that county, even if the charter had not made it mandatory.

There are certain lines of work, such as the approval of contracts, leases and other papers, tax certiorari cases and the rendering of opinions, which should manifestly be handled in one place only, and such matters are attended to by the main office. Most of the other cases brought in Kings County are handled by the assistants in Brooklyn.

The office force in the Brooklyn office at the present time is as follows:

#### ASSISTANT CORPORATION COUNSEL IN CHARGE.

James D. Bell.

#### *Assistants.*

Richard B. Greenwood, Jr. Patrick E. Callahan, Edward Lazansky, Daniel D. Whitney, Jr., James W. Covert, Jerome W. Coombs, James T. O'Neill and Martin Flanagan.

#### *Junior Assistants.*

Edward H. Wilson, David Joyce, Joseph H. Gardiner, Jr., and Philip N. Harrison.

#### *Law Clerks.*

Charles J. Druhan, Charles R. Hartmann and John J. Kean.

#### *Chief Clerk.*

Samuel K. Probasco.

#### *Junior Clerks.*

Charles F. Kahlert, Morris Titoonek and Robert P. S. Hanley.

*Stenographers and Typewriters.*

Catherine F. Farrell, Rose Donald, Elizabeth F. Barrett,  
Frances L. Berry and Mary C. Farrell.

*Typewriting Copyist.*

Agnes M. Dorman.

*Telephone Switchboard Operator.*

Frances Young.

*Process Server.*

Thomas A. Murphy.

*Attendant to First Assistant.*

Henry Ritter.

Entire force, twenty-nine persons.

**Branch Offices in Other Boroughs.**

Up to the close of 1906 separate branch offices were maintained in the Boroughs of Queens, Richmond and The Bronx. In the Hall of Records, however, it was found that there would be sufficient room to bring into the main office the assistants and subordinates in the three branch offices referred to. Although there were some advantages in having separate offices in the different boroughs, it has been found that on the whole better results are obtained and there is an economy of work in having the department centralized as far as practicable. One advantage in having most of the force under one roof is the avoidance of assistants duplicating each other's work. Another advantage is the fact that the assistants, by being near each other, may be mutually helpful. But the great benefit of centralization is that it makes it possible for the head of the department to give better general direction to the department business and makes it possible to carry out broad general plans and policies in the handling of the City's law business.

In the future therefore the general offices (not including the bureaus which will be spoken of hereafter) will consist of the main office in the Hall of Records, Manhattan, and the branch office in the Borough of Brooklyn.

### BUREAU OF STREET OPENINGS.

This bureau is created by the Charter, and conducts, as the name implies, all proceedings to acquire title to lands for streets, parks and other public purposes.

The extent of the business assigned to the bureau may be indicated by the following statistics, taken from the report of the bureau for the year 1906.

During the year 419 reports of Commissioners of Estimate and Assessment were under consideration. Of these 96 were confirmed and 11 others have been moved for confirmation. In the proceedings where reports were confirmed title was acquired to over forty-eight miles of new streets. The awards in these proceedings amounted to \$12,269,897.20, and the assessments to \$6,034,989.78.

In the 11 proceedings moved for confirmation the awards amount to \$626,706.84, and the assessments to \$1,187,409.03. The length of streets to be acquired is approximately seven and three-tenths miles.

In addition to the above, 312 other proceedings received attention during the year, the status of which is as follows:

Final reports signed.....	13
Final instructions received.....	61
Hearing or considering objections.....	34
Preliminary abstracts in course of preparation.....	44
Awaiting final maps.....	6
Considering awards .....	13
Taking testimony .....	73
Awaiting damage maps.....	68

Other items from the annual report are as follows:

Opinions and letters drafted.....	2,237
Appeals argued .....	26
Commissioners appointed .....	288

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Because of the large number of proceedings to open streets in Kings and Queens counties, branch offices of the Bureau of Street Openings have been opened in the boroughs of Brooklyn and Queens. It will probably be necessary in the near future to greatly add to the force in these branch offices to cope with the increasing volume of business. To fail to promptly open new streets in these boroughs would greatly retard the improvement of much undeveloped property in the outlying parts of the City.

The office force of the bureau is as follows:

ASSISTANT CORPORATION COUNSEL IN CHARGE.

John P. Dunn.

*Assistants.*

Thomas C. Blake, Thomas F. Quigley, L. Howell LaMotte, William R. Keese, William A. Mathis, Edward F. Reynolds, George E. Draper, David Tomlinson, Frederick W. Gahrman, James R. Fitzgerald, John J. Kearney and Michael F. Conry.

*Junior Assistants.*

Howard L. Campion, Jacinto Costa, John P. Smith, Millard F. Kuh, Samuel J. Benson and Arthur J. Stern.

*Chief Clerk.*

Michael J. Morrison.

*Bookkeeper.*

Julius Hahn.

*Clerks.*

John J. Mulhall, Michael J. Curley, Charles R. Rocksch, Thomas P. White, Thomas J. Kelly, John A. Kane, Michael J. Sweeny, Joseph V. Carr, John J. Walsh, Luis G. Segura, James Egan, Charles A. Duffy and Nathan Goldstein.

*Junior Clerks.*

Frank C. Flynn, Charles E. Lamb, Churchill Hayden, John J. McNeill, Charles P. Kramer and William I. Hurley.

*Office Boys.*

Edward F. Fagan and Harry Coorman.

*Messengers.*

Patrick J. Murty, Thomas Reddy, John J. Laracy and John W. Thompson.

*Male Stenographer and Typewriter.*

Malcom Kerr.

*Stenographers and Typewriters.*

Ottilie S. Voorhis, Sarah E. A. Currán, May A. Byrne, Tessie Glennon and Anne V. McKenna.

*Typewriting Copyists.*

Mary M. Glendenning, Mary G. Branagan and Elizabeth Bassett.

*Telephone Switchboard Operator.*

Mary M. Kehoe.

*Chief Computer of Assessments.*

Owen D. Healy.

*Computers of Assessments.*

William B. R. Faber, William E. Wild, Edward A. Quirk, James H. Wall, J. Monroe Boylston, Frank J. Flynn, Edward A. Reilly, Patrick S. MacDwyer, Benjamin F. England, Daniel E. Dowling, Jr., Augustine M. O'Neill, John A. Brophy, John D. Lyons and Charles R. Ramsdell.

*Topographical Draughtsmen.*

Mortimer A. Smith, George Grote, Charles E. Clarke, Marcel deGrandmont, David R. Briggs, Jr., Charles H. Stoutenburgh and Benjamin Reich.

Total force, seventy-nine persons.



### The Bureau of Penalties.

As already stated, this Bureau was created by the Charter of the Greater New York to take the place of the former office of the Corporation Attorney.

The Bureau conducts all actions and proceedings to enforce corporation ordinances, all penalty proceedings instituted by the Charity, Fire and Health Departments and all delinquent juror cases.

The following items from the annual report of the Bureau for 1906 will show the variety of cases handled and the volume of business:

#### *Violations of Corporation Ordinances.*

Number of complaints received and acted upon.....	11,817
Number of actions commenced.....	8,611
Appeals in such actions.....	5

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#### *Bastardy Proceedings.*

Complaints received and acted upon.....	329
Number of convictions.....	155
Actions on bastardy bonds.....	33
Appeals from convictions.....	8

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#### *Abandonment Proceedings.*

Complaints received and acted upon.....	573
Convictions .....	110
Appeals from convictions.....	36
Actions on bonds in such cases.....	223

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#### *Proceedings to Compel Support of Poor Relations.*

Complaints received and acted upon.....	30
Motions to punish for contempt.....	4

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*Equity Suits to Compel Removal of Encroachments on Sidewalks, etc.*

Number of actions handled.....	6
Appeals in such cases.....	4

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*Fire Department Cases.*

"Soft coal" proceedings.....	7
Chimney fire complaints.....	86
Proceedings against theatres, hotels, lodging houses, etc., for failure to comply with law.....	505
Complaints for obstructing fire hydrants.....	9
Complaints against dangerous chimneys.....	11
Complaints against open hoistways.....	15

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*Health Department Cases.*

Proceedings commenced in Manhattan.....	6,845
Proceedings commenced in The Bronx.....	1,037
Proceedings commenced in Brooklyn.....	3,478
Proceedings commenced in Queens.....	264
Proceedings commenced in Richmond.....	265

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Total..... 11,889

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*Delinquent Juror Cases.*

Number of proceedings..... 1,202

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Collections by the Bureau during the year..... \$39,445 63

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A number of other miscellaneous proceedings were commenced during the year not embraced in the foregoing lists. The entire number of proceedings handled by the Bureau of Penalties during the year 1906 was over 30,000.

The persons employed in the Bureau are as follows:

## ASSISTANT CORPORATION COUNSEL IN CHARGE.

Herman Stiefel.

*Assistants.*

Harford Pinckney Walker, Michael J. Kelly, James Dickson Carr and Joseph G. Mathews.

*Junior Assistant.*

William S. Millard.

*Law Clerks.*

Timothy J. Murphy and James D. O'Sullivan.

*Clerks.*

James J. McGrath and William E. Fay.

*Junior Clerks.*

Lawrence P. Connolly, William J. Leonard and George A. Linton.

*Office Boy.*

William A. Fagan.

*Stenographers and Typewriters.*

Sadie Seibert, Lillian C. Goldstein and Lorette V. Higgins.

*Process Servers.*

Patrick H. Curran, William Looney, Philip Straub, Frank J. Steinbacher and Henry Lemken.

A total force of twenty-one persons.

**The Bureau for the Collection of Arrears of Personal Taxes.**

The Personal Tax Law of this State has been the subject of much criticism during recent years, and there is no doubt that in the attempt to enforce it much injustice is done. The persons and corporations whom the law is designed to reach almost escape taxation altogether, and the extra burden of a personal tax falls on a comparatively small number of business concerns and

householders who are too conscientious to avail themselves of the many opportunities to evade the tax.

Each year a long list of assessments for personal taxes is prepared, founded mostly on the mere surmises of the Deputy Assessors. Before the tax books are closed most of the assessments that could be collected are "sworn off" before the Tax Commissioners and when the books are closed the list consists mainly of assessments which are uncollectible.

After the expiration of the time allowed for the payment of these taxes the list of arrears is sent to the Marshal for the Collection of Arrears of Personal Taxes, who has power to make a levy on the personal property taxed and to take other summary proceedings for the collection of the arrears. When the Marshal has exhausted the list it is sent to this department and the Bureau for the Collection of Arrears of Personal Taxes makes a final attempt to collect the tax.

When the list reaches the Law Department it contains the names of thousands of persons who have paid no attention to the numerous notices sent to them because they have no property, real or personal, that could be levied upon under an execution. The names of many non-resident corporations, non-resident individuals and other persons not properly assessed also appear on the lists and it is really remarkable that this department is able to collect any considerable amount of money by bringing actions against the delinquents.

During the year 1906 the collections by the Bureau were as follows:

Taxes and interest.....	\$87,815 78
Costs collected .....	15,287 77
	<hr/>
Total.....	\$103,103 55
	<hr/> <hr/>

During the year about 30,000 notices were mailed to delinquent taxpayers. Six thousand seven hundred and eighty actions were begun. Eight hundred and thirty-two judgments

were entered. One thousand nine hundred and eighty-one suits were settled by payment.

During the month of April, 1907, the entire office force of the Bureau was completely reorganized and it is now as follows:

ASSISTANT CORPORATION COUNSEL IN CHARGE.

George O'Reilly.

*Junior Assistant.*

Loyal Leale.

*Clerks.*

Frank E. Johnson, Jr., and Edward Maas.

*Junior Clerks.*

Augustine H. Matthews, Bernard L. Carberry, Frank J. Daly, William A. Thompson, Joseph Taylor and John A. Quinn.

*Office Boy.*

Max Isaacs.

*Stenographers and Typewriters.*

Mary E. Parlati, Eleanor E. McEvoy, Cora Rankin, Agnes Fleming and Anna G. Feeney.

*Typewriting Copyists.*

Gertrude S. Kramer, Anna L. Martin, M. L. Charlotte Mechlin, Mabel Hamilton, Anna G. Stapleton.

*Messenger.*

Peter S. Prunty.

*Process Servers.*

Michael F. Murphy and twenty-two Special Process Servers, paid at the rate of \$1.15 for each process actually served.

The whole force numbers forty-five.

### The Tenement House and Building Bureau Branch Office.

A separate office or Bureau is also maintained to take charge of proceedings to enforce the provisions of the Tenement House Law and matters connected with the Building Department. Probably nothing of late years has contributed more to the good health and good morals of a large part of the population of this City than the new Tenement House and Building Laws. It is necessary, however, that these laws be most rigidly enforced, and this duty devolves to a considerable extent on the branch office of this Department.

The Tenement House Law violations received and acted upon during the year 1906 numbered 11,033; 2,283 actions were terminated during the year, and there were 7,484 still pending at the close of the year.

Ninety-two judgments were entered during the year.

Sixteen criminal proceedings were instituted.

Six hundred proceedings were commenced against premises unfit for human habitation.

Five thousand three hundred and sixty-nine notices of *lis pendens* were filed.

One hundred and eighty-one special actions were begun for unlawful occupation of tenement houses.

The sum of \$5,324.14 was collected during the year.

In matters relating to the Building Department the record for the year was as follows:

Complaints received .....	1,772
Actions terminated .....	1,655
Actions pending at close of year.....	117
Judgments entered .....	36
Precepts in unsafe building cases.....	108
<i>Lis pendens</i> filed.....	649
Money collected .....	\$4,804 33

The persons assigned to the Bureau are as follows :

ASSISTANT CORPORATION COUNSEL IN CHARGE.

John P. O'Brien.

*Assistants.*

Samuel J. Parmenter, William T. Kennedy and Francis E. V. Dunn.

*Junior Assistants.*

Henry S. Johnston, Louis Gans and Addison B. Scoville.

*Clerk.*

Gerald G. P. Jackson.

*Junior Clerks.*

Benedict A. P. Smith, Max Oppenheimer, Harry Hertzoff and William M. Sullivan.

*Office Boys.*

David Zucker, Thomas F. McDonald, William J. Daly, Jr., and Edward A. Hosey.

*Stenographers and Typewriters.*

Anna E. Lamb, Rebecca Hanau and Jennie G. Murray.

*Typewriting Copyists.*

Loretto G. Lyman, Mary Liebergall and Mary F. Lane.

*Process Servers.*

Leonard Zimmerman and eight Special Process Servers, paid at the rate of \$1.15 for each process actually served.

The entire force of the bureau is thirty-six persons.

*Summary:*

The number of employees in the entire Law Department at the present time is, therefore:

Main Office .....	130
Brooklyn Office .....	29
Bureau of Street Openings.....	79

Bureau of Penalties.....	21
Bureau for the Collection of Arrears of Personal Taxes....	45
Tenement House Bureau .....	36
	<hr/>
Total.....	340
	<hr/> <hr/>

### **Matters Relating to the Water Supply.**

#### PROCEEDINGS TO CONDEMN LAND FOR THE WATER SUPPLY.

##### *In re Cornell Dam, Eighth Supplemental Proceeding.*

During the past year the proceedings pending before the Commissioners of Appraisal herein have been continued and the eleventh and twelfth separate reports of the Commission have been made and confirmed. These reports embraced twenty-seven parcels and one separate claim, for which awards amounting to \$119,444.15 were made.

Originating in this proceeding, but subsequently sent before another Commission, was parcel No. 486, in which an additional award of \$2,600 has been made for one parcel.

##### *In re Cornell Dam, Ninth Supplemental Proceeding.*

The report of the Commission has been made and confirmed during the year 1906. The report embraced five parcels and the awards amounted to \$19,068.

##### *In re Byram Pond and Bear Gutter Creek (Parcels 61 and 62).*

The report in this proceeding has been made during the present year, and the award amounted to the sum of \$37,154.55.

##### *Carmel or Lake Glencida Proceeding.*

The trial of this proceeding was continued and concluded, and a report embracing two parcels and ten separate claims made by the Commission, the awards for which amounted to \$37,221.

##### *Croton Falls Reservoir (K).*

This proceeding has been commenced by the appointment of a Commission; testimony upon twelve parcels has been completed on both sides.



*Croton Falls Reservoir (K), First Supplemental Proceeding.*

A Commission has been appointed herein and testimony is now being taken on behalf of the claimants.

*Cross River Reservoir (Additional Lands and Highways).*

In the construction of Cross River Dam the old roads will be flooded and new highways will have to be substituted. The new routes have been finally approved by the Court; Commissioners have been appointed before whom the important question as to whether the new routes should be constructed by the City or by the towns and paid for by the City will be litigated unless an amicable arrangement can be made between the towns and the City. Testimony is now being taken before said Commission and roads are being constructed under a stipulation.

*Cross River Dam and Reservoir (Division 1).*

Four separate reports have been made by the Commission in this proceeding during the year 1906, embracing twenty parcels of land, for which the awards have amounted to \$164,455.

*Cross River Dam and Reservoir (Second Division).*

Three separate reports have been made by this Commission, embracing twenty-one parcels of land, for which the awards made were \$45,875.

*Byram River Diversion.*

In the matter of making settlements with the owners of lands having frontage on Byram river, one claim is awaiting warrant from the Comptroller, two claims are awaiting adjustment of dispute as to number of feet frontage, and seven claimants have not signed agreement with Comptroller.

*Matter of Taxation of City Lands, Westchester and Putnam Counties.*

Since the decision of the Court of Appeals making the structures of the City assessable for taxation, certiorari proceedings have been instituted for the purpose of reviewing the question of inequality and overvaluation in 1905 and 1906, and have been referred

to a Referee, who is now taking testimony in the matter. In the certiorari proceedings for 1904, the writs were quashed; an appeal was taken to the Appellate Division, which appeal has been heard, and decided in favor of the City.

#### *Injunction Suits.*

In connection with the certiorari proceedings, six suits were brought to enjoin the Supervisors in various towns of the county from selling the land of the City for unpaid taxes of 1902. These suits are at issue, but have not been tried. A preliminary injunction has been granted, and the City is not desirous of moving unless compelled to, and will probably withdraw these suits as soon as the certiorari proceedings are determined.

#### *Mt. Kisco Proceeding.*

Efforts have been made from time to time on the part of the Board of Health of The City of New York to have proceedings taken to prevent the pollution of the City's water supply at Mt. Kisco, and an agreement has been suggested between the Department of Water Supply, Gas and Electricity and the Village of Mt. Kisco, whereby the sewage from said village will be satisfactorily disposed of. A bill will be introduced into the Legislature with this object in view. The condemnation of certain low swamp lands by The City of New York may be necessary.

#### *New Catskill Aqueduct Proceeding.*

In this large and important undertaking preliminary steps have been taken, such as the filing of maps and the advertising of applications for the appointment of Commissioners in various sections of the work. None of these applications were heard in the year 1906, but it is expected that during 1907 several of the applications will be heard and granted and condemnation proceedings immediately pressed by the City.

## REPORT FOR 1906.

## Recapitulation of Report of General Offices.

In outlining the organization of the department and describing the business conducted by the Bureaus I have given a short summary of the work done by each Bureau during 1906. It now remains for me to give a brief recapitulation of the year's work in the main office and Brooklyn office. The eight schedules forming the detailed report of these, the general offices, show the following results for the year 1906:

## SCHEDULE I.

ACTIONS AND SPECIAL PROCEEDINGS PENDING AT THE CLOSE OF  
THE YEAR.

## Actions against the City—

“Prevailing rate of wages” actions.....	5,624
“Suspension” actions .....	4,217
Other actions by City employees for salary or wages	2,720
All other actions on contract.....	1,133
Actions on tort.....	5,612
Equity suits .....	778
Actions in which the summons only has been served.	988
Actions in which The City of New York is plaintiff....	342
Tax certiorari proceedings.....	1,660
Other certiorari proceedings.....	168
Mandamus proceedings .....	430
Condemnation proceedings (other than street openings).	171
Assessment proceedings .....	663
“Change of grade” claims.....	901
Miscellaneous proceedings .....	33
	<hr/>
Total.....	25,440
	<hr/> <hr/>

## SCHEDULE 2.

NUMBER OF ACTIONS AND PROCEEDINGS BEGUN AND TERMINATED  
DURING THE YEAR.*Actions and Proceedings Begun During the Year.*

Actions against the City—	
“Prevailing rate of wages” actions.....	134
“Suspension” actions .....	3
Other actions by City employees for wages or salary	40
All other actions on contract.....	113
Actions on tort.....	559
Equity suits .....	279
Actions in which the summons only has been served.	364
Actions in which The City of New York is plaintiff.....	208
Tax certiorari proceedings.....	321
Other certiorari proceedings.....	58
Mandamus proceedings .....	447
Condemnation proceedings (other than street openings)..	54
Assessment proceedings .....	2
Miscellaneous proceedings .....	336
	<hr/>
Total.....	2,918
	<hr/> <hr/>

*Number of Actions and Proceedings Terminated During the Year.*

Actions against the City—	
Actions by City employees for salary or wages.....	75
All other actions on contract.....	105
Actions on tort.....	501
Equity suits .....	248
Actions in which the summons only was served.....	85
“Excise rebate” cases.....	46
Actions in which The City of New York is plaintiff.....	56
Proceedings brought by the Receiver of Taxes.....	28
Tax certiorari proceedings.....	115
Other certiorari proceedings.....	83

Mandamus proceedings .....	313
Condemnation proceedings (other than street openings)...	18
Assessment proceedings .....	3
Miscellaneous proceedings .....	325
	<hr/>
Total.....	2,001
	<hr/> <hr/>

### SCHEDULE 3.

#### COURT WORK DURING THE YEAR.

*Appeals Argued, Actions Tried, Hearings Before Referees and Commissioners and Motions Argued.*

Number of actions tried in courts other than Municipal Courts .....	298
Number of actions tried in Municipal Courts.....	91
Number of appeals argued or submitted at Appellate Term	11
Number of appeals argued or submitted at Appellate Division .....	193
Number of appeals argued or submitted at the Court of Appeals .....	51
Number of appeals argued at the United States Supreme Court .....	2
Number of appeals argued in United States Circuit Court of Appeals .....	1
Number of actions and proceedings tried before referee...	46
Number of sessions before referees.....	292
Number of condemnation proceedings on trial.....	76
Number of hearings before Commissioners at which testimony was taken.....	954
Number of motions argued.....	934
Number of complaints dismissed on call of calendar.....	29
	<hr/> <hr/>

## Disposition.

The actions tried and appeals argued were disposed of as follows:

Number of actual trials in courts other than Municipal Courts .....		298
Decisions in favor of the City.....	99	
Decisions against the City.....	113	
Decisions which were partly favorable and partly unfavorable .....	12	
Trials in which the jury disagreed or a juror was withdrawn.....	10	
Trials in which the City was only indirectly interested .....	34	
Cases tried in which a reference was ordered.	1	
Trials where a judgment was consented to....	1	
Cases not yet decided.....	7	
		<hr/>
		298
		<hr/> <hr/>
Number of actual trials in Municipal Courts.....		91
Decisions in favor of the City.....	41	
Decisions against the City.....	43	
Trials in which the jury disagreed.....	1	
Cases not yet decided.....	6	
		<hr/>
		91
		<hr/> <hr/>
Number of appeals argued or submitted at Appellate Division .....		193
Decisions in favor of the City.....	130	
Decisions against the City.....	49	
Decisions partly favorable and partly unfavorable .....	10	
Appeals where City's interest was indirect....	1	
Cases not yet decided.....	3	
		<hr/>
		193
		<hr/> <hr/>

Number of appeals argued or submitted at Appellate	
Term .....	11
Decisions in favor of the City.....	5
Decisions against the City.....	4
Decision partly favorable and partly unfavorable .....	1
Appeal where City was not directly interested.	1
	————— 11
	=====
Number of appeals argued or submitted at the Court of	
Appeals .....	51
Decisions in favor of the City.....	34
Decisions against the City.....	17
	————— 51
	=====

One of the appeals argued in the United States Supreme Court was decided in favor of the City, and in the others a reargument was ordered.

The appeal argued in the United States Circuit Court of Appeals was decided against the City.

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SCHEDULE 4.

JUDGMENTS, ORDERS AND DECREES ENTERED DURING THE YEAR.	
Number of orders and decrees entered.....	1,244
Number of judgments entered against the City.....	394
Number of judgments entered in favor of the City.....	200
	=====
Amount of judgments entered against the City.....	\$506,334 09
Amount of judgments entered in favor of the City....	76,210 21
	=====

## SCHEDULE 5.

## PAYMENTS MADE FROM EACH APPROPRIATION DURING THE YEAR.

"SUPPLIES AND CONTINGENCIES, INCLUDING DEFICIENCIES" (original appropriation)..... \$100,000 00

Transfer from "Contingent Counsel Fees". \$24,250 00

Transfer from "Salaries of Assistants, etc." 24,706 08

————— 48,956 08

Total..... \$148,956 08

Amount disbursed ..... \$110,241 76

Balance unexpended ..... 38,714 32

—————  
Total..... \$148,956 08

"CONTINGENT COUNSEL FEES" (original appropriation) ..... \$25,000 00

Amount disbursed ..... \$750 00

Transfer to "Supplies and Contingencies" ..... 24,250 00

————— \$25,000 00

"FEES OF EXPERTS AND OTHER DISBURSEMENTS IN TAX CERTIORARI PROCEEDINGS" (original appropriation) ..... \$40,000 00

Amount disbursed ..... \$14,770 35

Balance unexpended ..... 25,229 65

————— \$40,000 00



"INVESTIGATION OF CITY'S CLAIMS TO LANDS UNDER WATER IN JAMAICA BAY" (original appropriation)		\$10,000 00
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Amount disbursed .....	\$1,447 50	
Balance unexpended .....	8,552 50	
	<hr/>	\$10,000 00
<hr/>		
SALARIES (original appropriation).....		\$460,000 00
Transfer to "Supplies and Contingencies".....		24,706 08
		<hr/>
Net appropriation .....		\$435,293 92
<hr/>		
Amount disbursed .....	\$435,293 92	
	<hr/>	
Total .....		\$435,293 92
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### SCHEDULE 6.

#### MONEYS RECEIVED AND RETURNED BY THE CORPORATION COUNSEL DURING THE YEAR.

##### Collections by Main Office—

Amount collected, exclusive of costs.....	\$160,379 10
Amount of costs collected.....	10,553 77
	<hr/>
Total for Main Office.....	\$170,932 87
Collections by Bureau of Arrears of Personal Taxes..	103,103 55
Collections by Bureau of Penalties.....	39,445 63
Collections by Bureau of Buildings.....	4,804 33
Collections by Tenement House Branch Office.....	5,324 14
	<hr/>
Total collections of the Law Department	\$323,610 52
	<hr/>

## SCHEDULE 7.

## CONTRACTS, ETC., APPROVED DURING THE YEAR.

Number of contracts approved as to form.....	2,957
Number of contracts revised and returned for correction..	353
Number of advertisements for bids, etc., approved as to form .....	720
Number of bonds approved as to form.....	576
Number of leases approved as to form.....	187
Number of releases approved as to form.....	42
Number of agreements approved as to form.....	29
Number of deeds approved as to form.....	7
	<hr/>
Total.....	4,871
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## SCHEDULE 8.

OPINIONS RENDERED TO THE VARIOUS MUNICIPAL OFFICERS AND  
DEPARTMENTS DURING THE YEAR.

Department.	Number of Opinions Rendered.
Finance Department .....	1,034
Borough Presidents .....	131
Department of Water Supply, Gas and Electricity...	102
Board of Estimate and Apportionment.....	63
Police Department .....	54
Board of Education .....	51
Department of Taxes and Assessments.....	29
Fire Department .....	25
Dock Department .....	23
Department of Charities.....	18

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Department.	Number of Opinions Rendered.
Mayor .....	18
Department of Buildings.....	17
Park Department .....	17
Municipal Civil Service Commission.....	16
Bellevue and Allied Hospitals.....	15
Department of Bridges.....	14
Street Cleaning Department.....	14
City Clerk .....	13
Bureau of Licenses.....	10
Board of Assessors.....	9
Brooklyn Grade Crossing Commission.....	9
Health Department .....	9
Board of Aldermen.....	8
Board of Water Supply.....	7
City Chamberlain .....	7
Department of Public Works.....	5
Aqueduct Commissioners .....	5
Department of Correction .....	5
Board of Elections .....	4
Attorney-General .....	4
Register .....	3
Sinking Fund Commissioners.....	3
County Clerk .....	2
Tenement House Commission.....	2
Register, Kings County .....	2
Board of Rapid Transit Railroad Commissioners....	2
Board of City Magistrates.....	2
Bureau of Franchises .....	2
Armory Board .....	2
Bureau of Weights and Measures.....	2
Trustees, College of the City of New York.....	1
State Board of Tax Commissioners.....	1

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Department.	Number of Opinions Rendered.
Board of Examiners.....	1
District Attorney .....	1
Board of County Canvassers.....	1
Court House Board.....	1
Richmond County Agricultural Society.....	1
Board of Atlantic Avenue Improvement.....	1
Total.....	1,766

I will call particular attention to only three items in the foregoing recapitulation. The first is the large number of actions tried and appeals argued—an ever increasing part of the work; the second is the number of opinions rendered and contracts approved—the largest in the history of the department; the third is the small number and amount of judgments against the City—the smallest (as I have elsewhere stated) since the time of consolidation.

*General Summary for Entire Law Department.*

Of the 25,440 actions pending in the main office a conservative estimate of the number in which some action was taken during the year 1906 is.....	8,000
The proceedings handled by the Street Opening Bureau numbered .....	419
Proceedings handled by Bureau of Penalties.....	30,000
Proceedings handled by Bureau of Arrears of Personal Taxes .....	30,000
Proceedings handled by Tenement House office.....	12,805

The total number of actions and proceedings handled by all parts of the department force during 1906 was therefore approximately ..... 81,224

Statistics are sometimes misleading and figures may conceal as well as reveal the facts, but in the foregoing summary an honest effort has been made to give the best obtainable information, so that the person who reads this report may form a fair idea of the nature and extent of the duties of the office of the Corporation Counsel.

It should be borne in mind that it is a difficult matter to reduce the work of a law office to mathematical tables and schedules. The work on individual cases and important opinions cannot be measured or tabulated and sometimes one difficult proceeding—for instance a large condemnation proceeding or the action now being tried to set aside the 80-cent gas bill—will require more time, effort and ability than a thousand routine proceedings. But an inspection of the foregoing summary should convince the reader that the Law Department of The City of New York is unquestionably the largest law office in the country, and that means, I presume, in the world, and that it should always be maintained upon a standard which will make it a pattern and example to other municipalities.

#### NEEDS OF THE DEPARTMENT.

A year ago the Law Department had two great needs—proper accommodations for the general office and more assistants. The first need has been most generously provided for, but the second, through no fault of the municipal authorities, still exists.

Over two years ago my predecessor recognized the necessity for several extra assistants, not young men or students, but experienced lawyers, who could share with the senior assistants the more important parts of the office work. The men needed could not be obtained from the Civil Service lists, because lawyers of the required ability and experience would not enter a Civil Service examination, and it was necessary that these new assistants should be selected because of their special knowledge of certain subjects. But the number of assistants who might be employed without Civil Service examination had been limited by the Civil Service

Rules to seventy-five, and my predecessor accordingly made an application to the State Civil Service Board to increase the number of "exempt" assistants to one hundred. The application was approved by the Municipal Civil Service Commission and the Mayor, but was disapproved by the State Civil Service Board.

Feeling that the State Civil Service Board had acted without fully comprehending the conditions, I renewed the application to increase the number of assistants, fixing ninety as the necessary limit for the present. On this occasion, as on the former one, the Civil Service Reform Association appeared and opposed the application, upon the ground that the number of exempt positions was already sufficient. The application has again been denied in a memorandum, in which the State Board suggests that the force of Assistants may be increased by appointments from the Civil Service lists.

In my judgment the placing of any considerable part of the force of Assistants in the Law Department under the Civil Service rules would be a menace rather than an advantage to the City, since it would tend to retain in office persons of little or no ability, who could not be removed except upon charges, and whose places could only be filled by appointments from the Civil Service lists.

No Civil Service examination can be devised which will be any test of the qualities needed in an Assistant in this Department. Every Assistant is to some extent a Deputy of the Corporation Counsel. He is in effect often independent counsel for the City in some of the most important litigation that comes before the Courts. There should be no Civil Service restrictions upon the choice of Assistants by the head of the Law Department. There is no more reason for subjecting such men to Civil Service rules than legislators, judges or private counsel for litigants.

To criticize the motives of the State Board in refusing its approval of the plan submitted to it would be as idle as it might be unjust. Earnest supporters of Civil Service reform have ever before them the numerous instances in the past of the abuse of the power of appointment, and are inclined to regard any

application for relaxation of its principles as not made in good faith. This attitude of mind has its advantage for public interest, but I cannot help concluding that the City in this instance must suffer from it.

What seems to be even more discouraging is that I do not believe that the City can prevail against this sentiment. There is, therefore, nothing to be done except to strive to use the force at our command to the best possible advantage in the City's service.

It must be remembered that while I have seventy-five Assistants, thirteen of them are engaged in the Street Opening Bureau, nine in the Brooklyn office, five in the Bureau of Penalties, four in the Tenement House branch, and two in the Personal Tax Bureau, leaving only forty-two in the main office. Of these forty-two Assistants, four are constantly employed on Appellate Court work, three in condemnation proceedings, four in tax certiorari proceedings, two in contract cases, three in the "gas litigation" and franchise cases, six in accident cases, two in "affirmative" actions, two on Board of Education cases, one is permanently assigned to the Mayor's office, and during part of the year one is engaged in legislative work at Albany. Most of the remaining fourteen Assistants are engaged to some extent on special work where they have acquired considerable experience, and there are, therefore, not men enough available to take up new matters which demand prompt attention.

The practical result of the denial of my application for leave to appoint more Assistants is that much work of an important character does not receive the prompt attention that I desire it should have, and there is no force available to take up the large and ever increasing arrears of business. Had my application been granted, I could have perfected my plans for office organization and could have devised some system for bringing the arrears of work of the Department more nearly up to date.

*Conclusion.*

The foregoing is a brief history of the Law Department, an outline of the present general organization of the Department and a recapitulation of the work for the year 1906. I cannot close this report, however, without adding this personal word in relation to the office staff. I have been deeply gratified by the earnest, hearty co-operation on the part of my Assistants and heads of bureaus; I have appreciated the industry and faithfulness of the clerical force and subordinates, and I have found throughout the department a loyalty to the head of the office and a devotion to duty which I am glad in this public manner to acknowledge.

Yours respectfully,

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Corporation Counsel.







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