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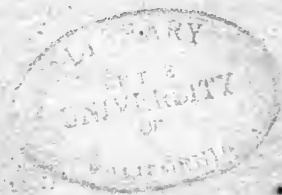
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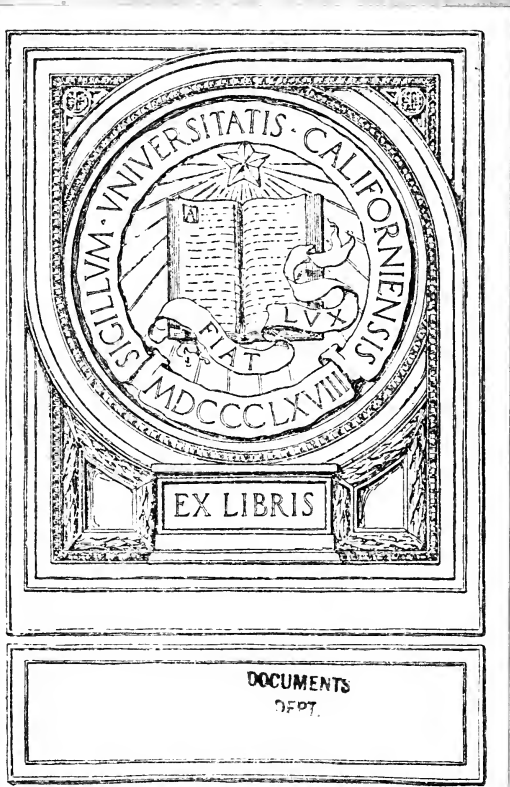
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1921-1922



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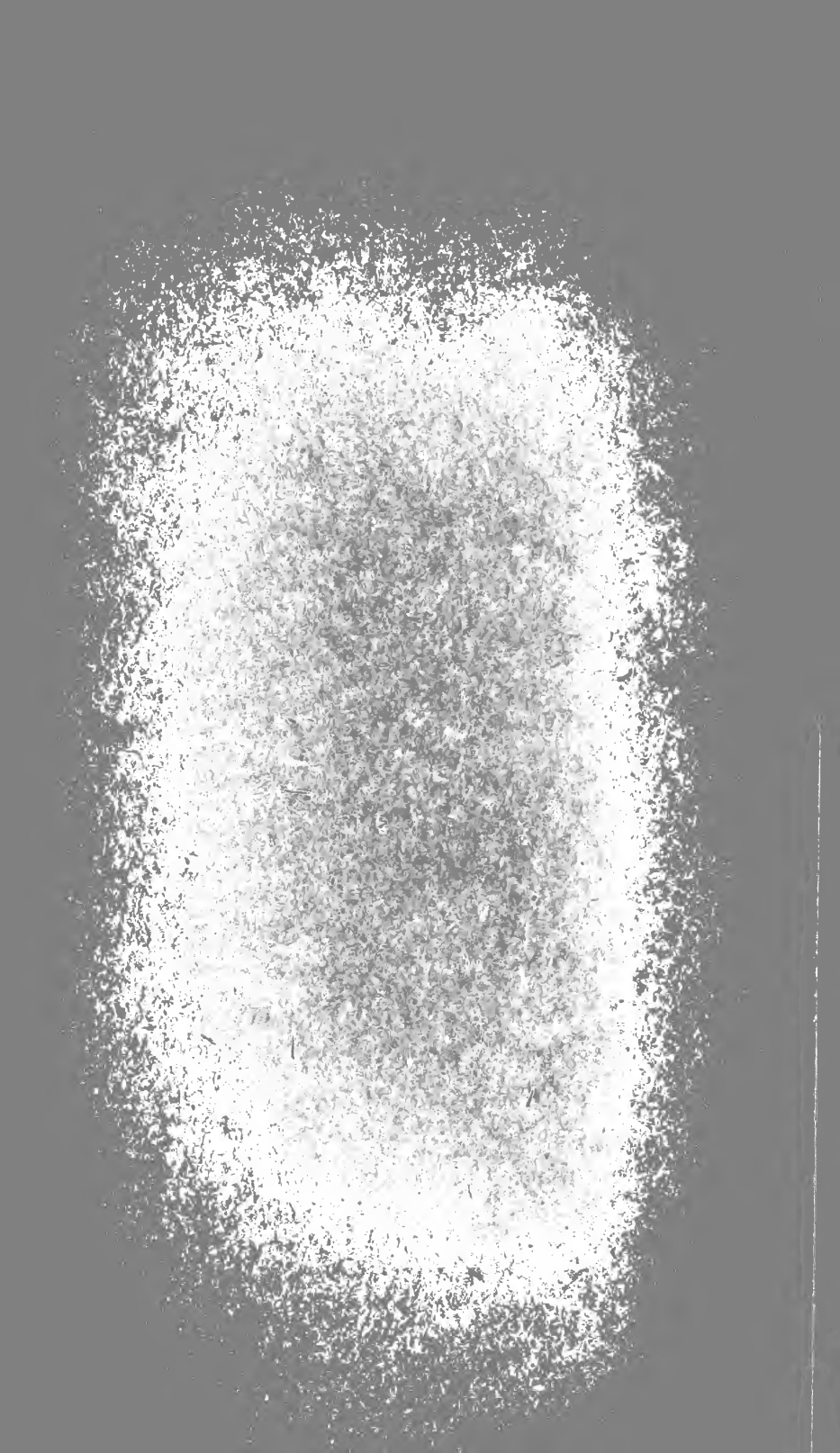


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STATE OF NEW YORK

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REPORTS

OF THE

New York State Joint Legislative  
Committee to Investigate the  
Affairs of the City of New York

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## THE COMMITTEE

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SCHUYLER M. MEYER, *Chairman.*

SIMON L. ADLER, *Vice-Chairman.*

THEODORE DOUGLAS ROBINSON, *Secretary.*

MAXWELL S. HARRIS,

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CHARLES D. DONOHUE,

MAURICE BLOCH,

PETER J. McARDLE,

CLAYTON R. LUSK, *Ex-officio.*

JAMES J. WALKER, *Ex-officio.*

---

ELON R. BROWN, *Counsel.*

LEONARD M. WALLSTEIN, *Associate Counsel.*

SAMUEL A. BERGER, *Associate Counsel.*

ALEXANDER OTIS, *Associate Counsel.*

FRANK LORD, *Associate Counsel.*

PERRINE & NICHOLS, *Accountants.*

SPENCER PHENIX, *Special Assistant.*

A. D. H. SMITH, *Special Assistant.*

---

In charge of the field work of various phases of the investigation were:

FREDERICK RIPPON,

CLARENCE KING,

PAUL C. WILSON,

LEO J. McDERMOTT,

WILLIAM BULLOCK,

MAURICE DEUTSCH,

WINTHROP D. LANE,

JULIAN I. MARKS,

[iii]

MEMORANDUM

RE: [Illegible]

DATE: [Illegible]

TO: [Illegible]

FROM: [Illegible]

SUBJECT: [Illegible]

[Illegible]

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**JOINT RESOLUTION CONSTITUTING THE NEW YORK  
STATE JOINT LEGISLATIVE COMMITTEE TO IN-  
VESTIGATE THE AFFAIRS OF THE CITY OF NEW  
YORK**

ADOPTED APRIL 15, 1921.

WHEREAS, It is the common report that the revenue of the City of New York is insufficient to meet the requirements of the public schools and other municipal departments, and the general financial status and the credit of the city are in a perilous position; and

WHEREAS, It is the common report that such financial condition of the city is due, in part, to inefficiency, waste and corruption in various departments of the city government, and

WHEREAS, It is also the common report that the personnel and the current administration of various departments of the government of the city has been demoralized and subjected to practices prejudicial to the public interest; and

WHEREAS, It has been repeatedly stated in public reports and as matters of public information that the financial difficulties of the said city, and the inefficiency and waste in the administration of its government are due, in part, to duplication and defects in the structure of its government under existing laws, and

WHEREAS, There is and for a long time has been an insistent and widespread demand by citizens of such city that the legislature inquire into all such matters for the purpose of enabling the legislature to correct such abuses, cure defects and afford relief to such city so far as the same may be done by law, and

WHEREAS, It is the duty and function of the state to lend such assistance as it can to secure to such city and its citizens residing therein honest, efficient and economical local government; now, therefore be it

*Resolved* (if the Assembly concur), That a joint legislative committee is hereby constituted, to consist of five members of the senate to be appointed by the temporary president of the senate and six members of the assembly to be appointed by the speaker of the assembly, with power and authority to investigate the general financial condition of the city of New York, the causes

thereof, and the remedies therefor, and to inquire and examine into all and singular the aforesaid matters and allegations, and to inquire into the accounts, the structure and the methods and manner of administration of any and all the departments, bureaus, offices, boards and commissions of the government of the city of New York, and of the boroughs thereof, and of the counties geographically included within said city and into every matter and thing that affects or has affected the present, past or future conditions surrounding or in any way bearing upon or relating to the financial condition of said city, the structure and the administration of the municipal government thereof, and of the government of the counties geographically included within said city. The investigation of the committee may include every other matter and thing not specifically mentioned in this resolution relevant to the general question of ascertaining and improving the financial conditions of said city and the structure and the administration of the government thereof, and of the counties geographically included therein, as though the same had been expressly specified therein.

*Further resolved,* That such committee be hereby authorized to sit in the city of New York, or elsewhere within the state, and conduct the investigation herein described during the session of the legislature and during the recess or after the adjournment with the same power and authority it would have were the legislature in session to choose a chairman from among its own members, to employ a secretary, counsel, accountants and such other assistants as may be needed, to take testimony, subpoena witnesses and compel the production of books, documents and papers, to have the assistance and cooperation of the officers and employees of the city of New York and of the counties included geographically within said city and access to and examination of all records, books, papers and documents of said city and counties and of any and all departments, bureaus, offices, boards or commissions thereof, and otherwise to have all the powers of a legislative committee. The committee may at any time and from time to time by resolution of a majority of its members, be subdivided into sub-committees of such number as it may by majority determine, which sub-committees may sit at the same time and place or at different times and places in the state of New York during the session of the legislature, during its recess or after the adjournment, each such sub-committee to appoint its own chairman and

to act by majority vote of its own members and to administer oaths and to issue subpoenas requiring the attendance of witnesses and the production of books, papers and documents and to do all other acts and things that may be done by the committee as a whole or that may be delegated to it by the full committee.

*Further resolved*, Whenever in its judgment the public interest demands, the committee may determine that a person shall not be excused from attending and testifying before said committee or before any sub-committee thereof, or from producing books, papers or documents before the committee or such sub-committee in obedience to its subpoena on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or to subject him to a penalty or forfeiture; but no person so attending and testifying or producing such books, papers or documents, who has duly claimed excuse or privilege which would be sufficient except for this provision of this resolution and which said excuse or privilege has been expressly denied by the committee, shall be subjected to prosecution or to any penalty or forfeiture for or on account of the transaction, matter or thing concerning which he may as aforesaid testify or produce evidence, documentary or otherwise, before said committee or sub-committee in obedience to its subpoena.

*Further resolved*, That said committee shall report with all convenient speed, but not later than February 1, 1922, the results of its investigations to the legislature; and that such committee shall also report, from time to time, such results of its investigations as relate to or bear upon the finances and the structure of the government of the city of New York, and the counties geographically included therein, to any commission now or hereafter created by law for the study and general revision of the Greater New York charter, and the acts amendatory thereof or supplemental thereto, or other acts relating to the government of said city.

*Further resolved*, That the sum of one hundred thousand dollars (\$100,000), or so much thereof as may be necessary, is hereby appropriated from and out of the contingent fund of the legislature for the necessary expenses of said committee and to be paid on vouchers approved and audited according to law.





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OFFICE OF  
THE CLERK OF THE SENATE

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**FIRST REPORT**

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**NEW YORK STATE JOINT LEGISLATIVE COMMITTEE  
TO INVESTIGATE THE AFFAIRS OF THE CITY OF  
NEW YORK**

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**December 19, 1921**

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[1]





## FIRST REPORT OF THE LEGISLATIVE COMMITTEE

December 19, 1921.

*To the Charter Revision Commission:*

The committee deems it advisable at this time to report its conclusions as to some basic changes in the charter of the City of New York.

The principal legislative powers of the city are now vested in the Board of Estimate which is composed of the executive or administrative officers of the city. The Committee proposes that the executive or spending power be separated from the appropriating power, and for this purpose recommends:

(a) That a Board of Finance of nine members be elected by the city at large for six years, three to be elected every other year.

(b) That the members, although elected by the whole city, be resident, as follows: Three in Manhattan, three in Brooklyn, and one in each of the other boroughs.

(c) That the Board of Estimate and Apportionment and the Sinking Fund Commission be abolished, and all the powers of both boards over city finances be transferred to the Board of Finance.

(d) That the Board of Finance, either upon the recommendation of the Mayor, or upon its own motion, have the power to abolish, modify or consolidate the various departments of the city.

(e) That the Board of Finance have the power of confirmation over appointments to the Board of Taxes and Assessments, whose tenure of office is to be fixed like members of the Board of Education.

(f) That the Board of Finance, on the request of the Mayor, or on its own motion, have the power of removing city officers by a two-thirds vote for cause.

(g) That the Mayor transmit a budget for the support of the entire city and of county governments to the Board of Finance, and have the power of veto over the Board of Finance, subject to being overridden by a two-thirds vote.

(h) That the office of President of the Board of Aldermen be abolished at the end of the term of the newly-elected incum-

bent, the Board of Aldermen retaining its present powers and, like the Board of Finance, choosing its own presiding officer.

(i) That for the purpose of insuring complete financial control of the new Board of Finance, all mandatory legislation fixing charges on the city or the counties for services of a purely local nature be repealed, and that further legislation of this character be effectually restrained by constitutional enactment.

(j) That the Mayor, Comptroller and Borough Presidents retain their executive and administrative powers unimpaired.

The new board should be chosen at the annual election in 1923, and prepare its first budget for the year 1925, since the budget for 1924 would be prepared before they come into office.

The Committee are of the opinion that if this plan be adopted it will

*First.*— Separate the appropriating power from the spending power — the legislative from the executive. When a city rivals States in population, objections to uniting these powers in States applies to the city. Such powers were united in small municipalities on the analogy of business corporations, but in large corporations there is usually a division of such powers;

*Second.*— Furnish an opportunity for the city to become articulate — to speak directly and exclusively on the financial issue every two years. The duties of the new board will be financial. Parliaments and Legislatures are mostly concerned with appropriations. A vote for Mayor or Comptroller, etc., under the present system, gives no means for such an expression, and is usually given with the express purpose of securing some expenditure without providing any check on the amount available, or supervision over its expenditure in the sense that States and Nations have checks over expenditures through the appropriating power;

*Third.*— From the dignity and authority of the body, and, owing to its limited membership, from the dignity and authority of the several members, and also by reason of its freedom from administrative duties, attract the best class of candidates available. It is hopeless to induce persons of high qualifications to undertake local administration by piecemeal. Nothing less than general control over the finances of the city will successfully invite such talent. The election by the city at large of the members of the Board of Finance, besides tending to unify the sentiment of the city on the principal question relating to city government, will be the best means of securing candidates of capacity and character.

*Fourth.*—By creating a legislative body, promote and invite a more extensive delegation of powers of local legislation, including the abolition, modification and combination of departments, and require a repeal of mandatory State legislation of a local character; it will also, from its nature, be a powerful factor in shaping legislation affecting the City of Albany.

*Fifth.*—Through the power of confirmation of members of the Board of Taxes and Assessments, and the fixed tenure of office, make them more independent of official interference in the performance of their important public duties and prevent the manipulation of the board to meet the necessities of an extravagant administration. The power of removal for cause will operate as a check on malfeasance in city offices.

*Sixth.*—Inspire civic interest and activity by recognizing the due sense of municipal importance, power and responsibilities of which the citizens of such a city must be conscious, and nourish public spirit and develop intelligence on the fundamental matters of finance and expenditure, which are not now in any adequate way brought home to the voter when he gives expression to his views by the ballot.

*Seventh.*—Furnish an opportunity, now lacking, to the administrative officers of the city to give adequate time and attention to administration.

The urgent reasons for a change in the system of city government now in force are apparent, and may be summarized as follows:

#### I. FINANCIAL

The maintenance of the city in a sound financial condition, with a credit equal to meeting its public necessities, is of the first importance to the municipality and its citizens and to the State. The city debt has increased every year since the city was organized. The gross funded debt in 1898 was \$344,000,000, of which \$212,000,000 had been incurred for non-revenue producing purposes. This debt (exclusive of general fund bonds) had increased in 1921 to \$1,246,000,000, of which \$835,000,000 was non-revenue producing. In addition to this, the city carries a temporary debt of approximately \$100,000,000, which is not computed in determining the debt limit.

The tax levy has kept pace with the growth of the debt. The budget in 1898 was \$77,000,000 and in 1921 \$345,000,000, while the per capita charge for taxes has risen from \$23.12 in 1898 to \$59.77 in 1921.

The tax-roll has increased from upward of \$3,000,000,000 in 1898 to \$10,186,207,279 in 1921, the rate of increase being reasonably uniform from 1904 to 1921, when the real estate assessment jumped from \$8,626,000,000 to \$9,972,000,000 in an attempt to keep within the debt and tax limit. The exact increases are not yet obtainable for the year 1922, but the preliminary estimate furnished the Comptroller by the Department of Taxes, places the 1922 assessment at \$10,500,000,000.

Without taking up now the pending questions relating to the debt limit and tax limit, it is beyond controversy that the city is using its entire taxing power for ordinary expenses, in the face of urgent needs for essential public service — schools, rapid transit, docks, markets and a marginal railway. Instead of furnishing evidence of the city's financial soundness, the rapid rise in assessments indicates the exhaustion of the city's credit, and a manipulation of the taxing power to conceal it. It may be added that in 1921 the city found it necessary for the first time to resort to the doubtful expedient of basing its tax limit on the current assessment rather than on the assessment of the year before, as heretofore practiced in other cities of the State, and the present budget indicates that the same doubtful expedient of increasing the taxing power will be resorted to in 1922, in an attempt to keep within the constitutional tax limit. The Comptroller has publicly advised the Board of Aldermen of the necessity of cutting \$10,000,000 out of the appropriation for schools to keep within such increased limit.

Such a showing gives no promise of recovery under the present municipal organization, but foreshadows financial disaster.

## II. DIVISION OF AUTHORITY BETWEEN THE CITY AND THE LEGISLATURE

It is apparent from the number of amendments to the charter since its re-enactment in 1901 that it is not laid down on reasonably permanent lines. As appears by the session laws the charter has been amended or modified by 1,666 separate laws, exclusive of general laws affecting the whole State. There were 116 such laws in 1920 and 82 in 1921. Many of these statutes fix salaries of city or county officers; 52 such statutes have been passed in the last four years. Five hundred and five bills amending the charter have been vetoed by the Mayor since 1907, and with the bills introduced but not passed by the Legislature, form a vast

mass of legislation claiming the attention of the Legislature. This legislation, whether passed or not, results:

(a) In a constant disturbance of municipal finance and administration, frequently creating uncertainty of purpose and policy in the conduct of the city government.

(b) In causing a feeling of resentment and dissatisfaction over State interference with matters that are purely local in their nature.

(c) In dividing powers of municipal control in the city between municipal authorities and the members of the Legislature from the city, who generally control such legislation. This results in frequent differences between the city authorities and the Legislature, and through his power of approval and veto of city bills, between the Mayor and the Board of Estimate. The Mayor is thus enabled from time to time to secure legislation affecting the government of the city through the Legislature which he could not obtain through the Board of Estimate.

(d) In an equally unfortunate effect on the State, as the Legislature is thus occupied unnecessarily with local affairs to the exclusion or detriment of general legislation.

These conditions are the cause of general dissatisfaction, and not infrequently such dissatisfaction is directed toward the State government, although such legislation could not be enacted without the active support of city members of the Legislature and the consent of the Mayor.

The present system has worked badly and calls for basic changes in the charter and in the relations of the city to the State. Otherwise present evils will not only continue but become a greater menace to the public welfare.

### III. ADHERENCE TO PRECEDENTS

Present conditions are undoubtedly due to a too close adherence to municipal precedents which, by reason of the size of the city and its organization, are more or less inapplicable. They have preserved the form but discarded the substance of such municipal organization by depriving the taxpayers, as such, of any participation in the city government. This city exercises much wider authority than is exercised by London, Paris or Berlin. There is an inherent unsuitability in attempting to fit the institutions of a village or of a city of ordinary population to a municipality greater in population than any State in the Union, except

New York, Pennsylvania and Illinois; wealthier than any State in the Union, except the State of which it is a part; with an annual budget exceeded by few Nations, greater than the three largest States in the Union combined, and without a parallel where such appropriations are made by executive authority; with a variety of responsibilities in government of great public importance; and having some problems unknown in other municipalities by reason of county organization.

On the other hand, changes should be made only for the purpose of correcting conditions, and not to establish a Utopia, or to vindicate any theory of government. The present system is not bicameral, since the functions of the present Board of Estimate and Board of Aldermen are not joint, but chiefly separate. This will be true also of the Board of Finance and the Board of Aldermen, and there will be no more reason for abolishing the Board of Aldermen which furnishes a means of popular expression on matters of peculiarly local concern, after the Board of Finance is established, than before.

#### IV. LIMIT OF DELEGATION OF STATE AUTHORITY TO THE CITY

Under our system of government, two classes of powers are delegated to the city, those which are of purely local concern, and those embracing matters which are of State-wide importance, like the police, education and the local administration of justice. The Committee is of the opinion that the powers of the city over matters of purely local concern should be increased, and legislative interference with the exercise of such powers should be further and effectually restrained by constitutional enactment. Such enactment should also include a provision giving power to the new Board of Finance, in conjunction with the Mayor, to veto legislation. The restriction as to interference with matters of a purely local nature may be much stricter than in matters of State-wide interest. While a municipality may be permitted to mismanage its own peculiar interest, it cannot be permitted to prejudice those of others or to violate principles of justice in dealing with its own citizens.

Considered in its broader aspect, there can be no real conflict of interest between the State and city in changes in the charter. It is the duty of the State, of which the city forms so great a part, to secure for the city the greatest degree of autonomy consistent with safety, financial soundness and security of citizens; but these matters are of equal concern to the State and to the city.

This report is made under the provisions of the resolution appointing this Committee, as a recommendation to the Charter Revision Commission. Other reports covering the Committee's investigation will be submitted.

Respectfully submitted,

SCHUYLER M. MEYER,

*Chairman.*

THEODORE D. ROBINSON,  
MAXWELL S. HARRIS,  
FREDERICK W. KAVANAUGH,  
SIMON L. ADLER,  
SOL ULLMAN,  
WALTER W. WESTALL,  
JOHN R. YALE.

I approve of the report in every respect, except that I believe the five boroughs of the city should elect their own representatives to the proposed Board of Finance as opposed to city-wide selection.

THEODORE STITT.



## MINORITY REPORT

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It is the opinion of the undersigned, the minority of the Committee, that no recommendations should be made at this time to the Charter Revision Commission. It is its opinion that only as the outcome of a consideration which they have been unable to give, that any views they may entertain on a revision of the present charter should be the result of a longer and fuller consideration. Inasmuch as nothing developed as the outcome of the investigation, which has continued since last May, of the affairs of the City of New York, to warrant the recommendations made in the majority report, the minority dissents totally from the conclusions and recommendations made therein. In general, the minority, members of the Legislature elected from the City of New York, are not at this time prepared to recommend the extension of any offices, nor are they prepared to agree that the powers of the Board of Estimate and Apportionment, particularly the powers of the Mayor and Comptroller, should in any degree be divided or curtailed. Particularly, in view that the very handsome as well as substantial majority by which the administration of the office of Mayor and Comptroller were ratified and endorsed by the people not more than a month ago, it would seem that they should be given an opportunity, in obedience to the will so emphatically expressed, to correct whatever deficiencies in the administration of the present charter may exist.

The minority is unanimous that whatever decision shall be arrived at by the Charter Revision Commission, they recommend to the Legislature that the charter, before it becomes effective, be ratified by a referendum of the people of the City of New York.

Respectfully submitted,

JAMES J. WALKER,  
BERNARD DOWNING,  
CHARLES D. DONOHUE,  
MAURICE BLOCH,  
PETER A. McARDLE.

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**SECOND REPORT**

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**REPORT ON THE DEPARTMENT OF DOCKS**

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**January 31, 1922**

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THE  
REPORT  
OF THE  
COMMISSIONERS  
OF THE  
LAND OFFICE  
FOR THE YEAR  
1880

REPORT ON

LAND

## REPORT ON THE DEPARTMENT OF DOCKS

JANUARY 31, 1922

*To the Legislature and to the Charter Revision Commission:*

The administration of the dock department has been marked by a lack of policy in relation to dock rentals and charges for docking privileges:

*First.*—When docks are available for lease or permit, leases and permits are issued, without notice to applicants and prospective applicants, of the intended action of the department, and publicity is avoided.

*Second.*—Leases are frequently issued to stevedores and speculators having no claim for the accommodation of ships, when ship owners standing in immediate need of the accommodation are unable to secure it. Such leases are not infrequently granted for a less rental than ship owners stand ready to pay. Unable to secure a lease or permit from the dock department directly, prospective lessees pay large sums of money to intermediaries supposed to possess influence, to secure favorable action on their applications.

*Third.*—No attempt has been made to secure an adequate return to the city for the use of its property, or an income sufficient to cover the cost of carrying its investment. Millions are raised by taxes annually to meet the interest and amortization of dock bonds and expenses of maintenance, while income, readily obtainable without sacrifice, and more than equal to all charges, is wasted.

Ships frequently berth under leases issued years ago at a quarter or even a seventh of the charge to ships berthing under recent leases or permits. Like inequalities prevail in payments for privileges currently granted under the subleasing system. The highest return now received by the city on the assessed valuation of a dock is for Pier 69, North river, 12.1 per cent, and the lowest return for Pier 81, North river, 1.7 per cent. Inequality and not equality of cost is the rule. The percentage of gross returns on assessed values in outstanding leases is shown in Exhibit "A" hereto attached.

While the conditions described were aggravated during 1918–1921, by war conditions, the main causes of inefficiency and loss have long prevailed, and though they vary in degree, as in the

present depression, will continue unless fundamental changes are made. Even in the present depression, representatives of some of the larger lines complained before the Committee of their inability to lease piers and of being compelled to send ships to other ports.

The inevitable results of such a haphazard administration have been to tax commerce heavily in most cases, and scarcely at all in others, under the pretence of furnishing a cheap rate to all; to deprive the city treasury of revenue to which it is entitled by wastefulness, improvidence and corruption, and to drive commerce to other ports, as appears by the testimony of representatives of the French line, the Luckenbach line and others, and by the official statement of Gen. Black, the representative of the United States Shipping Board.

A fair charge, based on the rental value of the docks leased and equal treatment, would encourage commerce and increase the revenue of the city by many millions of dollars.

The city owns 235 docks, exclusive of the 12 uncompleted Staten Island docks, which will be taken up separately. This property, though exempt from taxation, was assessed in 1920-1921 by the tax department, as required by law, for \$212,226,576. Docks assessed at \$20,310,796 are used for municipal purposes, and are not available for commerce. The balance, available for commercial use, is assessed at \$191,915,780.

The loss of taxes on the docks by reason of municipal ownership is an essential element in comparing municipal ownership with commercial ownership. Assuming this property to be held and managed by the city on a commercial basis, a profit and loss statement for 1920 shows the cost of carrying this property as follows:

Interest on \$191,915,780 at 6 per cent.....	\$11,514,946
Cost of administration, 1920 .....	1,202,427
Two per cent depreciation on estimated value of the dock construction Jan. 1, 1920 (\$70,000,000) ..	1,400,000
Loss of taxes on dock property not used by the city, exempt ..	4,775,150
	<hr/>
	\$18,892,523
Total receipts from rentals and wharfage, 1920 ..	7,094,240
	<hr/>
Loss to city on investment in 1920.....	\$11,798,283
	<hr/> <hr/>

The gross revenue of the department (\$7,094,240, in 1920) consists of the rent from docks for terms of years and receipts from revocable permits and wharfage. Deducting from the gross revenue the cost of operation for 1920, amounting to \$1,202,427, leaves an apparent margin of \$5,891,813, or \$1,116,663 more than the city would have received in taxes if the docks had been privately owned. This equals one-half of 1 per cent of the assessed value. This balance is less than the amount of the annual depreciation and makes no provision for annual interest or amortization charges on the dock bonds which are met by taxation, or for any return whatever on the investment in the dock property.

The most valuable city dock property consists of the piers on North river between the Battery and 59th street. These piers, having an assessed value of \$117,073,500, produced in 1920 a return of only 3.56 per cent in gross revenue on the assessed valuation. Privately owned piers in this water front section produced an average return of 11.5 per cent during the year 1920, and the 150 privately owned piers were operated at a commercial profit. Such a difference in the rent of public and private piers is intolerable, indicates a wastefulness in dock management, and opens the way to favoritism, jobbing and corruption.

#### PROFITEERING IN WHARFAGE

If shipping and commerce paid no more for the use of docks than the revenue received by the city, the availability of such great facilities at so little cost would be some compensation for the loss of revenue to the city. But the proofs indicate that the charges paid by shippers for dock privileges far exceed the revenue received by the city, and are undoubtedly in excess of the cost to the city of carrying its dock property as a business investment.

Charges by lessees to shippers during 1920 on 24 leased city piers, contained in Exhibit "B," hereto attached, show:

Average daily berth charge to ship owners by lessee.	\$240
Average daily berth cost to lessee on basis of rent paid to the City of New York.....	63
Or expressed upon an annual basis of a 300-day year:	
Charge to ship owners by lessees, city piers.....	\$5,685,000

Cost to lessees of city piers, on basis of rent to city of New York .....	\$1,494,717
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Gross profit to lessees of city piers (280 per cent of rent paid to city).....	\$4,190,283
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While these berthing charges were for time when the lessees were not occupying the piers, the figures establish the rate of charges on ships not controlling piers during this period, and the market value of berthing privileges. They were the prevailing market rates, and there is abundant evidence of like charges.

The dock commissioner during the last four years has issued to stevedores and other speculators, not ship owners, berthing permits at public wharfage piers, which in turn have been sublet to ships entering the port. Charges made to ships for berthing privileges at such public piers (1920-1921), set forth in Exhibit "C," hereto attached, show that such ships paid for their dockage privileges from 54 to 792 per cent more than the dock department received. The dock department charges for berthing privileges are in part regulated by law (section 859 of the charter, originally enacted 1882), and are in many cases not more than 25 per cent of the present market value of the privileges granted. It is inconceivable that ships would pay such a profit to speculators if they could obtain the privileges directly from the department at the legal rate. This abuse was abundantly proved. The following cases are stated as illustrations:

The Maritime Shipping Company, a concern without capital, not maritime, and owning no ships, occupied Pier 72, at the foot of East 24th street, from September 1, 1919, to November 14, 1920, at an annual rental of \$40,000, and rented berthing privileges at a net annual profit of \$61,000 over the rent paid.

Sabbatino & Company, a concern composed of a young saloon-keeper's helper, who was later interested in a small moving picture house, and a ship's clerk without capital and not engaged in shipping, received from the dock department a large number of berthing permits between June 7, 1918, and September 22, 1921, which they sublet to ships entering the port. While their records were destroyed or suppressed, numerous cases of such rentals showing a profit of from 66 to 400 per cent over the amount paid the dock department were established. They were



permitted a credit account with the dock department, and deposited during this period over a million dollars in bank.

Little or no effort has been made by the city to limit or restrict wharfage charges by lessees or permittees. It is inferable from a recent case that the dock department in the absence of a reservation in the lease is without power to limit charges for wharfage made by a lessee for a term of years, but there has been no serious effort to change the law.

Shipping concerns failing to obtain such privileges on direct application to the department are often compelled to seek wharfage accommodations at public piers through stevedores or go-betweens, who enjoy the favor of the department. A statement of payments to go-betweens will be submitted and marked Exhibit "D."

#### LOSSES ON LONG TERM LEASES

A principal cause of loss of adequate returns on dock property is found in long term leases made by the commissioner of docks, with the approval of the Sinking Fund Commission. Dock leases are restricted by law to a term of ten years, but through permitted clauses of renewal, the terms are extended to from thirty to fifty years, with a provision for a 10 per cent advance in rent at the end of each renewal period. The value of piers, as shown by the assessment, and charges to ships, has increased during the past ten years a hundred per cent, or ten times more than the advance secured by these leases to the city.

Three leases of large modern city owned piers in South Brooklyn, of substantially the same commercial value, illustrate the city's loss from such leases. The pier at 31st street, leased to Cyprien Fabre in 1910 for twenty years, produces a rental of eighteen cents per square foot of area; the pier at 30th street, leased in 1916 to the Norwegian American for thirty years, and the pier at 29th street, leased in 1916 to the United States Steel Products Company for thirty years, produce a rental of thirty-six cents per square foot of area, while the pier at 33d street, under permit to the Luckenbach Steamship Company in 1919-1920, gave a return of \$1.09 per square foot. On the basis of the present approximate value of a dollar per square foot, the city loses \$350,000 a year on these three piers, and will continue to lose a like amount annually for the next ten years. The loss to the city on these three leases from 1920 to their expiration will approximate \$6,000,000.

Although it has long been apparent that the 10 per cent increase at the end of each renewal period was wholly inadequate, and the practice was condemned before the committee by the commissioner of docks, the department has continued to issue such leases down to the present time, eighteen such leases having been made during the past four years.

#### LOSSES ON STATEN ISLAND PIERS

The city now has in course of construction and nearing completion twelve piers on Staten Island at an approximate cost of twenty-five million dollars. These piers, with one exception, have been leased with an optional ten-year renewal clause for from thirty to fifty years on a rental basis of  $7\frac{1}{2}$  per cent of the cost. Four of them have been leased to stevedoring concerns who own no ships. The city retains no control over the wharfage rates which the lessees may charge, thus furnishing every opportunity for profiteering, although such a clause was included in the Luckenbach permit in 1919. Two of these four piers are leased to the Pan-American Corporation, a non-shipping concern which advised the committee on October 12, 1921, that their piers would cost the city \$6,000,000, of which one million would be expended for machinery and cargo handling equipment. Using these piers as illustrative of the Staten Island piers generally, the annual profit and loss statement for the first ten years of the lease is as follows:

Interest on \$6,000,000, cost of construction . . . . .	\$360,000
Two per cent depreciation of the dock construction, other than machinery . . . . .	100,000
Seven per cent depreciation on the value of machinery . . . . .	70,000
Loss of taxes on dock property because not privately owned, on valuation of \$5,000,000 . . . . .	141,000
	<hr/>
Total . . . . .	\$671,000
Rental . . . . .	450,000
	<hr/>
Annual loss . . . . .	\$221,000
	<hr/> <hr/>

At this rate the loss on the twelve piers, costing approximately four times as much, or \$25,000,000, will amount to more than

\$800,000 annually, or if there be no loss from depreciation on machinery on other piers, to more than \$600,000. The city's revenue on this lease over loss of taxation and depreciation is 2.3 per cent of the cost, or about one-third of the legal rate of interest, or about one-half the interest paid on dock bonds issued to raise funds to build the docks.

Adjoining this new development on Staten Island to the south there are three large and modern piers (erected 1917-1919) belonging to a private corporation, comparable in capacity with the city piers for the accommodation of ships. These piers pay the owner a gross return of 43.4 per cent on the assessed valuation. Adjoining the city piers on the north are four old piers, also privately owned, which pay the owner a gross annual return of 21.5 per cent on the assessed valuation.

Allowing for possible increased cost because of recent construction and possible lack of economy in construction because done through a municipality, there seems to be no reason why the city piers should not have been leased at a fair business return. Why should city piers be operated at such an enormous loss when private property similarly situated is operated at such enormous profit? There is no evidence of any resulting benefits from such financial sacrifices.

#### LACK OF ZONING AND WAREHOUSES

Failure and neglect of the department in establishing zoning districts for the docking of ships, and adequate warehouse accommodation, have resulted in serious loss in the operation of the docks and the accommodation of commerce.

Zoning districts have not been established so that ships arriving at the several channels of approach to the harbor can be docked at the nearest piers, or with reference to their draft or the destination of their cargoes. In consequence the harbor is congested and navigation impeded and made more dangerous. Ships are frequently docked at piers where ships of greater draft could lie, while docks with less but ample depth are idle. Ships lie in the harbor awaiting berths, when there is room for all. Cargoes destined for inland shipment or local distribution are unloaded at inconvenient points, and reshipment and distribution delayed. Cargoes are unloaded at points where street traffic is congested, and the cost of lighterage and trucking greatly increased. There is no intensive use of the harbor facilities. These additional

costs have to be borne by the ships that dock and by commerce, and reduce the rental value of the piers.

There is a lack of warehouse and storage facilities at the docks. As a consequence cargoes frequently lie for an unreasonable period on the docks, preventing their best economic use.

#### CITY WASTES ITS PROPERTY

The city's proprietary interest in the dock property, acquired in part through grants from the State, but largely by expenditure of the taxpayers' money, is assessed at more than \$212,000,000, to which must be added the \$25,000,000 invested on Staten Island. The property is undoubtedly worth more than \$300,000,000, and is rapidly increasing in value. The city is as well entitled to a reasonable return upon its business investment as private dock owners. If it accepts less, its action should be controlled by considerations peculiar to its own interest — as, for example, the competition of other ports. No such reason is apparent.

Hitherto the difficulty of correcting the inequality of charges and preventing waste of the city's property from the system of leasing, has apparently been treated as an excuse for the continuance of such inequality and waste. But if the system be changed, great improvement in the equality of charges and great increase in revenue will immediately be realized with a rapid progression to the desired end.

The management and control of the proprietary interest in the docks, as well as the administration of the public utility, are subject to the dual control of the commissioner of docks and the sinking fund commission. While the commissioner of docks is the administrative officer, he acts in the more important matters, such as granting long term leases and acquiring dock property, only with the consent of the sinking fund commission. Through these instrumentalities, the city has had complete control of these dock properties since 1888.

No legislation has been passed to which the city objected. The out-of-date provisions of the statute turning the docks over to the city have remained undisturbed, and still furnish cover for the abuses in dock letting and management, which have converted a handsome potential income into a deficit, while speculators, profiteers and handy men accumulate fortunes from its use. Not a subject of popular interest, its management has been undisturbed by public inquiry, and the unbusiness-like organization

of its finances has hidden from public knowledge the disastrous results which would otherwise be obvious. The State has not intervened to apply even the rudiments of public utility requirements, such as equal service for equal charges, and equal opportunity for service to all.

### UN SOUND DOCK FINANCES

The system of dock finances, with its diversion of dock receipts to other city purposes, is a hindrance to the construction of new docks, and the maintenance and improvement of the old. Receipts from the docks of Manhattan were pledged to the sinking fund for the redemption of the debt of the old City of New York under its charter, and are paid into this fund. Since the incorporation of the greater city, such receipts from other boroughs than Manhattan, though not covered by such charter provisions, have been paid into this fund and in 1920 receipts from other boroughs amounted to \$1,895,217. The reason for this practice may be discovered in the fact that these receipts, like the receipts from Manhattan, are diverted from docks, find their way into the city treasury, through the device of the general fund bonds, for current city expenses, and to reduce the tax rate. The city had outstanding in 1920 \$101,372,036 in dock bonds on which it paid in that year \$4,353,464 interest. Not a dollar of the dock receipts is applied to interest or amortization under the existing practice or to new construction or maintenance. Sixty-nine million dollars of these bonds were irregularly and mistakenly exempted in computing the debt limit, by order of the Appellate Division of the First Department in 1913 on the claim that the receipts from the docks by the city were sufficient to meet the interest charges and amortization of the amount exempted, although all of such receipts went to this sinking fund and not a dollar of such receipts was paid into the city treasury. The interest on the bonds, exempt and non-exempt, and the amortization charges, are met in the annual levy for debt service. The additional funds, made available to the city by increasing its debt limit through this exemption, were used in rapid transit construction. The docks were sacrificed in aid of an unrelated interest. The diversion of the dock receipts from payment of the debt to current city expenses is condemned by the comptroller. While this tortuous procedure has operated to increase the cash in the treasury for general purposes, it is an evasion of the Con-

stitution, deprives the docks of the revenue applicable to the reduction of the dock debt and to betterments, and leaves dock appropriations exposed to the legal limitations of the city's debt and tax limit and the pressure of other interests for a place in the budget.

#### EXCESSIVE COST OF POLICING DOCKS

The cost of policing the docks of the city, as shown by the records of the War Department, is as follows:

1917.....	\$30,660,000
1918.....	33,850,000
1919.....	41,610,000
1920.....	35,850,000

And the men employed:

1919.....	19,000
1920.....	16,000
1921.....	12,000

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The entire police budget for the City of New York, with its 307 square miles and approximately 6,000,000 inhabitants, was:

1917.....	\$18,200,191
1918.....	19,394,613
1919.....	20,662,219
1920.....	24,595,186
1921.....	28,545,407

And the number of men employed was:

1917.....	11,237
1918.....	10,952
1919.....	11,047
1920.....	11,197

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A representative of a large shipping company testified before the Committee that "the entire condition along the water front is very bad and that all private detective agencies \* \* \* and our own employees on the dock, have all apparently reached a very demoralized state, and we consider that something radical and extraordinary has to be done." This statement may be accepted as descriptive of conditions. A statement of the number of men employed and the amount expended is sufficiently suggestive of

the necessities of a complete change of system. Such a charge on commerce and on the use of the docks is a staggering burden, reflected in the cost of living, and the reduced value of pier rentals. This excessive cost is largely due:

*First.*— To lack of a general agency under which co-ordination of service is possible. Each line or individual ship is compelled to rely upon its separate organization for police purposes without the aid or co-operation of the organization of any other line.

*Second.*— To the dependence of each line and individual ship upon the co-operation of the police department, which imposes its own private conditions in making the dock guards special policemen, dictates the appointment of heads of such dock guards and the employment of private agencies to do the work. One such agency, newly organized, but enjoying the favor of the police department, took over the policing of docks for forty shipping companies in 1918. Instances of compulsory employment as a condition of police co-operation and payments to an inspector in alleged consideration of service in compelling such changes were proved before the Committee.

Notwithstanding the expenditure of these vast sums for protection, pilfering and theft have been extensive and protection has not been efficient. This condition can be largely accounted for by inefficient organization, by the compulsory employment of useless or untrustworthy persons and by the radically unsound relation of dock protection to the police.

#### THE PORT A MATTER OF STATE AND NATIONAL CONCERN

While the port constitutes an indispensable prerequisite of the city's prosperity, and the city's ownership of the docks is an important factor in protecting the city's interest, the port has other relations of equal or greater importance to the State and Nation as the principal port of entry for both. The character of its management is immediately reflected, not only in the cost of living and the employment and prosperity of its citizens, but in the cost of living and the employment and prosperity of the people of the whole State and of millions of people throughout the Nation. As a part of the Nation's navigable waters, it is subject to the jurisdiction of the Federal government, which expends millions annually for the improvement of the harbor. It is the State's most important public utility, and as such has always been subject to the State's potential control. This control was exer-

cised down to 1888, when it was transferred to the city by act of the Legislature. The degree of control which the State exercises over the port for the accommodation of ships will always be determined by the public interest. The State owes an obligation, not only to the city and its people, but to the people of the whole State, to secure an efficient and economic management, with equal facilities and equal charges to all.

#### GROWTH OF THE PORT

A statement of the increase of business of the port will aid in understanding the matters under consideration. The world's mercantile and marine tonnage increased from 22,151,651 tons in 1900 to 49,089,552 in 1914, or more than 121 per cent in fourteen years. The merchant marine of the United States increased in the same period from 4,424,497 tons to 7,928,688 tons, or 79 per cent. The value of imports and exports at the port increased in the same period from \$1,056,071,753 to \$2,124,592,146. During the war period the United States Merchant Marine reached 16,324,024 tons (1920) and the value of the imports and exports at the port increased to \$6,288,287,521.

The port, by its great natural advantages, has reached its present position among the ports of the world, in spite of the mismanagement of its docks, but with increased trade, the disadvantages of maladministration have become more burdensome and a greater drawback in competition with other ports.

This report is based on testimony already taken. The Committee has not yet completed its investigation of the docks, and the subject will be further dealt with in the Committee's final report when the hearing is closed.

#### RECOMMENDATIONS

The Committee recommends:

*First.*—That the office of the present dock commissioner originally established for the old City of New York, and the control of the Sinking Fund Commission over the docks, be abolished.

*Second.*—That a new dock commission of three members be established, to be appointed by the Mayor, one from a list to be named by the maritime interests of the city, one from a list to be named by the New York Chamber of Commerce, and one at



will, who shall be chairman of the commission. That the tenure of office be eight years, the first appointees to hold for four, six and eight years, respectively, as determined by law, and that such commissioners be subject to removal for cause.

*Third.*— That existing provisions of law affecting the dock finances be so amended that all receipts from the docks be subject to appropriation by the city for the following purposes and in the following order of preference:

1. For expenses of administration of the dock department.
2. For payment of interest and amortization of dock bonds.
3. For the maintenance and repair of docks and if not otherwise provided, for the extension of docks.
4. For the transfer of any surplus not required for the purposes cited, to the general fund.

*Fourth.*— That the charter and all laws affecting the docks be revised in harmony with the recommendations of this report.

*Fifth.*— That the commission have power to fix rates of all rental charges by the city, by lessees and by private dock owners, such charges to be as nearly equal for the service as existing conditions permit; to provide for zoning regulations; to restrict the term of leases to a year unless the necessities of commerce require, and in no event to grant leases for a longer term than ten years without a revaluation, or in a manner to interfere with the general development of the port; to provide for the appraisal of the rental value of all properties leased, and to fix the rental on a fair business basis for a reasonable return from such value; leases of city docks to be made according to the necessities of commerce, which shall be determined as a fact by the commission; no lease to be issued without reasonable public notice of the intention to grant it; applicants who would be entitled from the necessities of commerce to receive such lease, to be listed in the order of their respective necessities, and preference given to the first one on such list who will pay the rental fixed therefor. If none of the applicants listed will take the lease at such rental, then the same to be put up at public auction and leased to the highest bidder on such list, subject to the right of the commission to reject any and all bids.

*Sixth.*— That all payments for procuring or aiding in procuring or extending leases or permits, and all payments in connection therewith, be prohibited unless the same be for legal proceedings had before the said commission, or in court, the amount of such

payment or payments in every case to be subject to the approval of the commission or court before which the proceeding is had; all leases and permits to contain a clause that if this provision of law be violated, the commission may cancel the lease or permit at any time during its continuance without waiver for any cause.

*Seventh.*— That the policing of the docks when under lease or permit, now treated as guarding private property, be conferred upon a commission of seven members, without pay, to be named in the bill, representing as nearly as may be the various maritime interests using the port; vacancies to be filled by the commission under such restrictions as will insure the continuance of its representative character; such commission to have power to establish and maintain a distinctive organized police force for the protection of merchandise on the docks, and to fix and apportion charges for the services rendered, which shall be sufficient to meet the expenses incurred; that in the employment of such force preference be given, as far as consistent with the interests to be served, of honorably discharged soldiers, sailors and marines; that the said commission have the power to promulgate rules and regulations not in conflict with law for the maintenance, discipline and control of such police force; that the jurisdiction of such commission or its police force upon any dock be conditioned upon the written request of the lessee or permittee, or authorized agent of either, or the commanding officer of the ship using the dock, that police protection be extended thereto.

Respectfully submitted,

SCHUYLER M. MEYER,

*Chairman.*

SIMON L. ADLER,

*Vice-Chairman.*

THEODORE DOUGLAS ROBINSON.

MAXWELL S. HARRIS,

SOL. ULLMAN,

THEODORE STITT,

JOHN R. YALE,

WALTER W. WESTALL.

ELON R. BROWN,

*Counsel.*

EXHIBIT "A"

*Assessed Value and Gross Revenue of the Dock Department Properties, 1920, by Borough and District Segregation*

Group	Location	Gross revenue	Assessed valuation	Percentage
I.	North river, Battery to 59th street....	\$4,175,215	\$117,073,500	3.56
II.	East river, Battery to 59th street.....	1,338,467	27,440,230	4.86
III.	North river, 59th st. to Spuyten Duyvil	256,619	13,790,000	1.87
IV.	East river, 59th street to 100th street..	77,743	3,019,400	2.58
V.	Harlem river.....	84,907	3,510,400	2.41
	Sub-total.....	\$5,932,951	\$164,833,530	3.59
VI.	Brooklyn.....	890,844	20,690,100	4.30
VII.	Bronx.....	12,694	726,650	1.74
VIII.	Queens.....	34,388	293,000	11.72
IX.	Richmond.....	141,304	5,372,500	2.63
	Total.....	\$7,012,181	\$191,915,780	3.65

GROUP I

*North River, Battery to Fifty-ninth Street*

Class	No. of piers	Assessed valuation: piers, bulk-heads, etc.	Gross income return	Per cent	Individual percentage returns	
					High	Low
1 (a) Shedded piers under long term lease.....	54	\$81,812,500	\$3,072,894	3.7	12.1	1.7
1 (b) Unshedded or open piers under long term lease.....	4	2,615,000	76,100	2.9	4.5	1.9
1 (c) Shedded piers occupied by permits under revocable permits..	7	8,667,000	700,929	8	11.1	4.9
1 (d) Piers leased to lessees under property reversion clauses.....	6	7,911,000	189,731	.....	.....	.....
1 (e) Shedded and unshedded piers maintained by the city for public wharfage.....	15	8,840,000	135,559	1.5	6.1	.8
Total.....	86	\$109,845,500	\$4,175,214	3.8	.....	.....
Valuation of unallocated property..	.....	7,228,000	.....	.....	.....	.....
Grand total.....	.....	\$117,073,500	.....	3.56	.....	.....

## GROUP II

*East River, Battery to Fifty-ninth Street, Manhattan*

Class	No. of piers	Assessed valuation: piers, bulk-heads, etc.	Gross income return	Per cent	Individual percentage returns	
					High	Low
1 (a) Shedded pier under long term lease.....	37	\$16,238,500	\$935,382	5.72	9.3	2.33
2 (b) Unshedded or open piers under long term lease.....	3	1,214,000	56,237	4.63	11.82	4.37
2 (c) Shedded piers occupied by permittees under revocable permits..	19	4,665,000	215,910	4.62	14.72	0.46
2 (d) Piers leased to lessees under property reversion clauses.....	1	68,000	2,022	2.97	.....	.....
2 (e) Shedded piers maintained by the city for public wharfrage.....	4	1,115,000	67,583	6.11	15.25	1.54
2 (f) Unshedded piers maintained by the city for public wharfrage.....	11	1,761,500	61,328	3.48	7.12	1.05
Total.....	75	\$25,062,000	\$1,338,466	.....		
Valuation of unallocated property..	.....	2,378,230	.....	.....		
Grand total.....	.....	\$27,440,230	.....	4.86		

## EXHIBIT "B"

*Table Showing Rates of Wharfrage Charged by 24 Lessees of City-owned Piers, Compared with Cost of Berth Space Leased*

Lessee	North river piers	No. of berths	Rent and charge per berth per day		Total	
			Rent	Charge	Rental	Charge
Eastern S.S. Corp.....	19	2	\$63 88	\$350	\$127 76	\$700
Clyde S.S. Co.....	44	2	42 93	225	85 86	450
Clyde S.S. Co.....	45	4	42 93	225	171 72	900
Int. M. M.....	58	4	58 33	350	233 32	1,400
Int. M. M.....	61	4	58 33	350	233 32	1,400
Int. M. M.....	62	2	68 75	350	137 50	700
Amer. Cuban S.S. Co.....	63	1	57 50	250	57 50	250
Occidental Dock Co.....	69	2	109 17	350	218 34	700
N. Y. Central.....	72	2	86 27	125	172 54	250
France & Canada S.S. Co.....	74	4	62 50	200	250 00	800
Gen. R.R. of N. J.....	80	4	15 75	300	63 00	1,200
Oriental Nav. Co.....	86	6	200 00	250	1,200 00	1,500
Man. Term. Co.....	131st st.	2	15 42	150	30 84	300
EAST RIVER						
Spanish Line.....	8	2	55 00	225	110 00	450
Munson S.S. Co.....	9	2	55 00	300	110 00	600
Munson S.S. Co.....	10	2	55 00	300	110 00	600
N. Y. & Cuba Merc.....	13	2	66 99	225	133 98	450
N. Y. & Cuba Merc.....	14	2	66 99	225	133 98	450
D. L. & W. R.R.....	26	2	56 43	200	112 86	400
Seaboard & Gulf S.S.....	32	2	16 66	200	33 33	400
Maritime S. Co.....	72	4	33 33	150	133 66	600
BROOKLYN						
Fabre Line.....	31st st.	8	15 36	150	122 88	1,200
Luckenbach.....	33rd st.	8	110 42	275	883 36	2,200
U. S. Steel Prod.....	29th st.	6	19 44	175	116 64	1,050
24 piers		79	.....	.....	\$4,982 39	\$18,950

## EXHIBIT "C"

Table Showing Rates of Wharfage Charged by Stevedores and Intermediaries for Public Pier Wharfage, for which the City Received Prescribed Rates, as Shown

	Paid city at city rates		Charged ship		Profit to intermediary on amount paid city
	Per day	Total	Per day	Total	
Pier 1, North river (shedded)					
United American Line—To New York Maritime Service. S.S. Bearport, 9/24-14/20, incl., 21 days. Charges made for 19 days account of reduction in tonnage stored on pier. 3,729 net tons.....	\$130 52	\$2,479 88	\$200	\$3,800	54%
Pier 69, North river (open)					
Cosmopolitan Steamship Co. to Sabbatino & Co. S.S. Pipestone County (3,434 tons), 10/7/20-10/15/20, 9 days.....	20 17	181 53	50	450	150%
Harris, Magill & Co. to Sabbatino & Co., 523 Broadway, S.S. Western Light (3,504 tons), 12/7-12/21/20, 4 days.....	20 52	82 08	60	240	200%
James W. Elwell & Co. to United Wharfage & Storage Co. S.S. Waukau (3,796 tons), 9/2-10/1/20, 9 days.....	21 98	197 82	75	675	240%
Sudden & Christensen to Continental Transportation Co. S.S. West Hesseltine (3,466 tons), 2/23/21-3/3/21, 9 days.....	20 33	182 97	50	450	150%
Cosmopolitan Steamship Co. to Sabbatino & Co. S.S. Remus (2,931 tons), 8/16/20-8/24/20, 9 days.....	17 66	158 94	50	450	170%
M. H. Tracy & Co. to Richmond Dock Wharfage & Water Co. S.S. West Togus (4,447 tons), 9/20/20-9/21/20, 2 days.....	25 24	50 48	100	200	300%
Pier 94, North river (open)					
Cosmopolitan Steamship Co. to Sabbatino & Co. S.S. Bellingham (3,621 tons), wharfage charges, 3/1/21-3/8/21, 8 days.....	21 10	168 80	50	400	137%
Cosmopolitan Steamship Co. to Sabbatino & Co. S.S. Eastern Light (4,148 tons), 8/28/20 to 9/7/20, 11 days.....	23 74	261 14	50	550	108%
95th street, North river (open)					
Munson Steamship Line to C. F. Terrence & Sons. S.S. Ausquam (2,174 tons), 3/25/20 to 3/31/20, 7 days.....	13 87	97 09	125	875	792%
96th street, North river (open)					
Cosmopolitan Shipping Co. to Continental Transportation Co. S.S. Poughkeepsie (3,987 tons), 12/10/20-1/9/21, 31 days....	22 44	695 64	50	1,550	128%
Cosmopolitan Shipping Co. to Continental Transportation Co. S.S. Poughkeepsie (3,887 tons), 1/10/21-1/19/21, 9 days.....	22 14	201 96	50	450	129%
97th street, North river (open)					
Sudden & Christensen to Continental Transportation Co. S.S. Crown City (3,417 tons), 2/7/21-2/15/21, 8 days.....	20 08	160 64	50	400	150%
Sudden & Christensen to New York Stevedore & Ballast Co. S.S. Haleakala, 2/26/21-3/2/21, (4,512 tons), 5 days; 2/19/21-2/25/21, 7 days.....	25 46	306 72	50	600	100%

	Paid city at city rates		Charged ship		Profit to intermediary on amount paid city
	Per day	Total	Per day	Total	
Pier 69, East river (open)					
Black Diamond S.S. Co. to Frank J. Hoey. S.S. Polybius (5,483 tons), 9/21/20-9/24/20, 4 days . . . . .	30 42	121 68	50	200	66%
East 20th street, Manhattan (open)					
Cosmopolitan Shipping Co. to Sabbatino & Co. S.S. Pipestone County (3,434 tons), 7/6/20- 7/9/20, 4 days . . . . .	20 17	80 68	50	200	150%
69th street, Brooklyn (open)					
Cosmopolitan Steamship Co. to Sabbatino & Co. S.S. Ossa (3,003 tons), 7/10/20- 7/13/20, 4 days . . . . .	18 02	72 98	30	120	66%
Cosmopolitan Steamship Co. to Sabbatino & Co. S.S. Bellingham (3,621 tons), 8/30/20- 9/24/20, 26 days . . . . .	21 00	548 60	30	780	44%
Cosmopolitan Steamship Co. to Sabbatino & Co. S.S. McKeesport (4,122 tons), 7/1/20- 7/7/20, 7 days . . . . .	23 61	165 27	50	350	110%

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**THIRD REPORT**

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**REPORT AND RECOMMENDATIONS ON THE BOARD  
OF EDUCATION**

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**February 15, 1922**

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REPORT AND BALANCE SHEET

1874



# REPORT AND RECOMMENDATIONS ON THE BOARD OF EDUCATION

February 15, 1922.

*To the Legislature:*

The administration of the public schools of the City is and for years has been weak and inefficient, and does not measure up to the reasonable requirements of the school children of the City, or the expectations and desires of the people of the City, or of the State which is charged with ultimate responsibility for maintaining efficient and adequate common schools in every part of the State.

The deficiencies are apparent.

## A. INADEQUATE SCHOOL ACCOMMODATIONS.

In December, 1917, the month before the present Board of Education took office, there were 746,114 children registered in the day elementary schools, of whom 34,153 were on part time and 76,214 on the so-called duplicate form of organization. In the last month for which figures are now available there were 817,210 children on register in the day elementary schools, of whom 81,242 were on part time and 194,234 on double session.

In the day high schools there were 58,063 registered in December, 1917, none of whom were on double session and only 1,796 were on part time. In October, 1921, the register had increased to 82,265 and there were 1,516 children on double session and 33,892 on part time.

These figures show insufficient school accommodations to care for the growth of school population.

The capacity of new elementary school buildings and additions opened during the past four years is as follows:

Year	No. of New Buildings or Additions Opened	No. of Sittings Therein
1918 . . . . .	2	1,294
1919 . . . . .	4	1,380
1920 . . . . .	None	None
1921 to Dec. 6: . . . . .	16 *	19 203
Total . . . . .		
	22	21,877

\* Of the 16 opened in 1921, all but two were opened after September 1st.

During the preceding four years, 44 new elementary buildings or additions were opened, with 52,847 sittings, a better, but still inadequate showing.

This unfortunate condition is only partly due to lack of appropriations. Exasperating delays and a shifting policy are equally responsible. The total corporate stock authorizations from January 1, 1910, to June 30, 1921, for school buildings amounted to \$68,744,732.11, while the expenditures during the same period amounted to only \$46,092,839.88. Fifteen million of this authorization was made in 1921, but the ten million authorization of earlier years was revoked on December 30, 1918, without the expenditure of any part of it in the meantime, and was subsequently appropriated for the same purposes for which it was originally designed. This resulted in holding up the building program at the time of its greatest need. A detailed statement of the authorizations and cash expenditure from 1910 to 1921 will be found on page 38 of the appendix.

It will be noted that the expenditures of the three and a half years, 1918 to July, 1921, were but \$15,224,331.97, which, in view of the depreciated value of the dollar, represents not more than \$8,000,000 in building value on the basis of 1910 to 1917, or about one-half of the previous four-year totals.

The average annual authorization for the eleven and a half years covered in the annexed table was \$5,977,802.79 and the average annual expenditure \$4,008,073.03.

The inadequacy of school buildings has inevitably resulted in

- (1) *Inadequate instruction, keeping scholars on part time.*
- (2) *Overcrowding of the school buildings with resulting danger to sanitation and health.*

## B. FIRE HAZARDS.

In August, 1921, there were 7,353 violations of fire prevention rules recorded against 496 of the City's 695 school buildings. The estimated cost of removing these violations is about \$4,500,000. Some of the violations are serious, as, for example, stairways that are not enclosed with fire and smoke-proof parti-

tions and not provided with self-closing doors; interior fire alarm systems that do not work; wooden and not self-closing fireproof doors along the line of exit stairways; no hand fire extinguishers; and storage of dangerously inflammable materials in non-fireproof rooms or compartments. The Superintendent of School Buildings wrote the Board of Education, March 23, 1921, as follows:

“ This with the continued growth of the schools and consequent overcrowding and congestion causes me great uneasiness and distress of mind. If the fire prevention work was and is required for schools under normal conditions, how much more important must it be when a building contains quite one-half or more in excess of the normal . . . why paint and renovate the interior of a building when there are essential items of fire prevention work to be performed which would actually operate to safeguard life and lessen fire risk ? ”

The total authorizations and expenditures for fire prevention work since September 16, 1904, is as follows:

Date of Authorization	Amount of Authorization	Expenditures	Balance
Sept. 16, 1904.....	\$300,000 00	\$300,000 00	.....
	550,000 00	550,000 00	.....
April 3, 1908.....	1,000,000 00	1,000,000 00	.....
June 3, 1910.....	450,000 00	450,000 00	.....
July 17, 1911.....	450,000 00	447,666 59	\$2,333 41
Nov. 19, 1915.....	250,000 00	250,000 00	.....
July 7, 1916.....	250,000 00	250,000 00	.....
April 20, 1917.....	250,000 00	240,660 85	9,339 15
April 22, 1921.....	250,000 00	.....	250,000 00

C. NEGLIGENT ADMINISTRATION.

Other deficiencies of administration appear from the failure to repair the education building, and the condition of by-laws and minutes of the Board of Education. In February, 1918, the seventh, eighth and ninth floors of the Hall of the Board of Education, at 500 Park Avenue, housing the executive offices of the Board, were burned out. Bids for the rebuilding of these floors were not opened until December 7, 1921, nearly four years after the fire. During this interval the work of the Board has been seriously interfered with because of compulsory vacancy of the three top floors of its building. The Bureau of School Buildings had to be moved to inadequate quarters in the Municipal Building, several miles away from the other offices of the Board. The

delay in agreeing on new plans, in securing an appropriation and in letting the contract is open to serious criticism. No business corporation would tolerate such methods. See testimony of President of Board of Education, vol. 3, p. 1321.

The law of 1917 so changed the organization of the school system that a complete revision of the by-laws was necessary in order to make them conform with the new statute. This revision has not been made. A few sections were revised but the bulk of the by-laws was still in the form of a large octavo volume published in 1914 with hundreds of amendment slips pasted in, many of which antedate the law of 1917.

The minutes of Board meetings are records of great importance to teachers, board members, board officers and city authorities, as they have the force of law within the scope of the powers delegated to the Board of Education by the Legislature. The last volume of minutes to be furnished with a printed index is that for 1915. The minutes of board meetings are not ordinarily available until two months after the meeting.

Such conditions could not exist with a capable Board. They have failed not only in matters wholly in their control, but they show no capacity to secure effective administration through the co-operation of other governmental agencies on which they depend, or to secure the enactment of better laws by inspiring public confidence and arousing public opinion. They have shown little or no capacity for leadership for many years in the discharge of the important trust confided to them.

#### *Unsound Legislation.*

Responsibility for such conditions may not be easily apportioned. It doubtless rests primarily on the system of making purely political appointments to the Board of Education. Such appointments are made without any check of non-partisan approval or confirmation. Each incoming mayor seeks, and usually gains, a large degree of political control over the Board of Education. The members of the present Board were all appointed by the present Mayor under the amendment of 1917. Such political appointments are in strict accord with the ancient plan of delegating educational functions to localities, but the State has largely outgrown and changed the system by increasing State power over local administration, while furnishing State aid to meet new requirements imposed by law. The old system is not

adapted in principle to a municipality like New York. State jurisdiction over schools is exercised by the University of the State, which is non-partisan in its organization and spirit. Some plan should be devised for the creation of an equally non-partisan and representative body in the City.

Apart from this basic fault, it is desirable to review some specific faults of organization, which should be removed to give assurance that a competent board could successfully discharge its duty.

#### 1. COMPLICATED AND ANTIQUATED PROVISIONS OF LAW REQUIRING THE CO-OPERATION OF MANY OTHER BRANCHES OF THE CITY GOVERNMENT IN BUILDING OPERATIONS WITH RESULTING DELAYS, OFTEN AMOUNTING TO A VETO OF A BUILDING PROJECT.

The first and most important of these objectionable provisions is the provision of law making the Board of Education dependent upon the action of the Board of Estimate and the Sinking Fund Commission for appropriations and acquisitions of sites for school houses. There is a general concurrence in the necessity of making the Board of Education independent in this respect. It may therefore be assumed that there is but one opinion upon the subject, and that the necessity is great. The Committee inquired with particularity as to the steps required to be taken to build a school house, and found that there were at least twenty-seven, each one involving considerable delay and the whole practice likely to discourage those who were engaged in the undertaking. Most of them are unnecessary for the protection of the City's interest, and hinder the prompt building of school houses. An exhibit showing these steps in detail will be found on page 36 of the appendix.

In two instances it was found that twenty years or more had elapsed from the time the recommendation for a new building was made by a local school board and the time when the building was opened for use. P. S. No. 54, Brooklyn, for example, was recommended by the school board of Brooklyn in 1901; the contract date for its completion is September, 1922.

Examination of the record of some twenty schools on the current building program shows that plans and specifications were before the Board of Estimate in one instance for 356 days, an-

other for 211 days, and in eight cases for more than 50 days. This did not take into account the time between the return by the Board of Estimate and a resubmission by the Board of Education. In one case the same matter was four times before the Board of Estimate. In four other cases the same matter was before the Board of Estimate three times.

## 2. STATUTORY POWERS PROPERLY BELONGING TO THE BOARD OF EDUCATION NOW VESTED IN BODIES OR OFFICIALS NOMINALLY SUBORDINATE TO THE BOARD BUT IN FACT SUPERIOR IN RESPECT OF SUCH POWERS.

The superintendent of schools, the Board of Superintendents, and the Bureau of Compulsory Education, all have a fixed tenure of office, and although chosen by the Board, possess important powers of administration which are exercised independently of and often in opposition to the desires of the Board itself.

It is unnecessary to enumerate these important powers which are readily referred to in the statute, and have been frequently the cause of conflict between the boards and officials named and the Board of Education. Many of these powers are among the most important exercised in the administration of the schools.

## 3. FREQUENT CHANGES AND CONFLICT OF LAWS GOVERNING THE ADMINISTRATION OF SCHOOLS.

The Board of Education originally consisted of nineteen members. It was changed in 1901 to forty-six members, and in 1917 to seven members. The charter was radically revised in 1897 and in 1901, and its provisions extensively modified by amendments to the State Education Law in 1917, each change involving important changes in the plan of administration of the schools and their relation to other city agencies and the State. A comparative statement of the principal changes effected by the statute of 1917 in the law of 1901 will be found on page 22 of the appendix.

Under the act of 1917 conflicts have arisen by reason of the uncertainty of the law between the Board of Education and the Commissioner of Education at Albany, between the Board of Education and the municipal authorities relative to their respective powers, and between the Board of Education and the superin-

tendent of schools, if not between the Board of Education and the Board of Superintendents and associate superintendents.

There has been a failure to concentrate in clear and unmistakable language the full responsibility for the administration of the public school system on the Board of Education, the municipal authorities, or the State. Groping for a remedy they have found none because the fundamental error of appointing a political Board of Education has remained.

### *Finances.*

Fortunately the financial statement for education in the City is not complicated. The expenditures since 1910 have been as follows:

<i>Year</i>	<i>Expenditures.</i>
1910 .....	\$28,456,945 68
1911 .....	28,958,179 29
1912 .....	33,791,974 40
1913 .....	35,481,641 12
1914 .....	38,185,495 90
1915 .....	39,797,960 64
1916 .....	39,708,764 22
1917 .....	41,101,074 41
1918 .....	43,884,893 59
1919 .....	45,490,121 68
1920 .....	66,194,668 04
1921 (first 6 mos.).....	44,828,326 69
1922 (budget).....	*88,798,546 81

The normal increase for the years 1920, 1921 and 1922 has been augmented by the Lockwood-Donohue act in the sum of \$30,000,000. This has been devoted to the pay of teachers. The annual normal increase may be roughly taken as \$2,000,000.

The apportionment of State moneys to the City since 1914 has been as follows:

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\* Including \$18,097,534.51 from the State.

<i>Year</i>	<i>Amount Apportioned to the City</i>
1914 .....	\$1,923,025 00
1915 .....	2,115,679 73
1916 .....	2,220,730 03
1917 .....	2,414,837 16
1918 .....	2,321,191 13
1919 .....	2,700,657 19
1920 .....	5,025,570 17
1921 .....	16,938,023 85
1922 .....	*18,097,534 51

The increase of apportionment for 1922 over 1919, the period during which the mandatory increase due to legislation has occurred, has been about \$15,000,000, or one-half of the amount of the increased charge due to these laws.

The City complains of the increase effected by law. As education is a State function, although commonly delegated to municipalities, it would appear that when the State interferes to increase the cost of education in so considerable an amount, it should provide ways and means for defraying such additional expenses without embarrassment to the municipalities. The State's taxing power is unlimited; and it is a matter of comparative indifference to any part of the State whether the funds for education are raised by State or local tax.

The constitution limits the debt incurring power of cities to ten per cent of the assessed value of real estate, and the taxing power to two per cent of the assessed value of real and personal property. These limitations which are proper and useful, were enacted with reference to the normal expense for education. Such increase in cost is the result of a change of policy in the entire State as to the standard of teaching, which it is expected will be much improved by making the teachers' profession more attractive. It is true that this augmented cost was favored by substantially all the members of the legislature from the City, and the present administration of the City claims to have favored it; but it was done by State authority, and the Committee finds no evidence tending to show that the additional expense would in fact have been incurred in the absence of legislative enactment. It doubtless seems strange to one unfamiliar with the real financial situation of the City and such an

\* Estimated.



increased charge should be a source of embarrassment. The City has a debt incurring capacity of more than a billion dollars, a taxing capacity of more than two hundred million dollars, and an unencumbered income of more than sixty millions. But by reason of the course of past and present administrations, the City has been for some years past near its debt limit, if it has not exceeded it, and grave question exists as to its having exceeded its tax limit in the last two annual assessments.

In preparing the budget for 1921, the City under claim of necessity, omitted \$27,000,000 from the school appropriation, and met it afterwards by special revenue bonds, and other devices, throwing most of the charge over on to the year 1922. The Comptroller advised striking ten million dollars from the 1922 budget for education on the ground that otherwise the tax imposed would exceed the constitutional limit. It is unadvisable at present to increase charges upon the City and it would seem to be desirable for the State to establish a plan of appropriations increasing annually until it is sufficient to meet the additional charge for education it has created since 1920.

While this report is confined to matters relating to the City of New York, there is a like situation in other parts of the State, and the problem of providing for the cost of education under these laws will require solution in other important municipalities. It is therefore a State as well as a City issue.

The legislature has from time to time fixed a mandatory tax for school purposes in the City. It fixed the tax at four mills in 1898, three mills in 1903, and 4.9 mills in 1917. These charges were made in the exercise of State authority to insure the maintenance of schools, but they may be regarded as representing a minimum below which the cost of education may not be reduced rather than as an attempt to increase the expenditure. For the most part the City has made considerable and in many instances large appropriations for schools in excess of the mandatory tax.

#### NON-POLITICAL BOARD OF EDUCATION.

The problem of securing a Board of Education for the City which shall stand for education free from political considerations, is the fundamental one. As the University of the State is the State-wide instrument of control in education the members of the University of the State resident in the City, now four in number, can with the Mayor who should be chairman of the

Commission, be drafted into service as a Commission to appoint members of the City Board of Education. This will give local recognition by requiring all members of the Commission to reside in the city. By taking over as members of the Commission residents of the city who are members of the Board of Regents it will insure the performance of the State's obligation and duty in education, now greatly increased by the added burden of cost which the State assumes. But more important than all else, it will take politics out of schools.

### RECOMMENDATIONS

1. The Committee recommends that the Board of Education of the City of New York consist of members appointed by the Commission as provided in this report.

2. That the Board of Education be granted complete independence from all municipal control in the acquisition of real property for school purposes, by purchase, condemnation, lease or otherwise, within the limit of the funds available therefor.

3. That the Board of Education be granted complete independence from all municipal control in the construction, alteration and repair of school buildings, provided that its superintendent of school buildings, before starting work, certify in writing that the plans and specifications comply with the building and electrical codes and the laws of the State; and provided further that occupancy shall not be permitted until the superintendent of school buildings shall have certified that the building as completed complies with the building and electrical codes and the laws of the State, but without disturbing the City's jurisdiction as to fire prevention.

4. That the Board of Education be granted complete independence from all municipal control in the administration and expenditure of all school moneys, subject only to audit by the Comptroller of the City for the purpose of preventing fraud or error.

5. That the City be required to appropriate in its annual budget amount which together with the school moneys which are apportioned to the City by the State, will equal the budget appropriation for schools in the City for the year 1922 (\$88,798,-546.81) plus an annual increase of two million dollars as representing the normal increase of cost; that the present authorization

for building school houses be not revoked and that at least \$6,000,000 be authorized annually for this purpose.

6. That the State provide for a graduated increased appropriation for schools until the amount apportioned for the City of New York shall be increased fifteen million dollars over the amount apportioned in 1922.

7. That sections of the greater New York Charter inconsistent with the provisions of the education law be repealed.

And the Committee further recommends that as soon as the Board of Education is reconstituted under the foregoing recommendations that the powers of the Board be increased as follows:

8. That the Board of Education be constituted the fiscal and policy determining head of the school system with power to delegate authority to the Superintendent of Schools, as it may deem wise.

9. That the Board of Education be granted power to establish, abolish or consolidate such boards, bureaus and divisions as it may deem necessary excepting only the Board of Examiners.

10. That the Superintendent of Schools and all other officers and employees derive their power and authority from the by-laws of the Board of Education, subject only to the provisions of the Education Law.

Respectfully submitted,

SCHUYLER M. MEYER, *Chairman.*

THEODORE DOUGLAS ROBINSON.

FREDERICK W. KAVANAUGH.

MAXWELL S. HARRIS.

SIMON L. ADLER.

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WALTER W. WESTALL.

ELON R. BROWN, *Counsel.*

I subscribe to the Committee's recommendations except that I do not believe that the power of appointment of members of the Board of Education should be exercised by officials elected or appointed outside of the City of New York. Irrespective of their residence, the Regents are elected by the Legislature. I favor confirmation of appointments by the Mayor to the Board of Education by either the Board of Aldermen or by the Board of Finance suggested in the Committee's first report.

THEODORE STITT.

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## APPENDIX

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### EDUCATION UNDER THE GREATER NEW YORK CHARTER.

The union into one municipality under the corporate name of the City of New York of "the various communities lying in and about New York harbor, including the City and County of New York, the City of Brooklyn and the County of Kings, the County of Richmond and part of the County of Queens," effected by Chapter 378 of the Laws of 1897, brought together into one fabric the various different threads of educational policy which had been spun by the separate statutory provisions enacted by the State Legislature for the benefit of the several communities.

These had been and were of the most diverse character, and the recognition in the new charter of many of these local peculiarities, in response doubtless to strong local pressure to perpetuate a time-honored custom or to assure a continuance in office to some local officer, made the educational sections of the new instrument complex and not simple affairs.

At the time of consolidation, for example, the old City of New York had a Board of Education of 21 members appointed by the Mayor. The City of Brooklyn had a Board of Education of 45 members appointed by the Mayor. In what became the Boroughs of Queens and Richmond, there were many independent school organizations based on town or school district lines.

The new charter sought to recognize local sentiment. It continued the Board of Education of the former City of New York as the School Board for the Boroughs of Manhattan and The Bronx. It continued the Board of Education of the former City of Brooklyn as the School Board for the Borough of Brooklyn, and it substituted in each of the new Boroughs of Queens and Richmond, a Borough School Board of 9 members for the various pre-existing local school organizations. This arrangement gave each borough a School Board with very considerable powers over the schools of the borough. In addition, provision was made for a Board of Education of 19 members, consisting of the 4 Chairmen of the 4 Borough School Boards, 10 delegates elected from

its membership by the School Board of Manhattan and The Bronx, and 5 delegates chosen similarly by the School Board of Brooklyn. This Board of Education was constituted a separate corporation and was made the head of the Department of Education, set up as one of the administrative departments of the City.

The new Board did not enjoy the same degree of independence as its predecessors. On the administrative side, many powers previously possessed by the Boards of Education were given to the Borough School Boards. On the financial side, there had been a gradual growing away from the original idea, whereby local school authorities were independent of municipal authorities. The Act of 1851, for example, had given the Board of Education corporate powers and had invested it with full control of the common schools with power to take and hold property, secure proper accountability in the expenditure of school moneys and administer the funds derived from the city and State. No municipal control was incidental thereto, for the supervisors of the city and county were required to raise, for educational purposes, certain sums easily ascertainable under the law, and "such additional sum or sums as the Board of Education \* \* \* shall have reported to be necessary." This gave the Board of Education a position of peculiar independence in relation to the fiscal authorities of the City of New York, but during the next 46 years, this independence was steadily and increasingly impaired.

The Board of Education of 1898 had very little financial power. It was made the head of a department of the city government, and by section 1059, the City was given the power to determine the amount of money to be allowed from the tax levy for the support of the schools. About the only financial functions remaining to the Board were the allotment of funds to the boroughs on the basis of school population and the number of teachers employed, and the control of the special school fund.

The educational chapter of the charter of 1897 represents an attempt, similar to attempts made before and since, to reconcile two hopelessly conflicting theories. The schools cannot be both independent and subject to municipal control, and yet the Legislature has repeatedly enacted laws by which it has endeavored to make this paradox work. The school authorities have fought to preserve every right they ever enjoyed and the city authorities have sought, with equal vigor, to supervise and control the expendi-

ture of city funds appropriated by them for school purposes. A clear, consistent and uncompromising enactment by the Legislature, settling the many points of controversy, would go far to improve school conditions in New York City.

The charter of 1897 was soon radically revised. Its successor was Chapter 466 of the Laws of 1901, and the educational chapter of that instrument was until 1917 the basis for the administration of the City's public schools.

The Department of Education was continued as one of the administrative departments of the City, and the Board of Education was placed at its head. The former Borough School Boards were abolished and the size of the Board of Education increased, to provide for borough representation. The new Board consisted of 46 members, appointed by the Mayor for five year terms, as follows:

- 22 residents of Manhattan.
- 4 residents of The Bronx.
- 14 residents of Brooklyn.
- 4 residents of Queens.
- 2 residents of Richmond.

The Board was given corporate privileges. Among other significant provisions of the new law were the following:

The Board of Education was to succeed to all the powers of the former Board of Education and Borough School Boards.

The Board of Education was to administer all moneys available for educational purposes.

The Board of Education had the power to lease property and make contracts.

The Board of Education had the power to appoint certain officers and clerks and to fix their salaries, and to appoint and fix the salaries above certain minimums of members of the teaching and supervising force.

There was to be a Board of Superintendents, consisting of the City Superintendent and 8 Associate Superintendents, the latter to consist of the 4 Borough Superintendents and of 4 persons selected from the Associate Borough Superintendents, each to hold office until the expiration of the term for which he had originally been appointed.

There were to be 26 District Superintendents, including all the Associate Borough Superintendents not appointed to the Board of Superintendents.

There were to be 46 local school boards, each consisting of a member of the Board of Education assigned by the President of the Board, the District Superintendent of the district and 5 persons appointed by the Borough President.

There was to be a Board of Examiners, to examine candidates for teachers' licenses.

The City was required to supply the Board of Education with funds for school purposes annually, amounting to not less than 4 mills on the dollar of assessed valuation.

The Department of Finance was given authority to audit the Board's accounts.

The provisions of this law respecting the organization of the school system remained substantially the same during the entire life of the educational section of the charter, but the powers of the Board of Education were increasingly impaired. Special salary laws were passed by the Legislature, which in effect deprived the Board of practically all control over teachers' salaries. By Chapter 43 of the Laws of 1903, the amount which the City must annually make available for school purposes was reduced from 4 mills to 3 mills contemporaneously with an increase in the assessed valuation of such magnitude that the yield of the 3-mill tax was greater than the yield of the 4-mill tax. Both amounts were, however, inadequate, so that the Board of Estimate and Apportionment substantially controlled the Board of Education's finances by conditioning additional appropriations upon the observance of the Board of Estimate's rules and regulations regarding the segregation of appropriations and accounting control. The tendency grew to regard the Department of Education as a regular department of the city government and the Legislature made little, if any, effort to realize in its contemporary legislation the ideal of educational independence which had been characteristic of earlier school legislation (notably Chapter 386 of the Laws of 1851), and such measure of independence as was contemplated in the charter of 1901 was, as indicated above, greatly reduced by subsequent legislation or by acquiescence.

By 1917, the Department of Education was functioning very much as a regular city department. The 3-mill allowance was so



inadequate that the Board of Education would have been helpless had the City not granted additional funds to run the schools. The budget for 1917, for example, appropriated \$41,430,447.49 for the general and special school funds, while the amount yielded by the 3-mill tax and included in the budget for that year, was only \$25,753,057.53. The Department of Education acted with and depended upon other city authorities, such as the Corporation Counsel, the Department of Finance, Board of Estimate and Apportionment and the Sinking Fund Commission, in connection with its contracts, leases, real estate transactions and proposals for the construction of new schools. It is probably safe to say that what independence the Board of Education may have had under a strict interpretation of the law was not exercised.

The situation was radically changed by the enactment of Chapter 786 of the Laws of 1917, which amended the State Education Law, by providing for Boards of Education in the several cities of the State and which repealed nearly all the sections of the New York City Charter with respect to the public school system. The advocates of this legislation contended that public education in cities was as much a matter of State concern as in villages and towns, and that the many varying laws controlling school systems should be brought together and made an integral part of the State Education Law.

The consolidation and unification which was effected, however, is strikingly similar to the kind of consolidation effected by the first charter of the Greater City, where the customs and machinery of the two cities of New York and Brooklyn were, to a considerable extent, perpetuated in the new instrument. The State Law of 1917 provides for about as many different kinds of Boards of Education as there were before, and it preserves the rights enjoyed by certain communities and jealously defended by them. It has the virtue of including, in one article, most of the provisions of law relative to city schools, but it does not provide a consistent or a uniform system of control.

EDUCATION UNDER THE PROVISIONS OF CHAPTER 786, LAWS OF 1917, AS AMENDED THROUGH 1921.

It is not necessary in the present connection to comment on the patchwork character of this law. The powers, duties and composition of boards of education in the larger cities of the State differ amazingly, and the organization of the school systems left in some cities to local control is in New York prescribed with regard to certain phases such as the Board of Superintendents and the Bureau of Compulsory Education. It is enough to compare the conditions under the charter of 1901 as it stood in 1917, with the present legislative provisions.

The following analysis of the more important provisions of both statutes is submitted in parallel columns to facilitate comparison:

*Section Charter Provisions*

1055 School property vested in city under control of Board of Education.

1059 Board of Estimate and Board of Aldermen given power to raise by tax amounts required for school purposes, as called for by annual city budget.

1060 General and special school funds established and Board of Education given power to administer "all moneys . . . available for educational purposes in the city of New York."

1061 Board of Education created to consist of 46 unpaid members appointed by the mayor for 5-year terms: 22 from Manhattan, 4 from the Bronx, 14 from Brooklyn, 4 from Queens, 2 from Richmond.

1062 Board of Education given corporate powers.

1064 Board of Education to be representative of entire school system. By Sept. 15th to submit annually to Board of Estimate a detailed estimate

*Section State Law Provisions*

868-3 Charter sec. 1055 not repealed. Board of Education given care, custody and control of all city school property.

Charter sec. 1059 repealed.

877-7 Charter sec. 1060 repealed. General and special school funds defined and established, and Board of Education given power to administer "all moneys . . . available for educational purposes in the city," subject to audit by the Department of Finance.

865-866 Charter sec. 1061 repealed. Board of Education created to consist of seven members: two from each of the two boroughs with the largest population, and one from each of the other three appointed by the mayor for seven-year terms.

300 Boards of education in cities made corporations.

877-1 Charter sec. 1064 repealed. Board of Education by September 1st to submit annual estimate for ensuing fiscal year to Board of Estimate and Appor-

*Section Charter Provisions*

of moneys required for next calendar year. Board of Estimate required to appropriate for general school fund not less than the yield of 3 mills. Board of Education to administer all moneys subject to audit by Department of Finance.

1066 Board of Education empowered to dispose of personal property.

1067 Board of Education empowered to appoint secretary, superintendent of school buildings, superintendent of school supplies, city superintendent of schools, supervisor of lectures, director and assistant director of reference and research, and one or more auditors; also a chief clerk and "such other officers, clerks or subordinates as it may deem necessary . . . and as are provided for by the proper appropriations." These appointees removable for cause by three-fourths vote.

1068 Board of Education empowered to enact by-laws, rules and regulations for the transaction of its business and "defining the duties of the city superintendent of schools, the director and assistant director of the Division of Reference and Research, the superintendent of school buildings.

*Section State Law Provisions*

877-7 tionment, which is required to appropriate the amount of such estimate up to the yield of 4.9 mills. Board of Estimate authorized to make additional appropriations. Board of Education empowered to administer all moneys available for educational purposes subject to audit by Department of Finance. Board of Education may submit special estimates to meet emergencies.

Charter sec. 1066 not repealed.

868 Charter sec. 1067 repealed. Powers and duties of Board of Education as follows: To perform any duty imposed by State law or regulation of the University of the State of New York or Commissioner of Education; to create, abolish, maintain and consolidate such positions, divisions, boards, or bureaus as it deems necessary; to appoint a superintendent of schools, such associate district or other superintendents, etc., as it deems necessary, and to determine their duties, except as otherwise prescribed by the Education Law; to appoint

872 district superintendents, directors, supervisors, principals, teachers and all other members of the teaching and supervising staff upon recommendation of the Board of Superintendents (except associate superintendents and examiners) and to appoint associate superintendents and examiners and all other employees (except members of the teaching and supervising staff, the appointment of whom must be on recommendation of Board of Superintendents).

868-9 Charter sec. 1068 repealed. Board of Education empowered to prescribe such regulations and by-laws as may be necessary to make effectual the provisions of this chapter, etc.

*Section Charter Provisions*

the superintendent of school supplies, of its auditor or auditors, its clerks and subordinates," etc.

1069 Additional powers of Board of Education:

1. To establish and conduct elementary schools, kindergartens, manual training schools, trade schools, truant schools, evening schools and vacation schools.
2. To maintain free lectures and courses of instruction for the people of the city of New York.
3. To provide special classes for instruction in English to foreigners.
4. To provide "one or more high schools and training schools."
5. To establish and conduct playgrounds in connection with the public schools.
6. To establish new schools and discontinue or consolidate any schools.
7. To make contracts with approval of board of estimate for transportation of pupils.
8. To establish a bureau of compulsory education, school census and child welfare. "On the nomination of the board of superintendents the board of education shall have power to appoint a director and an assistant director" and other employees, and fix their salaries within the proper appropriation.

1070 Secretary to have charge of rooms, books, papers, etc., of the board and to perform "such other duties as may be required by its members or committees."

1071 Board of Education empowered to establish branch offices of the bureaus of school buildings and school supplies in the several boroughs, superintendent of school buildings to be executive officer of the board "in respect to all matters relating to the bureau of buildings."

*Section State Law Provisions*

86S-5 Charter sec. 1069 repealed except subdivision 8. Board of Education has power to establish and maintain such free elementary schools, high schools, training schools, vocational and industrial schools, kindergartens, technical schools, night schools, part-time or continuation schools, vacation schools, schools for adults, open air schools, schools for the mentally and physically defective children, or such other schools or classes as it may deem necessary, and to establish and maintain libraries, public lecture courses, playgrounds, recreation centers, social centers and reading rooms.

86S-6

871-a Bureau of compulsory education, school census and child welfare made mandatory, employees continued in office during good behavior and removable only for cause.

Charter sec. 1070 repealed.

Charter sec. 1071 repealed.

*Section Charter Provisions*

1073 All plans for new school buildings, additions and structural alterations must be approved by superintendent of school buildings, who shall submit such plans to Board of Education, whose action shall be final.

1074 Janitors shall be appointed by the Board of Education.

1075 Board of Education shall provide for purchase of all books, supplies, etc., and shall have power to enact by-laws and resolutions for government of superintendent of supplies, which by-laws, etc., shall provide that all supplies as far as possible shall be obtained by contract after public letting in accordance with section 419.

1076 Bureau under superintendent of supplies to be subject to rules and regulations of Board of Education. Superintendent of supplies may appoint such deputies and other subordinates as the by-laws of the Board of Education may authorize. He shall be the executive officer of the board in respect of supplies, printing, transportation of pupils and such other matters as may be assigned him by the board.

1077 City superintendent shall have right of visitation and inquiry in all schools of the city and shall report to the board thereon. He shall have a seat and a right to speak in the board meetings, but no vote.

1078 City superintendent shall visit schools and, subject to by-laws, prescribe forms and regulations for conducting school business. Under direction of Board of Education he shall enforce Compulsory Education Law. He may appoint clerks as authorized by the Board of Education, and assign, suspend or discharge them subject to appeal to the Board of Education. He shall

*Section State Law Provisions*

Charter sec. 1073 repealed.

Charter sec. 1074 repealed.

868-4 Charter sec. 1075 repealed. Board of Education to secure necessary books, supplies, etc.

Charter sec. 1076 repealed.

870-1 Charter secs. 1077 and 1078 repealed. Superintendent of schools shall have power, subject to by-laws, to enforce all rules, etc., relating to the management of the schools, etc.; to be the chief executive officer of the Board of Education and the educational system; to have a seat and voice but not a vote at board meetings; to have supervision and direction of all persons employed by the Board of Education; to transfer teachers on recommendation of board of superintendents; to suspend any employee until next meeting of Board of Education; to have supervision and direction over the enforcement of courses of study and all the other educational activities under control of the Board of Education; to issue

*Section Charter Provisions*

- assign associate and district superintendents subject to by-laws. Twenty-three district superintendents to be assigned, each one to two local school board districts.
- 1079 Board of superintendents established, consisting of city superintendent and eight associate superintendents appointed by the Board of Education for six years. Board of Education empowered to pass by-laws regulating duties of city superintendent and board of superintendents. There shall be twenty-six district superintendents to be appointed by Board of Education for six years on nomination of board of superintendents. Board of Education empowered to appoint directors of special branches for six years on nomination by board of superintendents.
- 1082 Board of superintendents, subject to approval of Board of Education, shall establish rules governing promotion, transfer, etc., of pupils.
- 1083 Board of Education shall, upon recommendation of board of superintendents, approve text books, etc.
- 1084 Board of Education shall have power to change grades and adopt and modify courses of study, but such changes must first be presented to board of superintendents and, in case of adverse report by latter, change shall not be effective unless passed by two-thirds vote.
- 1087 Creation of forty-six local school board districts and local school boards of five persons appointed by borough president, district superintendent and Board of Education member.

*Section State Law Provisions*

- licenses to teachers on recommendation of board of examiners; to have general supervision of bureau of compulsory education, school census and child welfare.
- 870-6 869 Charter sec. 1079 repealed. Board of superintendents continued, consisting of superintendent of schools and eight associate superintendents, superintendent to be chairman. It has power to prepare the content of each course of study authorized by Board of Education, subject to approval by Board of Education; to recommend text books; to recommend to superintendent the transfer of teachers.
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- 870-5 Charter sec. 1082 repealed. Board of superintendents to have power to make rules and regulations for promotion and graduation of pupils.
- 868-8 Charter sec. 1083 repealed. Board of Education has power to authorize and determine text books from lists recommended by board of superintendents.
- 868-7 Charter sec. 1084 repealed. Board of Education has power to authorize the general courses of study and to approve the content of such courses before they become operative.
- 873 Charter sec. 1087 repealed. Local school board districts continued, but Board of Education given power to modify boundaries, consolidate two or more and establish new ones. Local school boards to consist of five persons appointed by the borough president, a member of the Board of Education designated by the board, and a district superintendent assigned by the city superintendent.

*Section Charter Provisions*

- 1088 Duties of local school boards:
1. To visit and inspect schools at least once each quarter.
  2. To report on needs for new accommodations, recommend sites, repairs, etc.
  3. To report dereliction of duty.
  4. To excuse teachers' absences, subject to approval of board of superintendents, for absence with pay, and in accordance with by-laws.
  5. To try and determine all matters regarding discipline and corporal punishment.
  6. To try charges against a teacher.
  7. To transfer teachers within district, after hearing and subject to approval of board of superintendents.
- 1089 Board of examiners created to license teachers, consisting of city superintendent and four persons appointed by Board of Education upon nomination by city superintendent.
- 1090 Principals, branch principals, heads of departments, teachers, assistants and all members of teaching staff shall be appointed by Board of Education on nomination of board of superintendents, from established eligible lists.
- 1091 Board of Education shall have power to fix salaries of members of supervising and teaching staff subject to certain minimums prescribed by the statute.
- 1093 Board of Education empowered to suspend principals, teachers, etc., with or without pay, pending trial of charges preferred against them.
- 1096 Mayor can remove any member of Board of Education or local school board for causes specified.
- 1098 Board of Education may remove any school officer interested in furnishing supplies, etc.

*Section State Law Provisions*

- 873-4 Charter sec. 1088 repealed. Powers and duties of local school boards:
1. To visit schools at least once in each quarter.
  2. To make recommendations to Board of Education.
  3. Subject to by-laws of Board of Education, to transfer teachers, excuse absences of teachers, and hear charges against principals or teachers.
- 871 Charter sec. 1089 repealed. Board of examiners to consist of seven members to hold examinations and promulgate eligible lists, and perform the duties required by Board of Education.
- Charter sec. 1090 repealed.
- See sec. 872 summarized above.
- 882 Board of Education shall adopt by-laws fixing salaries of members of teaching and supervising staff, but they shall not be less than the rates prescribed by the State.
- Charter sec. 1093 repealed.
- Charter sec. 1096 not repealed.
- Charter sec. 1098 not repealed.

*Section Charter Provisions*

- 1099 Contributions by members of teaching or supervising force to funds to affect legislation increasing their emoluments, prohibited.
- 1100 Board of Education may investigate any subject over which it has legal control or of which it has cognizance, including conduct of employees.
- 1101 Continuance in office of all employees under public school system.
- 1102 State school moneys payable to city and credited to general fund for reduction of taxation.

*Section State Law Provisions*

- Charter sec. 1099 not repealed.
- Charter sec. 1100 not repealed.
- Charter sec. 1101 not repealed.
- Charter sec. 1102 not specifically repealed.
- 880 State school moneys to be credited to the Board of Education as well as all funds raised by the city for any purpose authorized by the educational chapter.
- 877-10 Board of Education shall not incur a liability chargeable against its funds or the city in excess of the amount available therefor, or otherwise authorized by law.
- 879-4 Board of Estimate authorized to raise in its discretion money for new schools, sites, etc.
- 880-3 Board of Education to make such classification of accounts as the comptroller of the city shall require.

From the above comparative summary the following outstanding features of the new law are apparent, viz.:

1. Reduction in size in Board of Education from forty-six to seven members.
2. Possibility of conflict between the Board of Education and the Superintendent of Schools relative to their respective powers.
3. Possibility of conflict between the Board of Education and the municipal authorities relative to their respective powers.
4. Failure to concentrate in clear and unmistakable language full responsibility for the proper administration of the public school system either on the municipal authorities, the Board of Education or the State of New York.



5. Limitation of the powers of the Board of Education.
6. Great increase in the powers of the Superintendent of Schools.
7. Perpetuation of the Board of Superintendents.
8. Perpetuation of the Bureau of Compulsory Education, School Census and Child Welfare.
9. Conflict between section 1102 of the charter, which was not specifically repealed, and the State Education Law relative to the disposition to be made of the city's share of the State school moneys; the former providing that such money be credited to the city's general fund for the reduction of taxation, and the latter that it be credited to the Board of Education.
10. Increase from three mills to four and nine-tenths mills in the amount which the City is required annually to appropriate for the use of the Board of Education.
11. The inclusion within the State's educational system of city boards of education, including the Board of Education of the City of New York and the subordination of the municipal authorities to the State in matters of school administration.

The new law effecting these changes in the status of the local educational system has been in force for almost four years and its adequacy and effectiveness should be easily determinable from the history of the public schools during that period. A considerable amount of data bearing on this subject has been collected and the President of the Board of Education, the Superintendent of Schools and the Superintendent of School Buildings have been examined at public hearings. The following discussion of the degree of success with which the State Education Law has been administered is based upon a combination of sworn testimony and independent examination of the school records.

1. *Reduction in size of the Board of Education from 46 to 7 members.*

One of the most popular features of the new law at the time it was before the Legislature for enactment was that it reduced the size of the Board of Education in New York City from the unwieldy number of 46 to the small compact number of 7. But the experiences of the past four years have shown that good school

management depends on more than the size of the board. A board of 7 must be composed of exceptionally conscientious and capable persons if it is to discharge satisfactorily its many responsibilities, and it must be composed of recognized authorities in the field of education and business if it is to command public respect. The appointments made to the new board of 7 do not seem to have been made with due regard to these considerations. It is doubtful if the names of the present members are known to more than a small proportion of the city's population, and if the names are known, it is exceedingly doubtful if the qualifications of these members are known. The President of the Board of Education admitted on the witness stand that prior to his appointment to the Board he had not been specially interested in educational matters or administration (Vol. III, p. 1205). In response to further inquiries he stated that he was in the real estate business, although at the present time he was not actually engaged in any business. As to his personal educational qualifications, he stated (Vol. III, p. 1205) that he was a common school and high school graduate, but had not attended college.

In January, 1922, the President of the Board of Education resigned his office and accepted a political appointment to a \$7,000 job as Commissioner of Taxes and Assessments. The person appointed by the Mayor to fill the vacancy occasioned by the President's resignation has, according to the City's civil list, been a paid employee of the City of New York, from 1914 to the end of 1921, his last position being that of Commissioner of Public Works, at a salary of \$5,500, under a Borough President whose term of office expired December 31, 1921.

One of the most important committees of the Board of Education is the committee on buildings and sites. The chairman of that committee is the personal physician of the Mayor's family. Without wishing to reflect in any way upon the probity of the individuals in question, or upon other members of the present Board of Education, the committee believes that the persons appointed during the last four years do not all possess the highest qualifications for membership on this important body.

The newest appointee is almost totally unknown outside of his own borough. Even in his own borough he is not conspicuous for his knowledge of and interest in educational problems.

The law establishes qualifications for the office of Superintendent of Schools and other members of the professional staff,

but members of the Board of Education who are to determine the educational policies to be carried out by these professional schoolmen may be selected with regard only to the borough of their residence. With no other check upon the appointing power, it is not surprising that political considerations should carry great weight. Politics should be kept out of the public schools and some statutory safeguard should be erected to insure the selection of persons qualified for other than political reasons for membership in the Board of Education. This can be done by requiring appointments to the Board of Education to be made by some non-political agency; that the desirability for some such provision is more than theoretical is adequately established by the evidence below.

The best test of the qualifications and competency of the present Board of Education is afforded by its record of the past four years, a brief account of which will now be submitted.

*a. Inadequate School Accommodations.*

In December, 1917, the month before the present Board of Education took office, there were 746,114 children registered in the day elementary schools, of whom 34,153 were on part time and 76,214 on the so-called duplicate form of organization. In October, 1921, the last month for which figures are now available (December, 1921) there were 817,210 children on register in the day elementary schools, of whom 81,242 were on part time and 194,234 on double session.

In the day high schools there were 58,063 registered in December, 1917, none of whom were on double session and only 1,796 were on part time. In October, 1921, the register had increased to 82,265 and there were 1,516 children on double session and 33,892 on part time.

These figures demonstrate conclusively that the Board of Education has not provided sufficient additional school accommodations to care for the growth of school population. It is a serious reflection upon New York City that 115,134 children should be deprived of a full day's schooling and that 195,750 children should be subjected to the disadvantage of the double session expedient to which the city has resorted. Such a condition is intolerable and the fault lies with the Board of Education, the city authorities, or the provisions of law under which they operate. If the trouble is with the law, it is the duty of the Board of Edu-

ation to seek such amendments as will obviate the difficulty. Unless the Board has actively concerned itself with desirable modifications of the statute, however, it cannot be free from blame for the failure to provide the necessary accommodations.

The conspicuous failure to provide sufficient accommodations for elementary school pupils is demonstrated by the foregoing figures. Confirmation is afforded by the compilation of statistics showing the capacity of new elementary school buildings and additions opened during the past four years. The records show the following:

Year	No. of New Buildings or Additions Opened	No. of Sittings Therein
1918.....	2	1, 294
1919.....	4	1, 380
1920.....	None	None
1921 to Dec. 6.	16*	19, 203
Total....	<u>22</u>	<u>21, 877</u>

During the preceding four years, 44 new elementary buildings or additions were opened, with 52,847 sittings, so that the record of the present Board of Education is unsatisfactory, both as compared with requirements and as compared with the accomplishments of its predecessor.

Various reasons have been given by city and school officials to explain the delay in school construction, the war being the one most frequently mentioned. The record, however, does not indicate that the war played more than an incidental part in this matter. At the time the small Board of Education took office, it found a building program prepared by its predecessor, calling for the erection of certain specified buildings, and plans were practically completed for several typical schools. In addition there were authorizations aggregating about \$10,000,000 from which the cost of construction could be defrayed. The new Board, however, did not make use of this program or of the funds. On May 10, 1918, the President of the Board reported that "this Board undertook to set aside all previous plans and begin de novo," and on December 30, 1918, the Board of Estimate rescinded the authorizations made by the previous administration for new school construction. The first bids called for by the new Board were for P. S. No. 29, Brooklyn. They were opened July 10, 1918. The contract was let but was later rescinded at the

\* Of the 16 opened in 1921, all but two were opened after September 1st.

request of the War Industries Board. It would appear, therefore, that the only delay in school construction actually attributable to the war and the rules of the War Industries Board was the four month period from July when the first contract was awarded, and November, when the armistice was signed. On November 13, 1918, the Superintendent of School Buildings reported that plans and specifications for fourteen new buildings and additions were ready for the estimating table, but the first construction contract was not let until March 24, 1919. During 1919 fourteen construction contracts were let and all fourteen covered buildings on the program of the previous administration for which the funds had been authorized by the previous administration. It took the new Board of Education more than fourteen months to go ahead with the identical schools selected by its predecessor.

It is difficult to find a satisfactory explanation of the delays in school construction. The passive role played by the Board of Education was one factor. It received pressure and criticism from the Mayor and from the city authorities and it encountered obstacles in its own organization and procedure, but instead of responding actively to the pressure or striving vigorously to overcome the obstacles it apparently more or less acquiesced in conditions as it found them. The following quotations from letters of the Mayor and from the testimony of the President of the Board of Education are illustrative of this point.

On August 8, 1918, the Mayor wrote to a member of the Board of Education in part as follows:

“Six months of our administration have passed by and very little has been done toward the construction of schools. If Mr. Snyder cannot build more than one or two schools at a time, would it not be a good idea to replace him with a man who could have five or six schools in the course of construction at the same time?”

“If the Board of Education will first figure out how many schools can be constructed with the money now available and after conferring with the Presidents of the various boroughs will then recommend where the schools are immediately required, I will then submit your plan to the members of the committee on finance and budget, so that action can be at once taken and at least seven or eight new schools be started without any further delay. . . . You have a standard type of school. You have some school sites where

schools are necessary. If you have not enough, let us proceed to secure a sufficient number of sites in accordance with the money we have on hand and start the schools at once."

This letter was read into the testimony and the President of the Board was then questioned as follows (Vol. III, p. 1264):

"Q. Now, at the time you received that letter, the \$10,000,000 authorization was in force? A. Yes, sir.

"Q. Remained in force until the 30th of the following December? A. Yes, sir.

"Q. But that letter did not result in any action along the line of new school buildings under that authorization? A. Well, no; not under that particular authorization, no.

"Q. Well, or any other authorization until after December 30th? A. I can't recall whether it was prior to that date that the Board submitted its program for 27 new elementary schools.

"Q. You said in May that you had made a complete new program and wiped out the old program? A. Yes. But I think perhaps that program had been sent in—I am not certain—I think it had been sent in before the receipt of this letter."

On October 17, 1918, the Mayor wrote again, in part, as follows (Vol. III, p. 1266):

"The question of a sufficient number of new school buildings in this city to properly house the school children is giving me great concern. . . . We have some ten millions of dollars available for building schools. I would like to have that money employed for that purpose and I would like to begin making preparations for the construction of these schools at once. Mr. Bernard Baruch, representing the Government of the United States, has declared that we cannot at this time have the material necessary for the construction of a certain type of school building . . . if we cannot build one type of school building we can build another equally good type of school building. If we cannot use steel construction we can use reinforced concrete construction."

The examination of the President of the Board then proceeded as follows (Vol. III, p. 1268):

“Q. Now, the Mayor wrote on October 18th that very urgent letter to you, hoping you would use that \$10,000,000, and I do not understand how, in view of a letter of that kind from the Mayor, you did not begin to operate on the ten million dollars. A. Well, I can't very well answer that, Senator, for this reason: First, I was not the President of the Board at that time and I was not on the Building Committee at any time, never on the Sites and Buildings.

“Q. You seem to be a good man to write letters to. A. But we were at that time under that ban, and I do not know whether or not at that time the Board understood just what this ten million dollars meant, whether it was tied up specifically on certain sites or buildings, I really couldn't say.

\* \* \* \* \*

“Q. I can't make out, in view of this correspondence, how it was that the 1918 program, the 1918-1919 program of the Board of Education was delayed the way it was. I am unable to find out. A. Well, it made a contract, as I understand in the beginning, we advertised for several contracts; we made one when the ban was put on. That ban was not removed until November, until after the Armistice was signed.

“Q. The 11th of November? A. Until after the Armistice. Now this letter came in October, and the other letter in July.

“Q. Yes; from August to November, there was a hiatus there. A. Well, we were helpless at that time.

“Q. What? A. We were absolutely helpless, as far as making contracts was concerned.

“Q. About three months? A. Oh, no; it is more than that, from July until practically the end of the year.

“Q. That would be four months. . . .”

The foregoing quotations show the Mayor's impatience at the failure of the Board of Education to accomplish more and demonstrate how imperfectly the President of the Board of Education could explain the Board's failure. Every member of a small board should be familiar with such vital matters as insufficient school accommodations and every member should charge himself with the duty of facilitating a building program that is so sorely needed, and with the responsibility of eliminating obstacles to the completion of such programs. That there are many obstacles in the existing practice is shown below:

Superintendent of Schools	directs preparation of building program by
Associate Superintendent Shallow	who studies city's needs, reports on order of urgency and, with assistance of superintendent of school buildings, estimates cost of program, which he recommends to the
Board of Superintendents	which considers, and then makes specific recommendations to the
Board of Education	which considers program through its committee of the whole or committee on buildings and sites, and then acts on such committee's recommendations, sending its recommendations to the
Board of Estimate and Apportionment	which has recommendations examined by its committee on finance and budget and its engineers and acts upon their report, then notifying the Board of Education of its action.
Associate Superintendent Shallow	reports on layout of individual buildings in approved program to
Board of Superintendents	which acts thereon and sends its recommendations to
Board of Education	which considers and takes appropriate action
Superintendent of School Buildings	as soon as site is acquired, and survey received, selects type best suited to neighborhood and causes detailed plans to be prepared, submitting preliminary and final drawings to
Municipal Art Commission	which must approve design before buildings can be erected; when this approval is given the general construction plans and specifications are submitted by the Superintendent of School Buildings to
Bureau of Buildings	of appropriate borough for examination and approval, while the plans and specifications for heating and ventilating (prepared by bureau of plant operation) and for plumbing, gasfitting and electrical work are submitted to the
Department of Water Supply, Gas and Electricity	for examination and approval. These plans and specifications, together with those for furniture and all other equipment, are also transmitted to the
Board of Education.	which, after approving them, forwards them to the



Board of Estimate and Apportionment	which, through its committee on finance and budget and its engineers, examines the plans and specifications for general construction, sanitary work, heating and ventilation, and electrical work, together with those for furniture and all other equipment, acts thereon and notifies the
Board of Education	of its action, and when this action is favorable the Board of Education informs the
Superintendent of School Buildings	who then submits proposed advertisement and contract to the
Corporation Counsel	for approval, and when this approval is obtained the
Superintendent of School Buildings	advertises for bids in the City Record for ten days, then opens bids and reports thereon to
Board of Education	which may award the contract, if the bid is within the authorized amount. If not within the estimate, the Board of Estimate and Apportionment must approve the increase before the contract can be awarded. After the award the
Board of Education	notifies the
Comptroller	who examines and passes on the sureties and returns bonds to
Board of Education	which then signs contract, has it recorded by its auditor and returns it to the
Comptroller	who gives final approval as to financial ability and then advises
Board of Education	which notifies the
Superintendent of School Buildings	who notifies appropriate
Deputy Superintendent	who directs
Contractor	to start work.
Final payment cannot be made to the contractors until the Municipal Art Commission issues a certificate that the building is in accordance with approved plans.	

An examination of the periods of time actually consumed by the various agencies cooperating in the construction of schools also disclosed some most significant facts. A brief life history was composed for each of the schools on the Board of Education's building program. In two instances it was found that twenty years or more had elapsed from the time the recommendation for a new building was made by a local school board and the time when the building was opened for use. P. S.

No. 54, Brooklyn, for example, was recommended by the school board of Brooklyn in 1901; the contract date for its completion is September, 1922.

There is also delay due to the requirement that plans and specifications be submitted to the Board of Estimate for approval. The examination of the record of some twenty schools on the current building program shows that plans and specifications were before the Board of Estimate in one instance for 356 days, another for 211 days, and in eight cases for more than 50 days. This did not take into account the time between the return by the Board of Estimate and a resubmission by the Board of Education. In one case the same matter was four times before the Board of Estimate. In four other cases the same matter was before the Board of Estimate three times.

A further index of the actual accomplishments of the Board of Education in providing additional school facilities is afforded by the following table of authorizations and expenditures for such purposes, annually from 1910.

STATEMENT SHOWING THE CORPORATE STOCK AUTHORIZATIONS  
AND CASH EXPENDITURES FROM JANUARY 1, 1910, to JUNE  
30, 1921

Year	Authorizations	Cash Expenditures (Sites and Buildings)	
1910.....	\$5,270,173 26	\$2,632,110 72	
1911.....	12,138,387 39	4,388,647 65	
1912.....	360,490 00	4,851,716 26	
1913.....	6,131,085 00	4,726,394 67	
Total.....			\$16,598,869 30
1914.....	\$798,194 89	\$5,386,927 68	
1915.....	1,505,500 00	4,138,094 66	
1916.....	6,172,084 68	2,567,537 06	
1917.....	6,797,571 13	2,177,079 21	
Total.....			14,269,638 61
1918.....	*\$678,754 24	\$2,233,113 32	
1919.....	7,000,000 00	2,648,070 46	
1920.....	8,000,000 00	5,562,616 73	
1921.....	15,250,000 00	4,780,531 46	
Total.....	29,571,245 76		15,224,331 97
Grand Total.....	\$68,744,732 11		\$46,092,839 88

It will be noted that the expenditures of the three and a half years, 1918 to July, 1921, were but \$15,224,331.97 which, in view of the depreciated value of the dollar during all this period rep-

\* Net rescindment.

resents not more than \$8,000,000 in building value on the basis of 1910 to 1917, or about one-half of the previous four-year totals.

The average annual authorization for the eleven and a half years covered in the above table was \$5,977,802.79 and the average annual expenditure \$4,008,073.03, or about \$6,000,000 and \$4,000,000, respectively.

*b. Fire Hazards in the Schools.*

It is the duty of the Bureau of Fire Prevention of the Fire Department and the Bureaus of Buildings in the five boroughs to inspect school buildings to determine whether the requirements of law respecting exits and the elimination of fire hazards are being complied with. In the event that violations are discovered, it is the duty of these bureaus to serve notice thereof on the Board of Education.

An examination was made of the records of the Board of Education with respect to such violations. It was found that at the time of this examination, August, 1921, there were 7,353 violations of fire prevention rules recorded against 496 of the city's 695 school buildings. The Committee's engineer estimated the cost of removing these violations at about \$4,500,000. Some of the violations are less serious than others, but, on the other hand, some are of the very greatest moment, as, for example, stairways that are not enclosed with fire and smoke proof partitions and not provided with self-closing doors; interior fire alarm systems that do not work; wooden and not self-closing fireproof doors along the line of exit stairways; no hand fire extinguishers; and storage of dangerously inflammable materials in non-fireproof rooms or compartments.

The seriousness of this situation is emphasized by the words of the Superintendent of School Buildings, quoted in the minutes of the Board of Education for March 23, 1921, as follows:

"This with the continued growth of the schools and consequent overcrowding and congestion, causes me great uneasiness and distress of mind. If the fire prevention work was and is required for schools under normal conditions, how much more important must it be when a building contains quite one-half or more in excess of the normal . . . why paint and renovate the interior of a building when there are essential items of fire prevention work to be performed which would actually operate to safeguard life and lessen fire risk."

But in spite of the importance of this work and of the fact that many of these violations date back several years, only \$250,000 was made available for the removal of fire violations during the past four years, and that appropriation was not made until April, 1921. The following table shows how the schools have been neglected in this respect as compared with the years preceding this administration and while it should be stated that the Board of Education has made repeated requests since 1918 for fire prevention funds, these requests have not been effective.

AUTHORIZATIONS AND EXPENDITURES FOR FIRE PREVENTION  
WORK AS OF AUGUST 10, 1921

Date of Authorization	Amount of Authorization	Expenditures	Balance
Sept. 16, 1904.....	\$300,000 00	\$300,000 00	.....
	550,000 00	550,000 00	.....
April 3, 1908.....	1,000,000 00	1,000,000 00	.....
June 3, 1910.....	450,000 00	450,000 00	.....
July 17, 1911.....	450,000 00	447,666 59	\$2,333 41
Nov. 19, 1915.....	250,000 00	250,000 00	.....
July 7, 1916.....	250,000 00	250,000 00	.....
April 20, 1917.....	250,000 00	240,660 85	9,339 15
April 22, 1921.....	250,000 00	.....	250,000 00

On September 14th the Committee examined the Superintendent of School Buildings on this subject. Significant portions of the testimony are given below (Vol. III, p. 1364ff):

“Q. Well, this question of doing away with violations of the fire prevention rules has been a matter of a good deal of concern to you for several years, hasn't it? A. It has.

“Q. And you have made efforts to secure moneys for the purpose of correcting the conditions? A. Yes, sir.

“Q. You have reported it frequently to the Board of Education? A. I have.

“Q. And seen that it was presented to the Board of Estimate and Apportionment? A. That would not be for me to do.

“Q. That would not be your function? A. No, sir.

“Q. I see in your letter of Mar. 18, 1921, that you say: ‘The condition in relation to fire prevention with the continued growth of schools and consequent overcrowding and congestion, causes me great uneasiness and distress of mind.’ Is that true? A. It was.

"Q. 'If the fire prevention work was and is required for schools under normal conditions, how much more important must it be when buildings contain quite one-half or more in excess of the normal?' A. Yes, sir.

"Q. 'I sincerely hope that a resumption of the carrying out of this most important work may be brought about without the stimulus represented perhaps by some awful accident, either here or elsewhere.' You said that, didn't you?

A. That is in the letter, yes.

"Q. You adhere to it? A. I do.

"Q. And I notice you say, 'These orders (that is, the fire prevention rules) have been and are now available at a moment's notice. If there be no intention of granting funds for fire prevention work, then we should know it and make a study of the situation, looking to a decision as to whether or not all moneys for certain repairs should be used for this work.' Was any such decision made to divert moneys for repairs generally to this work? A. What was the date of that letter, please?

"Q. March, 1921? A. No.

"Q. You need the money for other repairs that you get? A. We do.

"Q. And you use it for other repairs? A. We do.

"Q. I notice you say, 'Why paint and renovate the interior of a building, when there are essential items of fire prevention work to be performed, which would naturally operate to safeguard life and lessen fire risk.' A. That is a question of judgment.

"Q. 'The situation becomes more serious with each day's delay,' and then comes an appeal to the Board of Education to apply to the Board of Estimate. I will read it: 'I would earnestly recommend that the Board of Education adopt resolutions for transmission to the Board of Estimate and Apportionment, stating the stern necessity of prompt action upon the Board's request for funds to enable the department to undertake immediately fire prevention work that is absolutely necessary if we are to safeguard properly the lives of the children entrusted to our care.' That is your letter? A. I believe it is, yes, sir.

"Q. And I notice elsewhere that you state that if the correction of the violations was compelled, it would result in the shutting down of a lot of schools? A. Pardon me. I do

not think that that is quite the meaning of that paragraph as I recall it. I have not seen it in some time.

“Q. Well, I was trying to be brief. Sometimes I am brief at the expense of accuracy. A. I meant this, that the fire department have the right to close up any premises which it considers unsafe, and we might possibly be confronted—someone might reach such a decision, and we would be confronted with such a decision.

“Q. Here it says, ‘In the event, however, of the Fire Department enforcing through legal proceeding the carrying out of the orders now outstanding on our buildings, there would be no alternative, it would seem, except to close such structures for the time being, either in whole or in part, until funds had become available and the orders executed.’ A. That is what I had reference to.

“Q. That is an accurate statement, is it? A. That is what I had reference to. The Fire Department could do that.

“Q. I meant to state it in substance in that form? A. Yes, sir.

Senator Downing: Did the Fire Department close any school buildings?

The Witness: No, sir.

“Q. Here you say, ‘For instance, in Public School 117, Brooklyn, which was not originally intended for a school building, we have been obliged, much against the wishes of the District and Division Superintendents, to prohibit the use of the upper floor, owing to the absence of enclosed fire-proof stairway and other items, the cost of which was estimated about two years ago to be about \$34,000, and no funds being available for the work.’ . . .

In reply to a question as to how much money would be required to correct outstanding fire violations, Superintendent Snyder stated (Vol. III, p. 1368): “Around four millions of dollars.” The following quotation from the testimony gives Superintendent Snyder’s recommendation for the prevention of such an accumulation of uncorrected violations. (Vol. III, p. 1381).

“Q. Now what is the matter with the system? A. Why, the system was that there has never been a policy—the Board of Education was never in a position to fix a policy and go ahead and do the work systematically and know what it could do this year and next year and the year after that.

"Q. Because they didn't have the money? A. They didn't have the right to fix a policy.

"Q. To have the money? A. I wouldn't put it that way. They didn't have the right to fix a policy and the ability to carry it out when once fixed.

"Q. Where would you vest that power, where should it be vested so as to insure it being carried out? A. I think all these things resolve themselves simply down to this, that the Board of Education either should be absolutely independent and handle its own affairs and be able to fix its policy, or should know that it is not independent and must bow to the city departments or something of the kind. It is either one thing or the other, and everything can be traced to that one thing.

"Q. Would you regard the system under which this large accumulation of fire violations occurs, is wrong, needs correction? A. I believe it does; yes, sir.

"Q. By statute, by law? A. Whatever is necessary to bring it about. You know better than I do.

"Q. By law? A. Some way that it should be done.

"Q. And there should be some power in connection with the Board of Education which will enable it to meet these violations of the fire prevention rules as they come up? A. Yes, sir; and anything else that comes up.

"Q. Well, particularly these? A. Yes, sir."

*c. Failure to Repair Fire Damage to Board of Education Building*

In February, 1918, the seventh, eighth and ninth floors of the Hall of the Board of Education, at 500 Park Avenue, housing the executive offices of the Board, were completely burned out. Bids for the rebuilding of these floors were not, however, opened until December 7, 1921, nearly four years after the fire. During this interval the work of the Board has been seriously interfered with because of compulsory vacancy of the three top floors of its building. The Bureau of School Buildings, for example, had to be moved to inadequate quarters in the Municipal Building, several miles away from the other offices of the Board. The delay in agreeing on new plans, in securing an appropriation and in letting the contract lays the Board of Education open to the most serious criticism. No business corporation would tolerate such slovenly and inefficient methods.

The following extract from the testimony of the President of the Board of Education on this subject is illuminating (Vol. III, p. 1325):

“ Q. Was there a fire in the Board of Education Building? A. \* \* \* Yes, in our building.

“ Q. In your building? A. In February, I think, 1918.

“ Q. What did that do? A. Well, it destroyed, I think, the three upper floors of the building.

“ Q. How many floors have you got? A. It is a 9-story building.

“ Q. Did you need that room? A. Yes, we needed it badly.

“ Q. You have needed it badly during all that time? A. Yes.

“ Q. But it has not been restored? A. No, it has not.

“ Q. Only a temporary roof put on it? A. That is all.

“ Q. Is anything being done now to correct it? A. Yes. The Department is working on plans. The Building Bureau is working on plans.

“ Q. That is, the Building Bureau of the Board of Education? A. Of the Board of Education.

“ Q. Haven't they worked on plans before? A. Plans have been prepared, yes.

“ Q. They must have had the plans in the same year it burned, didn't they? A. No, we had no appropriation that year.

“ Q. You have to get plans before you get an appropriation, don't you? A. Yes, but I think we prepared plans but failed to secure an appropriation.

“ Q. That is, you prepared the plans in 1918? A. I am not sure. I think in 1918, yes.

“ Q. Right after the fire? A. And thereafter, I think the plans were changed. They were to change the stairways and make some other changes in the building.

“ Q. When were they changed? A. Well, that I can not tell you. The details as to that the Building Superintendent has.

“ Q. Who recommended the changes, the same Bureau? A. I think the members of the Board requested changes, and I think perhaps the Superintendent of Schools.

“ Q. Well, now, this plan for the repair of this building was submitted to the Board of Estimate when, first? A. I can't tell you, Senator.



“ Q. 1918? A. I couldn't say; I would have to get the facts on that; I couldn't remember the dates.

“ Q. It has been pending a long time? A. They were pending a long time, yes.

“ Q. November 27, 1918, my records show? A. They were subsequently changed.

“ Q. And presented again June 25, 1919, the record shows, and then again in July and then again March, 1920, and then in May, 1920, so you have made abundant application to the Board of Estimate? A. I have followed that up pretty closely myself personally. We were anxious to get in the building to have the building repaired and we were overcrowded, and as I say, we were very anxious to get in there.

“ Q. You have needed the room all the time, it was occupied before the fire, wasn't it? A. It was necessary to have some of our departments housed outside of the building, because of lack of space there, due to the fire.

“ Q. I say, it was occupied when the fire occurred? A. It was.

“ Q. You have needed it ever since? A. We have.

“ Q. You have had to hire some rooms outside? A. We have.

“ Q. To what extent? A. Well, we are not hiring any rooms outside but we are occupying city owned property.

“ Q. City property? A. Yes.”

#### *d. Incomplete By-Laws and Delayed Minutes*

Matters of less public importance but of almost equal significance as indicating the degree of efficiency with which the Board of Education has administered the new Education Law are those relating to the revision of the Board's by-laws and the preparation of its minutes. The new law of 1917 so changed the organization and scheme of the school system that a complete revision of the by-laws was necessary in order to make them conform with the new statute. This complete revision had not, however, been made up to September 12, 1921, when the President of the Board of Education was examined on this point by the Committee. A few sections had been adopted in new form, but the great bulk of the by-laws was still in the form of a volume published in 1914 with literally hundreds of amendment slips pasted to the appropriate pages, many of which antedate

the law of 1917 and in the form of special documents containing salary schedules as enacted by the Legislature.

A Board which can permit a delay of nearly four years in the preparation and adoption of by-laws to govern the administration of the public school system of which it is the head, cannot escape criticism on the ground of incapacity or lack of interest in the great responsibility with which it is charged.

The Board has also tolerated during its term of office a condition which no business house would permit to exist for a moment. The minutes of Board meetings are records of the greatest importance to teachers, board members, board officers and city authorities as they are the official documents setting forth the Board's determinations and decisions. The last volume of minutes, however, to be furnished with a printed index is that for 1915. The index for 1916 is said to be completed, but it has not yet gone to the printer. A delay of five years in indexing current minutes is inexcusable. Another instance of the dilatoriness permitted by the Board is the fact that it takes the secretary's office about two months to issue printed minutes of Board meetings. The Committee has been on the mailing list for these minutes and on the day that this statement is written (December 7, 1921) the last meeting for which minutes have been received is that of September 28, 1921, and those minutes came only a few days ago. There has been a constant lag of about two months between board meeting and receipt of minutes ever since the Committee started inquiry in this direction.

It is generally agreed that a small Board of Education can be more efficient than a large board, and that the abolition of the former board of 46 members was most desirable. It seems quite certain, however, that a Board of Education of seven members is too small for the City of New York. Boards of Education in other cities of the state number from three to nine members; about twenty cities having boards of nine; about twenty-five cities having boards of from five to seven, and the others having boards of from three to five. It is not logical that New York, the largest city of the state, should have a Board of Education smaller than the Board of Education in twenty other cities with far less inhabitants. The New York Board of Education should be large enough to handle its problems effectively and yet not so large as to be unwieldy, and its term of office should be uniform with the terms of office of Boards of Education in the other cities of the state.

It seems equally certain that the statutes should impose some means for guaranteeing the quality of the local appointments to the Board of Education. Appointment should be made on the basis of qualification for the duties to be performed. An appointing officer with unrestricted power to appoint is subject to a degree of external political pressure to which it is difficult not to respond, and political considerations should play no part in the selection of members of a Board of Education.

From the foregoing account of the division of responsibility between city and educational authorities under the present statute, it is also clear that the only remedy lies in so amending the law as to centralize power in a single agency. If the Board of Education is to be responsible for the proper conduct of the schools, it should have the power to carry out its program without hindrance.

*2. Possibilities of conflict between the Board of Education and the Superintendent of Schools, relative to their respective powers.*

Under the Greater New York Charter, the Board of Education had specific power to enact by-laws "defining the duties of the city superintendent of schools." The Education Law of 1917 repealed this section of the charter (Section 1068) and did not enact an equivalent.

In addition to this negative act, it specifically constituted the Superintendent of Schools, "the chief executive officer of such board" (of education), and gave him power subject to the by-laws, "to enforce all provisions of law and all rules and regulations relating to the management of the schools." He was also given specific jurisdiction over the employees of the Board of Education.

The material for a serious controversy between the Board and its Superintendent was thus at hand and controversy developed. The new Board of Education adopted new by-laws, defining the powers of its President, of the Board and of its subordinates. The Superintendent of Schools felt that his prerogatives under the statute had been invaded by these by-laws and appealed to the State Commissioner of Education for relief. The Commissioner upheld him and directed the Board to amend its by-laws so as to eliminate the objectionable provisions. The significance of the decision by the Commissioner is indicated by the alterations that

were made by the Board pursuant to his injunction, some of which are quoted below.

*First Version*

Sec. 3. "Any salaried officer, clerk or other employee may be suspended by the President or Superintendent of Schools. . . ."

Sec. 4, Par. 2. "The President shall exercise general supervision over the transaction of the business affairs of the Board of Education and shall have the power to require that reports be made to him by any officer or employee for his use and information, or for presentation to the Board for its consideration and action. The Superintendent of Schools shall act in the administration of business affairs under the advice and guidance of the President."

*First Version*

Sec. 6, Par. 5. The Superintendent of Schools "shall recommend to the Board of Education the organization of day and evening schools and other educational and recreational activities into major divisions, each of which shall be supervised by an associate superintendent, to be assigned by the Superintendent of Schools, subject to the approval of the Board of Education."

Sec. 6, Par. 8. Relative to the Superintendent of Schools, "In his absence or inability to serve, the Board of Education shall designate an associate superintendent to serve as acting Superintendent of Schools."

Sec. 7, Par. 10. Relative to the Board of Superintendents, "It shall make rules and regulations with the approval of the Board of Education for the admission of pupils to the schools, for their promotion, graduation and for their transfer from one school to another."

The testimony of the Superintendent of Schools before the Committee on September 14, 1921, on this subject was as follows (Vol. III, p. 1407):

"Q. I understood you to say that reasonable coordination could be expected from the educational system as it is now

*Amended Version*

"Any salaried officer, clerk or other employee may be suspended by the Superintendent of Schools. . . ."

"The President shall perform the functions that appertain to the office of a presiding officer. The Board may require that reports be made for its consideration and action by any officer or employee."

*Amended Version*

The Superintendent of Schools "shall recommend to the Board of Education the organization of day and evening schools and other educational and recreational activities into major divisions. Each of said divisions shall be supervised by an associate superintendent, to be assigned by the Superintendent of Schools."

"In his absence or inability to serve, he shall designate an associate superintendent as acting superintendent of schools."

"It shall make rules and regulations for the admission of pupils to the schools, for their promotion and graduation and for their transfer from one school to another."

organized; that is, between the Board of Education and the Superintendent and the Board of Associate Superintendents. That works well, does it? A. Within the Board, yes. That is, between the Board of Education, the Board of Superintendents, and the Superintendent of Schools.

“Q. They cooperate with a reasonable degree of success and efficiency? A. Yes, sir, they do now.

“Senator Downing: In harmony?

“The Witness: Yes. It took a good while to get harmony, naturally. I might explain here that this new law created an entirely new condition, and the tradition was in the Board of Education that affairs should be carried on as they had been carried on before this law, and in the carrying out of the business of the Board, there may have been a little conflict with the powers of the Superintendent of Schools, as he conceived them, and the Superintendent of Schools, of course, in his high regard for the sacredness of his office, had to protest against any such action and appeal to the State Commissioner. That was perfectly natural. There was not any acrimony on either side. It was simply a definition of powers. It took two years to straighten that out.

“Q. You have it straightened out now? A. Yes, sir, it is straightened out now.

“Q. And the present workings are smooth? A. At present, yes, sir.”

A situation where a Board of Education, nominally the head of a school system, is by statute given inferior powers to those of one of its subordinates, is unwholesome and subversive of discipline. It is hard to see how a self-respecting Board of Education could acquiesce in such a condition. Responsibility and authority should be placed in the same hands. If a Board of Education is not deemed competent to administer the affairs of the school system, the remedy lies not in elevating an appointee of that Board to a position superior to that of the Board itself, but in changing the character of the Board.

A continuance of this unwholesome condition would be most unfortunate. The Board of Education should be the unquestioned fiscal and policy determining head of the school system and it should have full power to delegate to its subordinates the responsi-

bility of carrying out the policies upon which it determines. It is of course true that a Board of Education has not the technical pedagogical training possessed by the professional staff and that lay interference in the actual teaching of the children might be most dangerous, and that certain safeguards must be established by law which will insure a reasonable degree of freedom to the professional head of the school system. On the other hand there is ample evidence that the law under which the Board of Education now operates does not satisfactorily meet this problem. In a city like New York, which has the greatest educational problem in the world, it does not necessarily follow that the professional schoolman best qualified to carry out the educational program of the schools will also possess the qualifications to supervise the strictly business duties of the school system, such as the purchase of supplies, the construction and alteration of buildings, the assignment of janitors and other employees, etc., even if he had the time. In a smaller city, where these business matters do not constitute the burden that they do in New York, the Superintendent may be able to exercise the two functions without detriment to either. This is not likely, however, ever to be true in New York City, and yet under the present Education Law the Superintendent of Schools is made the executive officer of the Board of Education, with jurisdiction not only over the educational side of the Board's work, but also over the Board's business activities. Authority should, therefore, be given to the Board of Education to delegate the non-professional and administrative duties to some officer other than the Superintendent of Schools, if it deems it wise to do so.

### *3. Possibility of Conflict Between the Board of Education and the Municipal Authorities Relative to their Respective Powers*

The repeal of most of the educational chapter of the charter and the enactment of an entirely new statute changing the relationship between the Board of Education and the city authorities afforded an opportunity for either friction or co-operation in the working out of the new relationship. From the records it appears that it was friction and not co-operation which resulted, and this in spite of the fact that the Board of Education was composed wholly of persons appointed by the present Mayor.

The chief points at issue are set forth fully in a brief submitted on April 4, 1919, by the Superintendent of Schools to a Com-

mittee of the Board of Regents, requesting relief from "the unlawful control of the public school system . . . by the municipal authorities." This brief noted the following points.

1. That the municipal authorities diverted the State school moneys for 1918 amounting to some \$2,300,000 from the Board of Education to the general fund for the reduction of taxation, following the provisions of Sec. 1102 of the charter instead of Sec. 880 of the Education Law.
2. That the municipal authorities sought to control educational policies and administrative details by a minute segregation of appropriations and the imposition of terms and conditions.
3. That the municipal authorities assumed a jurisdiction over administrative employees of the Board and by withholding their pay worked great hardship.
4. That the municipal authorities sought to gain entrance into the school system and establish jurisdiction over school affairs through the intrusion of the Commissioner of Accounts into the business of the Board.
5. That the attitude of the Mayor, as indicated by his oral and written utterances, was significant of the relationship between the City and the school authorities.

The Mayor's attitude toward school affairs was further developed in the testimony of the Committee, copies of letters written by him having been read into the record.

Extracts from these letters and from others in the Committee's possession follow:

(Vol. III, p. 1272) From the Mayor to Mr. Prall, Nov. 25, 1918.

The by-laws "now pending and supported by Superintendent Ettinger would place that department in a position that would require all reports upon investigations ordered by the Board of Education to come to the Board through the Superintendent. This is part of a policy which, if persisted in, makes the Superintendent a dictator and practically the superior of the Board of Education.

"Superintendent Ettinger is submissive to and is practically controlled by Cook, the Auditor, who is the troublemaker in the Board of Education and has little regard for the expenditure of money appropriated for educational purposes.

"I regret to be obliged to write you about this, but unless the Board of Education puts an end to the dictation of Cook, through Ettinger, there is little hope that we will be able to accomplish anything for the improvement of school conditions in this city. A year has almost passed and practically nothing in a constructive way has been accomplished by the new Board of Education.

"Won't you please exercise the rights given you under the law to see that the Board of Education and not the subordinates run the schools of this City?"

When questioned about the "Cook" referred to in this letter, President Prall testified, "He is an auditor, a very good auditor; understands his business thoroughly. We depend on him absolutely."

"Q. He has the confidence of the Board? A. We depend on him absolutely.

"Q. He has the confidence of the Board? A. He has.

"Q. And Ettinger the same? A. Yes, sir.

(Vol. III, p. 1277) From the Mayor to Mr. Prall, June 27, 1919.

"My Dear Commissioner: I wish you would confer with the members of the Board of Education and see to it that no increases in salary are made in the Educational Department, until such time as we find how financial matters stand in the Department.

"Cook, Ettinger and Company have so bungled matters that it will be hard to straighten things out."

(Vol. III, p. 1277) From the Mayor to Mr. Prall, June 14, 1919.

"Dear Sir: I note that Superintendent Ettinger, who is anxious to have the Legislature increase his salary by \$5,000, which the Board of Estimate and Apportionment opposed, is attempting to give the public the impression that the Board of Estimate and Apportionment is opposed to keeping open the swimming pools in the public schools. This is absolutely false, and Ettinger knows it.

"There has been \$45,000,000 appropriated by the present Board of Estimate and Apportionment for the public schools of the city, and out of that there will be sufficient to pay the few attendants necessary, the cost of which is less than \$7,000, to look after the swimming pools for the summer.



“Ettinger had no trouble in finding money out of the \$45,000,000 to start new activities so that his friends could get high salaried jobs and increases in salary for other Ettinger favorites.

“A man who resorts to such methods to mislead the public is not the proper person to be Superintendent of the Schools of the City of New York.”

On August 6, 1919, the Mayor referred to the Police Commissioner for investigation an anonymous letter charging that the Superintendent of Schools had improperly pensioned a teacher. The Police Department made an investigation and reported on Sept. 3, 1919, naturally finding nothing to support the accusation as all pensions are under the jurisdiction of the Teachers' Retirement Board and not under the Superintendent of Schools.

On September 2, 1920, the Mayor wrote President Prall as follows:

“Dear Sir: I am in receipt of your letter of September 1st with reference to the refusal of the Department of Finance to honor the payrolls of the Board of Education so that the teaching force will receive the increases granted them under the mandatory legislation passed by the Legislature at its last session.

“The Board of Education should immediately begin mandamus proceedings against the Comptroller to compel him to pay the salaries now legally due the teachers.

“I have directed Corporation Counsel O'Brien to confer with you without delay to the end that the teachers' salaries be paid without any further quibbling.”

On September 23, 1919, the Mayor wrote President Prall in part as follows:

“Ettinger bitterly opposed the investigation of the expenditure of \$44,000,000 appropriated for educational purposes. He now seems to have the City Club behind him to help him thwart your investigation of the finances of the educational department and other conditions in our school system. The Board of Education should take some action so that Ettinger will give his time to educating the children and bettering conditions in our public schools instead of playing education politics and making trouble for those who want school-houses erected and the children given a proper education.”

On December 4, 1919, the Mayor wrote the Corporation Counsel as follows:

“Dear Mr. Burr: I congratulate you upon your success in the Court of Appeals in the case of Hirshfield, Commissioner of Accounts of the City of New York against Cook, Auditor of the Educational Department. I understand the decision was unanimous in favor of the city investigating the financial condition of the educational system.

“The Board of Education have at all times, as you know, been in favor of a thorough investigation of the financial condition of the educational system under Superintendent Ettinger, but this policy was opposed by Superintendent Ettinger and Auditor Cook, and other prominent persons in the city who for some reason, feel that the taxpayers should not know what is being done with their money. However, the Court of Appeals has sustained the city’s contention and the investigation can now go on.

“If Ettinger and Cook had not been encouraged by Finegan of the State Educational Department they would not have attempted to override the action of the Board of Education, their superiors, and the people of this city would have known long ago whether the finances of the Board of Education were being properly expended.

“The decision of the Court of Appeals should be sufficient to convince Superintendent Ettinger that his superiors, the Board of Education, must be recognized, and that he cannot override them with the aid of Deputy Finegan at Albany.

“Superintendent Ettinger can now devote his time to the proper housing and education of the children and the bettering of the moral tone of the schools of the city.

“The people of the city appropriate millions of dollars yearly for the better education of their children. They want a sufficient number of school-houses to properly house the little ones and a thorough fundamental education given to them. They do not want their money wasted for unnecessary textbooks, fads, frills and fancies.

“It is a pleasure to remember that the great judges of the Court of Appeals have stood by the people and against the traction interests in their fight for an increased fare, and again by the people and against those in the school system

who objected to the people knowing what is done with the millions they appropriate yearly for education, as well as the many other important cases which are of great interest and importance to the people."

On December 9, 1919, President Prall wrote the Mayor as follows (Vol. III, p. 1282):

"My Dear Mr. Mayor: Some time between Friday evening, December 5th, and yesterday (Monday) morning, December 8th, certain correspondence in my files, i. e., all the letters received by the President of the Board of Education from the Corporation Counsel, and all the duplicate copies of letters sent to the Corporation Counsel during the period from January, 1919, to date, were surreptitiously removed.

"I, therefore, respectfully request that you assign to this case capable men from the detective bureau of the Police Department in order that I may apprehend the person or persons guilty of this outrage."

Mr. Prall testified that he regarded this as an important loss but that the guilty parties were never apprehended. In reply to the question whether there were any matters pending at the time of the theft on which the correspondence had a bearing Mr. Prall stated (Vol. III, p. 1285):

"I think the controversy between the Superintendent of Schools and the Commissioner of Accounts was on at that time."

On December 20, 1919, the Mayor wrote President Prall a letter in which the following statement is made:

"There is no discipline in the educational system under Superintendent Ettinger. Certain principals and certain high officials spend little time performing the duties for which they are paid. Some action should be taken by the Board of Education to punish insubordination."

The person not already familiar with conditions in New York City during the past four years must read this correspondence with amazement. But even the foregoing extracts do not tell the whole story of the antagonism between municipal and educational authorities.

The Court of Appeals decided a case on November 22, 1921, that may prove of great significance in the future determination

of the relationship between municipal and educational authorities, but unless the City and the Board of Education can agree as to the bearing of this decision upon the current business of the public school system there may be frequent recourse to litigation of a similar nature. A certain cure would be the revision of the Education Law as affecting New York City. The decision referred to is printed in the New York Law Journal for December 20, 1921, and reads in part as follows:

“Section 880 of the Education Law provides that all funds collected or received from any source for school purposes shall be paid into the treasury of the city and shall be credited to the board of education; that such funds shall be disbursed *only* by authority of the board of education and upon written orders drawn on the city treasurer or other fiscal officer of the city, such orders to be signed by the superintendent of schools and the secretary of the board of education or such other officer as the board may authorize. The city treasurer is inhibited from permitting the use of said funds for any purpose other than that for which they are lawfully authorized, or paying out said funds *except on audit of the board of education* and the countersignature of the comptroller. A casual reading of the Education Law leads to the conclusion, so tersely stated in the Gunnison case, that the only relation of the city to the subject of education is as custodian of the school funds and to disburse the same according to the instructions of the board of education.

“The language quoted from subdivision 7, ‘the board of education shall administer all moneys appropriated or available for educational purposes in the city, subject to the provisions of law relating to the audit and payment of salaries and other claims by the department of finance,’ must be read in connection with section 880 of the Education Law, which provides that school funds shall be disbursed only by the board of education, and clothes that body with power of audit.

“The power vested in the board of education to administer the school fund is a grant of authority to that body to fix salaries of all employees of the board. Such salaries when fixed by the board are presumably embodied in the estimate filed with the board of estimate and apportionment. Upon receipt of a requisition from the board of education the

comptroller is authorized to ascertain whether or not the requisition made upon him embraces charges against the education fund as disclosed in the record in his department relating to the board of education. If such requisition be found correct there remains but one duty on the part of the comptroller, viz, to draw the necessary warrant for the payment of the salaries, etc. He is powerless to exercise a power of audit conferred on the board of education. We cannot ascribe to the Legislature an intention to provide for two several boards of audit. The language used in subdivision 7 was applicable only to the procedure to be adopted by the board of education that in the disbursement of its funds it shall adopt the procedure prevailing in the case of claims against the city, require as it did in the case at bar presentation of the claim, proofs in support of the validity of the same, the extent and value of the labor and material and generally all information obtainable relating thereto before any allowance or audit of the same shall be made. Had relator in the first instance filed its claim with the comptroller, as is asserted it should have done, and the comptroller audited the same for a stated amount and drawn a warrant for the same on the city treasurer, the latter officer could not pay the same save by a violation of the provision of the Education Law, which prohibits the treasurer from making payment from the school fund except on audit of the board of education."

It is regrettable, to say the least, that the possibility for such controversies should exist and that if existing, the issues should have been raised. It is equally regrettable that it should have been necessary for the parties to such disputes to have recourse to the courts, to the Regents and to the State Commissioner of Education, because whichever side was favored in the decisions, the litigation, confusion and consequent irritation must necessarily react on the children whose education is suffering from the disagreement between school and city authorities. So far as the wording of the statutes affords an excuse for such conditions the statutes should be amended and the excuse removed.

This decision of the Court of Appeals lends judicial sanction to the suggestion that the dual control over school moneys heretofore exercised or claimed be ended, by specifically excluding the municipal authorities from any control over school funds.

4. *Failure to Concentrate in Clear and Unmistakable Language Full Responsibility for the Proper Administration of the Public School System Either on the Municipal Authorities, the Board of Education or the State of New York*

The evidence to support this interpretation is adequately set forth under the two sub-divisions immediately preceding. It is only necessary to add here that if the State is to assume full responsibility for the proper administration of the New York City school system it should enunciate that fact in clear terms and should specifically repeal those sections of the charter and other local laws in conflict with that theory.

5. *Limitation of the Powers of the Board of Education*

This point has been touched upon under sub-division 2 above. The powers of the present Board of Education are demonstrably far inferior to those of its predecessor. It cannot be successfully argued that the powers of a Board of Education should be limited in favor of one of its subordinates, or that if local control is desirable the Board should be unable to modify or dispense with two powerful agencies nominally subordinate to it, viz., the Board of Superintendents and the Bureau of Compulsory Education. The State Education Law in so far as it applies to the City of New York clearly curtails the power of the Board of Education. It does not seem that the experience of the past four years indicates that this was a wise provision. So long as responsibility and authority are not entrusted to the same hands there is encouragement for an evasion of obligation and a shifting of blame for non-performance. And in all cases of this character the ultimate sufferers are the children for whose benefit Boards of Education, Boards of Superintendents and school officers are supposedly created.

6. *Great Increase in the Powers of the Superintendent of Schools*

This matter has also been discussed at length under sub-division 2 above and it will not be further dealt with here.

7. *Perpetuation of the Board of Superintendents*

The Board of Superintendents is a unique institution. It is an inheritance from the time of consolidation (1898) when it was apparently deemed desirable to carry over into the structure of the Greater City local officers of the Boards of Education of New York and Brooklyn. It survived all the amendments to the

Greater New York charter and was continued in the education law of 1917 as a mandatory institution. But this law while providing a general statute for all cities of the State, established a Board of Superintendents only in the City of New York by the common expedient of creating such a board in "a city having a population of one million or more." It is hard to see why the requirements of a city with a population of over a million should differ so materially from those of a city of under a million. If a proper school administration requires a Board of Superintendents in the one case, why does it not require a Board of Superintendents in the other case? And if a Superintendent and a group of Assistant Superintendents can operate successfully in a city of less than a million, why should it be necessary for a larger city to place its educational administration in the hands of a board of nine persons and to be able to make progress only when a majority of such board can be secured. The opportunity for discussion by a board cannot always be said to accelerate school business. The President of the Board of Education sought to explain the delay of his Board in adopting by-laws by saying that the Board of Superintendents had been considering a draft of by-laws "I guess for a year, perhaps for two years." Examination of the minutes of the Board of Superintendents shows the many discussions and the many references and reports relative to matters which should be settled by prompt executive action. The records show that one of the major contributing factors to the delay which has characterized the provision of additional school facilities is the fact that the Board of Superintendents has to originate the program and approve the layout of the new buildings contemplated therein.

Much time could be saved in the working out of an educational program, and that the management of the schools would be much more efficient, if the Board of Superintendents were abolished as a board, and if the Superintendent of Schools, with a staff of competent Assistant Superintendents, was made the agent of the Board of Education in the carrying out of educational policies.

#### 8. *Perpetuation of the Bureau of Compulsory Education, School Census and Child Welfare*

Reference has already been made to the provision of law, making mandatory a Bureau of Compulsory Education, School Census and Child Welfare. The State Education Law, passed in 1917, did not single out this bureau for special recognition. It was

left on a parity with the other administrative bureaus of the Board, subject to modification, abolition and consolidation by the Board of Education.

Chapter 612, Laws of 1920, however, added a new section to the State Education Law, placing the Bureau of Compulsory Education in the mandatory class with the Board of Superintendents and the Board of Examiners. This amendment applied only to the City of New York as it was worded to affect "a city having a population of one million or more."

Mandatory legislation of this character affecting only the City of New York, particularly when in the form of amendments to general State acts, should not be passed unless there is a compelling reason in its favor. It is hard to believe that any such compelling reason existed in the case of the statute in question. If the enforcement of the compulsory education law, in the City of New York, requires the organization of a Bureau of Compulsory Education, the Board of Education can be relied upon to establish such a bureau, but if the Board of Education prefers to enforce the compulsory education law through some agency other than a specially constituted bureau, it should be permitted to do so.

It is the prerogative of the State to enact a compulsory education law and to hold Boards of Education responsible for its enforcement. It should be the privilege of the Boards of Education to determine the machinery by which such enforcement is to be carried out, and the Board of Education of New York should have the same privilege in this respect as is enjoyed by the other cities of the State.

*9. Conflict between Section 1102 of the Charter, which was not specifically repealed, and the State Education Law, relative to the disposition to be made of the City's share of the State school moneys, the former providing that such money be credited to the City's general fund for the reduction of taxation and the latter that it be credited to the Board of Education.*

Reference has been made to this matter under subdivision 3, above. The controversy was resolved in favor of the Board of Education, and at the present time, the proceeds of the State's apportionment to the City of New York are credited to the Board of Education. That the amounts now involved are by no means



inconsiderable is shown by the following table, giving the totals apportioned to New York for the calendar years 1914 to 1922, inclusive:

<i>Year</i>	<i>Amount Apportioned to the City</i>
1914 .....	\$1,923,025 00
1915 .....	2,115,679 73
1916 .....	2,220,730 03
1917 .....	2,414,837 16
1918 .....	2,321,191 13
1919 .....	2,700,657 19
1920 .....	5,025,570 17
1921 .....	16,938,023 85
1922 .....	*18,097,534 51

*10. Increase from 3 mills to 4.9 mills in the amount which the City is required annually to appropriate for the use of the Board of Education.*

The State's policy of prescribing a certain minimum tax to be levied for local school purposes long antedates the creation of the Greater City.

The application of this principle to the present City, however, was first made in the Charter, which took effect in 1898, and which prescribed a minimum of 4 mills. By Chapter 43, Laws of 1903, this was reduced to 3 mills, the reduction taking effect in the 1904 budget, a provision contemporaneous with the increase of nearly a billion and a half dollars in the assessed valuation of New York City's real estate, due to a change in the basis of assessment. The figure remained 3 mills until the State Law of 1917 raised it to 4.9 mills.

The 3 mill tax applied to the 1903 valuations yielded, for the purposes of the 1904 budget, \$16,297,250.75, as compared with \$15,428,190.87, which was yielded for the budget of the preceding year by the 4 mill tax on 1902 values, so the decrease in rate really meant an increase of \$870,000 in available funds.

The following table shows the expenditures by the Board of Education from its current funds for school purposes from 1910, through the first six months of 1921, and gives also the 1922

\* Estimated.

budget appropriation from City and State sources. It shows the tremendous growth that has taken place in the last few years in school costs.

<i>Year</i>	<i>Expenditures.</i>
1910 .....	\$28,456,945 68
1911 .....	28,958,179 29
1912 .....	33,791,974 40
1913 .....	35,481,641 12
1914 .....	38,185,495 90
1915 .....	39,797,960 64
1916 .....	39,708,764 22
1917 .....	41,101,074 41
1918 .....	43,884,893 59
1919 .....	45,490,121 68
1920 .....	66,194,668 04
1921 (first 6 mos.).....	44,828,326 69
1922 .....	*88,798,546 81

The first budget affected by the law increasing the minimum provision for school purposes to the yield of a 4.9 mill tax was that for 1918, and the amount appropriated by the City for school purposes in that budget was \$42,501,156.04, the exact amount of the 4.9 mill yield as then computed and the approximate amount required by the Board of Education as indicated by its expenditures at the time. It seems clear, therefore, that the legislature sought to guarantee to the City's school system, an income sufficient to meet its requirements, relying on increases in assessed valuation to provide some money at least for expansion, thus assuring the Board of Education a reasonable degree of financial independence. The 4.9 mill yield, however, has not proved wholly adequate. The legislature in 1919 and 1920 passed laws increasing the statutory minimums for teachers' salaries. These new schedules, when fully effective, increased the salaries of teachers in New York City's schools by about \$30,000,000 a year. According to figures prepared by the Board of Education, the total salary cost for teachers as of December 31, 1919, was \$37,625,157, and the cost as of December 31, 1921, for the same staff is estimated at \$67,947,108.

\* Including \$18,097,534.51 from the State.

In order to lighten the financial burden imposed by these mandatory increases, the Legislature undertook to provide a part of the necessary funds and levied a direct tax for educational purposes to supplement the local city taxes.

As shown above, the State funds received by New York from 1914 to 1919, inclusive, averaged annually about \$2,000,000. In 1921, however, by reason of this action by the Legislature, the amount received totals \$16,938,023 85, and the estimate for 1922 is \$18,097,534.51.

But this is not enough to offset the entire additional burden in New York, and, as a result, the schools are again placed in financial dependence on the city authorities. The City's appropriation for 1922 for school purposes is \$70,701,012.30, whereas the 4.9 mill tax on 1921 valuations yields only about \$50,000,000. The Board of Education is therefore dependent on the City for about 30% of its requirements for current running expenses, to say nothing of its requirements for new school buildings, alterations and the like. In this respect, therefore, the situation is no better than it was in 1917, when the Board's budget was \$41,430,447.49, or nearly \$16,000,000 in excess of the mandatory 3-mill tax of \$25,753,057.53.

A most anomalous situation is thus created. The Board of Education, which is recognized as an agent of the State by the new Education Law, is at the mercy financially of the local city authorities, who have it in their power completely to wreck the school system. That this is a power that may be exercised before long is evidenced by two facts.

The requirements of the Board of Education for funds from City sources as set forth in the budget for 1921 amounted to \$77,946,038.77, but because, in spite of a most unusual increase in the assessed valuations for 1921, the Board of Estimate found that it could not appropriate the full amount it desired to for city and county purposes and remain within the 2% constitutional limitation as interpreted by it, it arbitrarily reduced the amount appropriated for the Board of Education to \$50,720,880.83, leaving a deficit of \$27,225,157.94 to be made up during the year. The action of the Legislature in continuing for another year the direct State levy for teachers' salaries made an additional \$7,225,000 available, reducing the deficit to \$20,000,000.

The Board of Estimate undertook to finance this deficit by the issue of special revenue bonds and the transfer of available bal-

ances from other appropriations, but throughout the greater part of 1921, the Board of Education had no assurance, other than the statement of the Board of Estimate, that the necessary funds for the support of the schools would be provided by the city. This first move by the city authorities can be summarized as an arbitrary refusal to appropriate in the annual budget a sufficient sum for school purposes, coupled with the undertaking to make up the deficit from other city sources during the year.

The second fact is of more recent occurrence and it may be summarized as a desire on the part of the city authorities arbitrarily to reduce the budget appropriations for the Board of Education below requirements and to deny responsibility for the deficit, passing it along to the State. This is evidenced by a communication sent by the Comptroller to the Board of Aldermen, on December 2, 1921, calling attention to the fact that the probable tax rate for city and county purposes in two of the five counties would exceed 2%, and that in view of the constitutional provisions, it would be safer to reduce the budget so as to bring the rates below 2%. He recommended that this reduction be effected by taking \$10,000,000 away from the appropriations made for the Board of Education, saying:

“Education is a State function, and because it was a State function the legislature increased teachers’ salaries in the City of New York at the rate of \$31,000,000 per year, but when it came to providing the means wherewith to meet this increased outlay, the legislature did not consider that education was a State function. It passed this liability on to the City of New York, and, in order that a show of economy might be made in the State’s appropriation bills, the amount provided to aid the City of New York to carry this increased budget was less than half of the sum required.

“Unless the State is to be faithless to the cause of education, the legislature can do no less than provide the necessary moneys to sustain the activities in the manner that it has required.”

The significance of this is not so much the speciousness of the argument as the fact that the exigencies of municipal finance have led the city authorities to assume a hostile attitude toward the city schools. The Board of Aldermen wisely rejected the Comptroller’s recommendation, but next year, it may very well be that the Board of Estimate, acting at the Comptroller’s instance, may

refuse to appropriate sufficient funds for the schools, and, as the Board of Aldermen has no power to increase appropriations, there would be no means for compelling the City to make the necessary appropriation, so long as the statutory minimum of 4.9 mills is provided.

In connection with the Comptroller's recommendation, however, mention should be made of the fact that the Mayor testified that he was in favor of the increased salaries for teachers, concerning which the Comptroller complains, that the city's financial condition was and is such that it could not possibly provide the money for these increases had the legislature not come to its aid by imposing a State tax for the purpose and that the amount to be received by the city during 1922, from State school moneys is estimated at about \$4,000,000 more than the amount of the direct State tax which the city has had to include in the 1922 budget, so that the city gets from the State more than it pays by about \$4,000,000.

It seems highly desirable, therefore, that the Legislature take the necessary steps to make it impossible for the City to starve the schools at will. In doing so, however, regard should be had, not only to the current running expenses as reflected in the appropriations to the general and special school funds, but also to the requirements for new school accommodations. Only half of the problem would be solved if the Board of Education were dependent on the City for funds for new buildings, because there is no more reason to assume that the City, when confronted by the constitutional debt limit, would treat the schools any more generously than when confronted with the constitutional limit on taxing power.

The City's appropriation for the Board of Education in the 1922 budget of \$70,701,012.30 represents about 7 mills on the 1921 valuation of about ten billions. An increase in the mandatory minimum from 4.9 mills to 7 mills would therefore insure sufficient funds to conduct the schools at the present rates of expenditure, provided the State continues its distribution of school moneys in the same amount as at present. If, in addition, the equivalent of another mill or fraction thereof were set aside by statute for new school projects, to be provided by taxation or bond issue, the Board of Education would have the assurance of a definite sum annually for such purposes.

The total expenditure from 1910 to the middle of 1921 for new buildings and sites was \$46,092,839.88, making an average annual expenditure of \$4,008,073.03 during this period. This amount has demonstrably been insufficient to keep pace with the growing requirements of the City and it should not be a criterion in determining the funds to be made available by the City in the future for such purposes. On the other hand, the City's financial condition is such that it cannot be expected to make up at once the deficiencies of prior years in school construction. The Board of Education could easily and advantageously spend many more millions than the City could furnish. It is necessary, therefore, to effect a compromise based on the City's financial ability and the requirements of the schools and adequate to give the Board of Education the necessary financial independence.

*11. The inclusion within the State's educational system, of City Boards of Education, including the Board of Education of the City of New York and the subordination of the municipal authorities to the State in matters of school administration.*

The foregoing discussion demonstrates that the apparent attempt by the new State Law of 1917, to secure this change in the relationship between the City, the Board of Education and the State, was not successful. The present division of responsibility, while differing from the preceding division of responsibility, is none the less embarrassing and is not conducive to the efficient administration of the schools. The history of public education in New York State shows that the State has increasingly concerned itself with the education of its children. Generally speaking, however, its concern has been to see to it that the local authorities fulfilled their responsibilities. The details of school administration were left to communities, while the State prescribed general requirements, supervised the carrying out of these requirements, appropriated money to help meet these requirements and passed laws which sought to guarantee a proper education to its future citizens. Experience seems to show that this is a wise position for the State. It cannot successfully and should not centralize in its own hands the administrative control of local schools. It can, however, exercise general supervision, establish minimum requirements, set up local agencies to administer the affairs of local schools, and see to it that these agencies are not interfered with

in the performance of their duty. Education is not a State function, it is a State responsibility. The guaranteeing that every child in every community shall have an opportunity for education, however, is a State function and so is the exercise of compulsion on local communities to provide adequate educational facilities.

The State can enunciate that principle and it can establish in New York City a Board of Education with complete financial independence, subject to restrictions imposed by the State and the State only. The City can be compelled to furnish the necessary funds, but in the interests of the taxpayer these funds must be provided out of the 2 per cent tax which the City may, under the constitution, levy for city and county purposes.

## DEVELOPMENT OF PUBLIC EDUCATION IN THE STATE AND CITY OF NEW YORK PRIOR TO 1897.\*

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### HISTORICAL DEVELOPMENT OF THE EDUCATIONAL SECTION OF THE STATE CONSTITUTION

Article IX, section 1 of the Constitution of the State of New York reads as follows:

“The Legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this State may be educated.”

This section was added to the Constitution by the Constitutional Convention of 1894 upon the recommendation of the Committee on Education which reported an educational article of which the foregoing was the first section. The Committee's report contained the following statement:

“The present Constitution is silent upon the vital point of the establishment and maintenance of a system of free common schools. It may be urged that no imagination can picture this State refusing to provide education for its children, and for this reason the declaration which your committee have reported in section 1 might, no doubt, be omitted without endangering the stability of our present system of education. But the same reasoning would apply to many other matters though fundamental; and it is a significant fact that within the last half century of constitutional revision no other State of the Union has considered it superfluous or unwise to make such an affirmation in its fundamental law. Your committee, therefore, recommends the adoption of

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\*Most of the historical material presented here has been taken from Lincoln's "Constitutional History of New York," vol. III, pp. 475-580, and from Palmer's "The New York Public School." In many instances sentences have been borrowed bodily, and, generally speaking, there has been little more than summarization and rearrangement of the material collected by these authors. Material has also been taken from the School Inquiry Report published in 1913 by the Board of Estimate, especially from vol. III, pp. 45-108.



section 1 as an explicit direction to the legislature to provide for a system of free common schools wherein all the children of this state may be educated. This requires, not simply schools, but a system; not merely that they shall be common, but free, and not only that they shall be numerous, but that they shall be sufficient in number, so that all the children of the state may, unless otherwise provided for, receive in them their education. No desire to confine the new Constitution to the narrowest possible limits of space should prevent the adoption of an enactment declaring in the strongest possible terms the interest of the state in its common schools. Whatever may have been their value heretofore, and language has been strained to the utmost in applying to them terms of praise, their importance for the future cannot be overestimated. The public problems confronting the rising generation will demand accurate knowledge and the highest development of reasoning power more than ever before; and, in view of the state's policy as to higher education, to which reference will presently be made, too much attention cannot be called to the fact that the highest leadership is impossible without intelligent following, and that the foundation of our educational system must be permanent, broad, and firm if the superstructure is to be of real value."

The Constitutional Convention of 1894 found an educational system in two parts, one culminating in the University Law of 1892 and the other in the Common School Law of 1894. In addition, there were numerous independent statutes relating to both departments of education. The Convention combined both branches in one educational article and the state electorate by adopting the revised constitution definitely declared that elementary, secondary and higher education should be maintained at public expense within limitations prescribed by the State Legislature. By this action there was incorporated in the fundamental law of the State a policy which, as a matter of fact, had existed for many years through legislation. The constitutional provision unified the two systems above referred to, but both systems were prior to 1894 subject to State control.

The following brief sketch of the development of a public educational policy in the State of New York shows the gradual formation of a new conception that public education was a vital concern of the State.

*Dutch Colonial Period*

The Dutch were firm believers in education and carried to the new world their determination to provide for the instruction of their youth. An official school and school master were provided in New Amsterdam as early as 1633. During the Dutch control of New York the expense of maintaining the schools was sometimes paid in part from the treasury of the Dutch West India Company, sometimes from excise moneys, sometimes, apparently, by general tax and, in addition, teachers derived a part of their income from direct payment by pupils. Religious and secular instruction were combined in the same course and the same person was often both minister and school master. The Dutch West India Company began the administration of the colony which it was permitted to establish in America by invoking the direct aid of the minister and the school master. A union of church and state was not then deemed objectionable. But while the government through the church and sometimes by direct taxation encouraged the formation of schools, it did not consider itself responsible for the development of a consistent and comprehensive educational policy for the children of the colony.

*English Colonial Period, 1664 — 1776*

The transfer of New York from Dutch to English control in 1664 had little immediate effect on the educational policy of the colony. The Dutch policy was not interrupted, but as the English apparently did not regard education as an essential subject of public administration, little was done to foster schools at public expense. English teachers were licensed to teach schools, but usually without public aid. The colonial government acting under orders from the crown tried to keep the control of education as a prerogative of the Church of England, and, accordingly, under the instructions of colonial governors school masters were permitted to teach only if licensed, first by the Archbishop of Canterbury and later in the history of the colony by the Bishop of London. During the first few years of English jurisdiction school masters were also required to obtain a civil license from the governor, but this practice later fell into disuse. Education, while not discouraged by the government, was left largely to private enterprise, but under public control, and the schools were maintained either directly or indirectly by private contributions including the direct payment of tuition and the funds admin-

istered by some society organized for that or similar purposes. The English "Society for the Propagation of the Gospel in Foreign Parts," for example, carried on an extensive educational work in the colony, establishing schools, appointing teachers and often supporting them out of its own treasury. But while the schools were, during the latter half of the English Colonial period under the general care and supervision of this Society, the government kept its hand on the school system directly and through the instrumentality of the church by the requirements as to the licensing of teachers referred to above, and not by direct legislation of a general character.

Only two statutes were enacted by the English Colonial government of New York relating directly to education and neither of these disclosed any intention to establish a public school system. The first was passed in 1702 and recited that the municipal authorities of New York had represented to the general assembly the importance of establishing in that city a free school. The assembly thereupon made provision for a grammar school and directed that an annual tax of £50 be raised to maintain the school. The act was to continue in force seven years. It was not then extended. The second statute was passed in 1732 and authorized a school in New York for the teaching of Latin, Greek and mathematics. This school was to be free, its expenses being paid from moneys received from licenses to hawkers and peddlers. The act was limited to five years. It was then continued for another year, but was not again renewed. This seems to have been the last attempt to establish public schools during the Colonial period.

#### *Education under the First Constitution, 1777 — 1821*

Education was given no place in the first constitution. The Legislature was, therefore, left free to act as it saw fit with respect to schools. The Revolutionary War, of course, absorbed much if not most of the Legislature's energy and the first definite recognition of school needs was tacked on to an act providing for the raising of two regiments for volunteer service and for bounties of public land to encourage enlistments. By this act (Chapter 32, Laws of 1781) the State reserved in each township five hundred acres of public land for the support of the gospel and three hundred and sixty acres for the use of the school. The policy of appropriating public lands for these purposes was continued by subsequent legislation, and, according to a report by

the Superintendent of Public Schools in 1839, there had been thus reserved up to that time as gospel and school lands 47,620 acres. This policy obviously was not applicable to all parts of the State and necessarily could have only a limited effect. It was only an incident in the State's educational development.

What is said to be the earliest official declaration of a state educational program is found in a statement by Governor George Clinton to the special session of the Legislature called in 1782 to devise means for more vigorous prosecution of the war. He is quoted as having said:

“ \* \* \* it is the peculiar duty of a government of a free state where the highest employments are open to citizens of every rank to endeavor by the establishment of schools and seminaries to diffuse that degree of literature which is necessary to the due discharge of public trusts. You must be sensible that the war has occasioned a chasm in education extremely injurious to the rising generation, and this affords an additional consideration for extending our earliest care to their instruction.”

In 1784 the Governor repeated his views and the Legislature passed an act to establish a university under a Board of Regents. If this university had been erected on a broad foundation without reference to any particular institution then existing, it could have supervised all education, but the intervention of Kings College brought about amendments which concentrated on Columbia College (the later name for King's College) the energies of friends of education in the State. This law of 1784 was amended, materially altered in 1787 and in the latter form was the basis of the University Law of 1892.

The Committee of Regents which recommended the modification of 1787 in the University Law made the first direct reference to public common schools as such, stating that:

“ They feel themselves bound in faithfulness to add that the erecting of public schools for teaching reading, writing and arithmetic is an object of very great importance which ought not to be left to the discretion of private men, but be promoted by public authority.”

The amended law, however, contained no provision for the organization of primary education.

The first free common school established by statute in a settled portion of the State was provided for by Chapter 41 of the Laws

of 1791. The people of Clermont asked authorization from the Legislature for the use for school purposes of the surplus of excise moneys not needed for the support of the poor, and this authority was granted by the above-mentioned act.

In 1793, 1794 and 1795 the Regents repeated their recommendation for the establishment of public schools for the teaching of reading, writing and arithmetic, and the Legislature in 1795 passed a Common School Law (Chapter 75) which appropriated £20,000 annually for five years and required each city and county to raise by tax a sum equal to one-half the amount apportioned to it by the State. These two sums constituted the local school fund. There was no rate bill. This law expired in 1800 and was not renewed. The Legislature of 1801, however, provided for a lottery to raise \$100,000, one-half of which was to be used by the Regents and the other half to be used for the support of the common schools as the Legislature might direct.

In 1802, 1803 and 1804 the Governor recommended again that the Legislature continue the system of common schools. In 1805 Governor Lewis sent a special message to the Legislature urging the adoption of a liberal policy toward education and recommending that 1,500,000 acres of unappropriated land then owned by the State be devoted to educational purposes; the funds realized from the sale thereof to be placed under the supervision of the Regents; the interest to be used for the support of colleges, common schools and "perhaps of academies." This plan, if adopted, would have unified the State's educational system under one head, the Regents. The Legislature, however, included in the new law only that part of the plan relating to a common school fund and set aside only 500,000 acres of unoccupied land for establishing the common school fund. The creation of this fund was, apparently, the only result of Governor Lewis' plan to establish a general system of education.

In 1810, and again in 1811, Governor Tompkins urged legislative action for popular education, and in the latter year the Legislature appointed a commission to study the subject and report. The report was submitted in 1812 accompanied by a bill which, with modifications, became Chapter 242. This law provided for a Superintendent of Common Schools, for the distribution of the interest of the common school fund; authorized the election of town commissioners and inspectors of schools; required teachers to be examined and licensed by the inspectors; provided for school districts in towns, and required a local tax

for school moneys in addition to the fund distributed by the State with the limitation that the offer of State aid must have been accepted at a town meeting, in which case a sum equal to the State apportionment was to be raised by a town tax. The town might also raise an additional sum. These amounts constituted the local school fund. There was no rate bill. This act was revised and repealed in 1814. By the new act the towns were required to raise by tax an amount at least as great as the amount of the State apportionment, and provision was made for the rate bill which was used to collect money for teachers' salaries in excess of the amount of the local school fund. The rate bill was continued in the revision effected by Chapter 161, Laws of 1819. The office of Superintendent of Common Schools was abolished by Chapter 240, Laws of 1821, and his functions transferred to the office of the Secretary of State.

*Education under the Second Constitution, 1822-1846*

The Constitutional Convention of 1821 gave but little attention to the subject of education. The common school fund was protected and was made perpetual. Its foundation was enlarged to include the proceeds of all the State lands not otherwise appropriated. Except for these provisions, however, the new constitution contained no educational material, but during its life considerable legislation on this subject was enacted, much of it having to do with the training of teachers. By Chapter 133 of the Laws of 1843 the Legislature abolished the offices of Commissioner and Inspector of Common Schools and created the office of Town Superintendent of Schools, to be chosen annually by the people. The same law authorized the State Superintendent to issue teachers' certificates which could be used anywhere in the State and were valid until revoked. This act completed the policy of supervision by Superintendents, including the State Superintendent, Deputy County Superintendents and Town Superintendents.

Prior to 1846 several separate free school laws were enacted. But, as a general rule, parents were required to pay a separate and additional tax (rate bill) for the instruction of their children, if the public money was not sufficient to pay teachers' wages. Poor people might, however, be relieved from this additional charge.

A resolution was offered in the Assembly of 1846 requesting the Committee on Colleges, Academies and Common Schools to

report on the expediency of providing free schools in all cities and also in all incorporated villages with a population of 10,000 or more. The Committee reported itself in favor of the idea but advised postponing action until the Constitutional Convention then about to meet could consider the matter.

*Education under the Third Constitution, 1847-1894*

The Constitutional Convention in 1846 considered the matter of free public education and on the day before adjournment adopted two sections to be submitted to the people separately and not as part of the Constitution. One section read:

“The Legislature shall provide for the free education and instruction of every child in the state in the common schools now established or which hereafter shall be established therein.”

The other section related to taxation. These two sections, however, were reconsidered by the Convention later in the same day and the earlier action reversed. The Convention struck out the free school provisions by a vote of 61 to 27.

Numerous petitions were submitted to the Legislature of 1849 for a general free school law. The Legislature responded and enacted a law providing that:

“Common schools in the several school districts in this state shall be free to all persons residing in the district over five and under twenty-one years of age” and that “free and gratuitous education shall be given to each pupil” in all public schools.

A free school law was such a radical departure from the existing policy of the State, however, that the Legislature decided to submit this new law to the electors. It was approved by them at the November, 1849, election by a vote of 249,872 to 91,951 and became effective January 1, 1850. The constitutionality of the law was attacked because of the provision requiring its submission to the people before becoming effective, and in 1853 the Court of Appeals held it to be unconstitutional (8 N. Y. 483).

This decision had little practical effect because the law had been repealed in 1851, many complaints having been made of the oppressive tax burden on account of free schools. Chapter 151 of the Laws of 1851 was enacted to provide relief and restored the rate bill. In 1855 Governor Clark recommended that the rate bill be abolished and that schools be made entirely free, but the

revised school law of 1864 (Chapter 555) continued it in force. In 1867 Governor Fenton made a similar recommendation and the Legislature by Chapter 406 did abolish all rate bills, thus making the schools really free.

In 1853 (Chapter 433) the Legislature sought to encourage the establishment of schools by providing for the union of two or more districts, or parts of districts, in one school under the immediate supervision of a Board of Education. These union free schools, while in their general character common schools, might have an academic department. Thus there was a union of common and academic education in the same school. The academic department was, however, under the general supervision of the Regents. In other respects the Board of Education had the "superintendence, management and control of the school." This law did not specifically give the Superintendent of Common Schools any supervision over a union school but laws relating to the powers and duties of trustees of common schools were made applicable to boards of education.

The Superintendent of Public Instruction whose office was created by Chapter 97 of the Laws of 1854 was practically the successor of the former Superintendent of Common Schools. He was specifically required to

"visit as often as may be practicable such and so many of the common schools, academies and other literary institutions of the state as he may deem expedient; to inquire into the course of instruction, management and discipline of such institutions, and to report the results of such visitation and inspection annually to the Legislature, with such recommendations and suggestions as he may deem suitable."

In 1856 Governor Clark recommended the abolition of the office of Town Superintendent and the creation of local Boards of Education. He also urged the more thorough supervision of schools, and the Legislature, by Chapter 179 of the Laws of 1856, created the office of School Commissioner in each assembly district except in the counties of New York and Kings, to whom was given the general power of visitation, inspection and supervision of common schools in his district. He was also authorized to grant teachers' licenses and to hold teachers' institutes subject to rules prescribed by the state superintendent. The same act abolished the office of Town Superintendent of Common Schools.



By Chapter 555 of the Laws of 1864 the general acts relating to public instruction were revised and consolidated. Union schools were made subject to the visitation of the Superintendent of Public Instruction, who was also made responsible for the "general supervision of its board of education and their management and the conduct of all its departments of instruction." The Superintendent was also empowered to remove members of a Board of Education. As a result, a double supervision was established for union schools with academic departments, the Superintendent being one of the instruments and the Board of Regents the other. And, similarly, there was a double inspection and distribution of State funds. This duplication of function continued until the unification act of 1904.

The Convention of 1867 included a free school provision in its draft of the Constitution. The Commission of 1872 considered but did not adopt propositions relating to compulsory education and free common school instruction. The Legislature of 1876 passed a free school amendment to the Constitution, but it was not agreed to by a subsequent Legislature and was not, therefore, submitted to the people for acceptance. Not until 1894 were effective steps taken toward the inclusion of a free education section in the state constitution. The constitutional convention of that year adopted the section quoted at the beginning of this sketch and that section has remained ever since as a part of the state constitution.

### *Summary*

The foregoing summary of the development of constitutional free public education in New York shows clearly that the process was not a consistent one. The present system is an outgrowth of a variety of conflicting ideas and tendencies. Most of the progress has been of comparatively recent years.

The Dutch Colonists had a lively regard for the value of education, but it was not free state education. It was church education sanctioned and encouraged by the state. The English Colonists had no conception of free public education. There were no public schools at the end of the colonial period. The general policy was to leave education to individual effort. The government felt itself absolved from responsibility. If the people desired schools they could have them by paying for them. The church would license proper teachers and the schools could be supported by private contributions.

This was the educational inheritance of the new State. The first education law passed by the new state government had to do with the establishment of a state university. There was no recognition of any need for state common schools. The evident purpose of the first University Law was to establish a private educational institution and not to institute a comprehensive system of public education. The differentiation between the two ideas is shown by the fact that when the Legislature passed the first Common School Law (1795) the Regents of the state university were not made the instrumentality for administering the new law. The university had to do with private educational institutions while the state government was then about to try an experiment in public education. The Legislature, accordingly, left the university at one side and used means with which they were familiar, namely, the township governments. Township government was a colonial inheritance and was recognized and perpetuated by the first constitution of the State, which guaranteed to the people of the town the right to elect their own officers. The towns themselves had an organized government and it was natural that the State should resort to these local governments for the machinery to carry out the new plan. It is also probable that the New England township school policy had an influence in shaping the New York statute. Massachusetts in 1789, six years before the New York law, had enacted a common school law by which each town was directed to maintain public schools. There was no central administration at all, the whole subject, including taxation, being committed to the people of the town, who might subdivide the town into school districts. The New York law was constructed on this model. The town was made the basis of school administration and taxation, and local officers were made responsible for the enforcement of the law. The New York statute was strikingly different in one respect, however, in that the state contributed funds from its treasury for the support of local schools, while in Massachusetts the schools were maintained wholly at local expense. In neither State was there any central state supervision.

A speech by Governor Clinton in 1802 indicates that the first Common School Law was a failure. The revival of the common school plan in 1812 included the idea of local supervision but added the element of state supervision by a Superintendent of Common Schools. The duties of this office were transferred to the

Secretary of State in 1821, who administered them until 1854 when the office of State Superintendent of Public Instruction was created. Since 1812 the State has maintained an unbroken policy of supervising public schools through one state officer or another.

The growth of educational policy in the state of New York was rapid in the latter part of the nineteenth century. The State increasingly assumed responsibility for the education of its citizens. Years before the adoption of the educational section of the Constitution of 1894 the Legislature was exercising its rights with respect to public education, and this gradual development of the idea of state control over this matter became crystallized in the fundamental law of the state as Article IX of the Constitution of 1894.

#### THE EVOLUTION OF PUBLIC EDUCATION IN THE PRESENT CITY OF NEW YORK

Up to 1898 when the Greater New York Charter (Chapter 378 of the Laws of 1897) became effective, the history of education in what is now the City of New York was the history of the several independent communities which, by consolidation at that time, or by earlier consolidation with the constituent municipalities, became the Greater City. Before treating of the development subsequent to 1898, therefore, there will be outlined the growth of a public educational system in the former City of New York, in the City of Brooklyn and very briefly in what are now the other two boroughs. These sketches should afford a sufficiently clear picture of the experimental and inconsistent character of the legislative and other provisions through which the present city's educational system was developed.

The earliest history of education in the territory now contained within the City of New York is little different from the general history of the State. Up to the Revolutionary War and for some years thereafter there is nothing of great significance to differentiate the treatment accorded to schools in the City from that accorded to schools outside the City. But early in the nineteenth century the individual school history of the City began, and it is at that time that the following outline commences.

##### *The Former City of New York*

In 1805 there was a new and strictly local development in educational policy in the shape of the formation of a society incorporated by the Legislature under an act entitled "To Incor-

porate the Society Instituted in the City of New York for the Establishment of a Free School for the Education of Poor Children who do not Belong to or Are not Provided for by any Religious Society."

The school opened by this Society in 1806 with funds provided by private subscription marked the beginning of what in later years became the public school system of the City. It soon became evident that this first school must be followed by others, and in 1807 the Society obtained an appropriation from the Legislature and also assistance from the municipal authorities to enable it to furnish additional educational facilities. These early schools were, however, of a strictly eleemosynary character.

In 1808 the Society's name was changed by the Legislature to "The Free School Society of New York" and its powers were extended to cover "all children who are the proper objects of a gratuitous education." The first apportionment of the State common school fund established in 1805 was made in 1815 and the Free School Society then received \$3,708.14 as its share of the amount paid to the City and County of New York. Under the Act of 1813 permitting the city to participate in the common school fund, the City's portion was paid to the Free School Society, the Orphan Asylum Society, the Society of the Economical School in the City of New York, the African Free School and to such "incorporated religious societies in said City as now support or hereafter shall establish charity schools within the said City who may apply for the same." The State funds thus apportioned were dedicated solely to the payment of teachers' salaries.

In 1817, however, the Free School Society, finding that the Lancasterian system was so economical that the State moneys were more than enough for teachers' salaries, secured permission from the Legislature to apply the surplus to the erection of buildings or any other needful purpose. In 1822 the Bethel Baptist Church, which participated in the common school fund under the law of 1813, secured a similar dispensation from the Legislature. Considerable alarm was felt by the Free School Society and by the other church schools lest this lead to a perversion of State school funds to sectarian rather than to school purposes. Repeated attempts were made to have the Legislature repeal the exemption made in favor of the Bethel Baptist Church, but without success. The scene of the controversy was moved from Albany to New York by the passage of a law in 1824 placing the distribution

of the school fund for New York City in the hands of the Common Council. In 1825 the Common Council passed an ordinance excluding all religious societies from participation in the income from the common school fund, leaving only the Free School Society, the Mechanics' Society, the Orphan Asylum Society and the African Free Schools as beneficiaries.

The Free School Society was eager to extend the field of its operations and in 1824 suggested that its schools which had suffered from the stigma that they were charity schools should also receive as pupils children of parents able and willing to pay small sums for instruction. In 1826 the Legislature granted a new charter whereby the Society's name was changed to "The Public School Society of New York," whereby the Society was permitted to charge a moderate fee for instruction, provided that no child be denied the benefits of education because unable to pay (this pay system proved unsuccessful and was abolished in 1832), and whereby the Society was authorized

"to convey their school edifices and other real estate to the Mayor, Aldermen and Commonalty of the City of New York, upon such terms and conditions and in such forms as shall be agreed upon between the parties, taking back from the said corporation a perpetual lease thereof upon condition that the same shall be exclusively and perpetually applied to the purposes of education."

The Society was not satisfied with the adequacy of the system of schools existing in 1828. It estimated that 12,000 children between five and twelve years of age were entirely without means of instruction and it stated that the principle which had led to the recent change from free schools to public schools should be extended so that schools "should be supported from public revenue, should be public property, and should be open to all, not as a charity but as a matter of common right." The specific recommendation was then made that a tax be levied of half a mill upon the dollar of assessed city property, and a vigorous effort was made to arouse public sentiment in favor of this tax measure, the result being the enactment by the Legislature in 1829 of a tax law levying a local tax of one-eightieth of one per cent.

A controversy as to the application of public school moneys to the support of schools under the control of religious societies commenced in 1840 and had far-reaching consequences. The Roman Catholic churches which maintained free schools requested from

the Common Council a share of the school moneys. Similar requests were made by a Hebrew congregation and by the Scotch Presbyterian church. They were all strenuously opposed by the Public School Society and were denied by the Board of Assistant Aldermen. The Catholics then petitioned the Board of Aldermen, which after a public hearing on the matter, denied the request.

The Legislature was the next point of attack and lengthy memorials were submitted by the proponents and opponents of the plan. All of these documents were referred to John C. Spencer, the Secretary of State and ex-officio state Superintendent of Common Schools. Mr. Spencer studied the entire problem and then outlined a plan of education in New York City providing for the election of a Commissioner of Common Schools in each ward; for the extension of the general school laws of the State to the City, with certain modifications; for the transfer to the elected Commissioners of "the schools of the Public School Society and the schools of the other associations and asylums now receiving the public money as schools under their general jurisdiction, leaving the immediate government and management of them to their respective trustees and directors"; for the establishment, by the Commissioners, of schools in other parts of the city as district schools, and for the payment of the public school money by the Chamberlain directly to the Commissioners. The Legislature postponed action until January, 1842, and the school question became an important issue in the city campaign.

In his annual message for 1842 Governor Seward gave considerable space to the school problem in New York City, saying among other things:

"Happily in this, as in other instances, the evil is discovered to have had its crigin no deeper than in a departure from the equality of general laws. In our general system of common schools, trustees chosen by tax-paying citizens, levy taxes, build school-houses, employ and pay teachers, and govern schools which are subject to visitation by similarly elected inspectors, who certify the qualifications of teachers and all schools thus constituted participate in just proportion in the public moneys, which are conveyed to them by commissioners also elected by the people. . . . In the public school system of the city, one hundred persons are trustees and inspectors, and, by continued consent of the

Common Council, are the dispensers of an annual average sum of \$35,000, received from the Common School Fund of the State, and also of a sum equal to \$95,000, derived from an indiscriminating tax upon the real and personal estates of the City. They build school-houses, chiefly with public funds and appoint and remove teachers, fix their compensation, and prescribe the moral, intellectual, and religious instruction which one-eighth of the rising generation of the State shall be required to receive. Their powers, more effective and far-reaching than are exercised by the municipality of the City, are not derived from the community whose children are educated and whose property is taxed, nor even from the State, which is so great an almoner, and whose welfare is so deeply concerned, but from an incorporated and perpetual association, which grants, upon pecuniary subscription, the privileges even of life membership, and yet holds in fee simple the public-school edifices, valued at eight hundred thousand dollars. Lest there might be too much responsibility, even to the association, that body can elect only one-half of the trustees, and those thus selected appoint their fifty associates. The philanthropy and patriotism of the present managers of the public schools, and their efficiency in imparting instruction, are cheerfully and gratefully admitted. Nor is it necessary to maintain that agents thus selected will become unfaithful, or that a system that so jealously excludes popular interference must necessarily be unequal in its operation. It is only insisted that the institution, after a fair and sufficient trial, has failed to gain that broad confidence reposed in the general system of the State, and indispensable to every scheme of universal education. . . . I submit, therefore, with entire willingness to approve whatever adequate remedy you may propose, the expediency of restoring to the people of the City of New York—what I am sure the people of no other part of the State would, upon any consideration, relinquish—the education of their children. For this purpose, it is only necessary to vest the control of the common schools in a board to be composed of commissioners elected by the people; which board shall apportion the school moneys among all the schools, including those now existing, which shall be organized and conducted in conformity to its general regulations and the laws of the State, in the proportion of the number of pupils instructed.

It is not left doubtful that the restoration, to the common schools of the City, of this simple and equal feature of the common schools of the State, would remove every complaint, . . .”

By chapter 150, Laws of 1842, entitled “An act to extend to the City and county of New York the provisions of the general act in relation to common schools” the Legislature established the first Board of Education for the City. The statute provided that there should be elected in each ward at special elections held in June, two Commissioners of Common Schools, two Inspectors of Common Schools and five Trustees of Common Schools. The Commissioners were to constitute a Board of Education. The Board had very little power, however. Its importance can be measured by the fact that the law required it to meet at least once in three months. The real authority was vested in the ward officers. Under the statute each ward was to be considered as a town for the purposes of school administration; the ward trustees initiated new school projects and these projects, if approved by the respective inspectors and commissioners, became binding on the city. The supervisors of the city and county were required to raise annually by tax a sum equal to the amount of the State apportionment of school moneys, plus a special tax of one-twentieth of one per cent of the total assessed valuation, plus such further amount as was necessary. The Board of Education distributed the school moneys among the wards on the basis of average attendance, and the ward officers had charge of the expenditure of the funds. The schools of the Public School Society and those of other incorporated societies were continued under the management of their respective trustees. It was further provided that no school should receive any portion of the school moneys in which “any religious sectarian doctrine or tenet shall be taught, inculcated or practiced.”

This act proved unsatisfactory and was, therefore, amended in 1843 and 1844. By chapter 320, Laws of 1844, passed May 7, 1844, the same school officers were provided for as in the first act, but with a transfer of powers from the ward officers to the central Board of Education. New school projects deemed desirable by the ward officers had to be submitted to the Board of Education for approval before they became effective, with the provision that appeals from the Board's decision could be made to the State Superintendent of Common Schools whose determination was binding for one year. A form of local supervision was



also established under this act in that it authorized the Board of Supervisors to appoint a County Superintendent of Common Schools for a two-year term. The compensation of this officer was fixed at \$2.00 a day and necessary expenses. The schools established under the Acts of 1842, 1843 and 1844 were designated as ward schools.

But the double system of schools and of public and private school control was not a happy one. There was friction between the Board of Education and the Public School Society and in 1846 the Board questioned the Society's right to erect new school-houses. A hearing was held and the Board decided that since the Act of 1844 the Society had had no such right. The Society appealed to the Legislature which in 1848 passed a law legalizing those schools which the Society had established since May 7, 1844, but providing that it should establish no others without the consent of the Board of Education.

In 1851 the Legislature passed an act (Chapter 386) "to amend, consolidate and reduce to one act the various acts relative to the common schools of the City of New York." By this act the powers of the Board of Education were materially enlarged; school funds were deposited in the city treasury and withdrawn by the Board as a whole instead of being handled by the separate commissioners. The Board was given authority to make rules and regulations to secure economy and accountability and was authorized to appoint a City Superintendent of Schools, Assistant Superintendents and a Superintendent of School Buildings. For the past ten years there had been a County Superintendent of Schools elected by the Board of Supervisors, but he was not directly amenable to the Board of Education. The City Superintendent was now empowered to visit schools, inquire into all matters pertaining to the administration thereof and to advise with the trustees. The same school officers were continued but their terms of office were adjusted to a change made by an earlier statute, whereby the special June elections were abolished and provision made for the election of school officers at the general elections. The school system was really established on a pretty independent basis by this law. One very significant provision required the City to raise annually by tax not only the equivalent of the State apportionment as prescribed by the general State law, and not only one-twentieth of one percent on the assessed valuations as prescribed by another special statute, but also "such

additional sums as the Board of Education \* \* \* shall have reported to be necessary."

In 1853 the Legislature ended the dual control of the City's public schools by joining the schools of the Public School Society and those of the Board of Education and providing for the transfer to the City of all the property of the Public School Society. The same law provided for the appointment by the Society from among its trustees of fifteen commissioners of common schools to hold office until January 1, 1855, and also for three trustees of common schools "for each ward of said City in which one or more of the schools of said Society are now established" to serve until the first of January, 1855, 1856 and 1857, respectively, and for the merging of its schools into the system of common schools established by law. In 1853, therefore, the Board of Education consisted of 59 members, two commissioners from each of the 22 wards and the 15 representatives of the Public School Society. The latter remained in office until January 1, 1855, when the number of commissioners again became 44. The law also limited to \$4.00 per pupil the amount which the Board of Education could require annually from the City in addition to the equivalent of the State apportionment and to the yield of the special tax of one-twentieth of one per cent.

Nine years later, in 1864, an act was passed establishing seven school districts in the City of New York and reducing the Board of Education from 44 members elected by wards to 21 members elected by districts, each district to elect one commissioner of common schools each year. The new law also reduced the number of trustees elected in each ward from eight to five, provided for three inspectors in each of the seven districts to be named by the Mayor subject to confirmation by the Board of Education. The power of appointing teachers and janitors was retained by the trustees, but nominations of principals and vice-principals made by the trustees were subject to approval by the Board of Education, and the Board was also given authority in the matter of the removal of teachers.

A measure was introduced in the Legislature of 1867 which, although it failed of passage, deserves mention at the present juncture. It provided for the abolition of the Board of Education, the trustees and the inspectors and created a commission of seven, termed the Metropolitan Board of Instruction, and appointed by the Governor and the Senate. This was to be a paid board and its members were to hold office for eight years.

In 1869 the Legislature passed an act providing for a Board of Education of twelve members who were to be appointed by the mayor and to serve until December 31, 1871. It was further provided that at the general election of 1871 twelve Commissioners of Common Schools should be voted for on a general ticket, recognition being given to the principle of minority representation. This law was repealed in 1870, so that the election provided for was never held.

The Act of 1870 "to reorganize the local government of the City of New York" was amended in 1871 by Chapter 574, which created a Department of Public Instruction as one of the departments of the city government, and turned over to it all the powers and duties of the Board of Education. The existing Board was legislated out of office and provision made for the appointment by the Mayor of twelve commissioners for terms of five years, recognition being given to the principle of minority representation. The Mayor was also authorized to appoint the school trustees and inspectors. This law did away with the machinery of ward and district representation and created a centralized school system under the Mayor.

But this new arrangement did not last. By Chapter 112 of the Laws of 1873 the seven school districts set up by the law of 1864 were re-established, and provision was made for the appointment by the Mayor of a Board of Education consisting of twenty-one Commissioners of Common Schools whose terms were for three years. This Board was empowered to appoint five trustees for each ward for five year terms and the Mayor was authorized to appoint twenty-one inspectors, three from each district. This system remained substantially unchanged until 1896. Its advantages were said to be the removal of the schools from political supervision, the provision of moderate local control by the trustees, and the establishment of centralized supervision and final control by the Board of Education without placing a dangerously great authority in the hands of the central Board.

The next important modification of the administrative machinery of the school system was the abolition by Chapter 387 of the Laws of 1896 of the ward trustees. These officers had persisted since 1842 and had exercised many important powers. For many years they were elected and, under the short-lived act of 1871, they were appointed by the mayor. After 1873 they were appointed by the Board of Education. The trustees were often

attacked by persons interested in the welfare of the schools. It was claimed that some of them were illiterate; that they were appointed for political purposes; that they considered the appointment of teachers as legitimate patronage and that they showed favoritism in promotion and in the selection of contractors. A telling argument against the ward trustee system was that it was absurd to use the ward as a basis of selection, as some wards had very few schools while other wards had many. In 1888, in the second ward, for example, there was only one school with but two teachers, while in the twelfth ward there were 499 teachers.

The result of this agitation was the passage of a law by the Legislature (Chapter 532, Laws of 1893) providing that the Mayor should appoint a commission to report to the Legislature a comprehensive revision of the laws affecting common schools and public education in the City. This commission reported in 1894 and recommended abolishing the inspectors and depriving the trustees of all powers except those of visiting schools and reporting on their condition. Some of the trustees' powers were given to the Board of Education and others were conferred on a Board of Superintendents, to consist of the City Superintendent and twenty Division Superintendents. This Board was given large powers. Provision was also made for a Superintendent of School Buildings and Supplies. The proposed law failed of passage at the 1894 session. It was reintroduced in 1895 with some amendments, but failed again.

Chapter 387 of the Laws of 1896 abolished the trustees and gave the Mayor power to appoint five inspectors in each district whose duty was to visit schools. The statute also created a Board of Superintendents, consisting of the City Superintendent and as many Assistant Superintendents as the Board of Education might deem necessary. The professional control of the schools was lodged almost entirely in the new Board of Superintendents, only a veto power being given to the Board of Education, whose composition remained unchanged.

### *Brooklyn*

In Brooklyn there was no "Public School Society." The schools that were established and maintained there, after the recognition by the State that education was a matter of public concern, were administered by local authorities subject to the general State laws.

As mentioned above, the State established the common school fund in 1805. The first distribution was made in 1815, and in 1816 a local tax of \$2,000 was levied and a common school opened in the village of Brooklyn. Several other schools were established prior to the incorporation of the City of Brooklyn in 1834 and the creation of a Board of Education in 1843. But prior to 1843 all the schools were organized as special district schools. It is true that in 1835 a law was passed (Chapter 129) authorizing the Common Council to appoint three trustees of common schools in each district, and for the whole City three inspectors and three commissioners, but the district organization was still paramount.

The statute of 1843, creating a Board of Education, provided that the members of the Common Council should be Commissioners of Common Schools in and for the City, and that on the first Monday in April, 1843, they should appoint two or more persons to represent each of the school districts as members of the Board of Education. The full term of office was fixed at three years and the Mayor and Deputy County Superintendent of Common Schools were made members *ex-officio*. The new Board was organized with only twenty-eight appointed members, as in two districts the full number of appointments was not made. The Board was authorized in 1848 to appoint a City Superintendent of Common Schools, the office of County Superintendent having been abolished by statute in 1847.

By Chapter 143 of the Laws of 1850 the Board of Education was made to consist of thirty-three members appointed by the Common Council. The law provided that at least one member should reside in each district. The term of office continued to be three years. The law of 1854 annexing the City of Williamsburg and the town of Bushwick to Brooklyn required the Common Council to appoint additional members of the Board of Education for the new part of the City, and that body fixed the membership at forty-five, of whom thirteen were to be residents of the new territory. This number remained unchanged throughout the rest of the Board's existence. In 1862 the Mayor was given authority to nominate members of the Board of Education, subject to confirmation by the Common Council.

In 1873 the charter was amended by providing that there should be a Department of Public Instruction in Brooklyn under the control of the Board of Education; that the City Superintendent of

Schools should be called the Superintendent of Public Instruction; that his term should be increased from one to three years and that the Board of Education might appoint two Associate Superintendents for three-year terms.

The amended charter which was passed May 25, 1880, provided that any vacancy in the Board of Education occurring during the remainder of 1880 should be filled by the Mayor and Comptroller (an act passed June 16, 1880, provided that in case the Mayor and Comptroller failed to agree, the Auditor of the City should become one of the appointing powers), and any vacancy during 1881 should be filled by the Mayor alone. After January 1, 1882, the sole power of appointment was with the Mayor. Some confusion resulted in 1886 from the fact that the amended charter fixed two-year terms for the heads of all city departments without specifically mentioning the Board of Education whose members had been serving three-year terms. In 1882 Mayor Low acted on the assumption that the Legislature had not intended to change the term of office of Board members and made regular three-year appointments. His successor, in 1886, took the other view, declared vacancies and made appointments on the two-year theory and doubt was cast on the legality of some of the Board's acts. In 1887 the Legislature settled the matter by specifically extending the terms of the 1885 and 1886 appointees and establishing the three-year term.

One unique feature of the Brooklyn public school system cannot be left untouched upon. The by-laws of the Board of Education of 1843 provided for district committees consisting of the Board members for each district. The schools of the district were especially committed to these committees. This scheme lasted but a short time, being followed by the local school committee, provided for by an amendment to the by-laws made soon after the reorganization necessitated by the statute of 1850. These local school committees consisted of three members for each school. In the course of time these committees acquired large powers in the appointment and promotion of teachers, in the making of repairs, etc., until they were practically supreme in their respective schools. This system was continued until the abolition of the Brooklyn school board in 1902 and was even then carried over as Section 1103 of the first Greater New York charter. The abuses of the local committee system, particularly with respect to the appointment and promotion of teachers, were repeatedly the subject of criticism.

*Queens and Richmond.*

The Borough of Queens is composed of several formerly independent communities, such as Newtown, Flushing and Jamaica. The early history of education is the history of these separate towns. The towns became school districts under the general State law, the subdivision in Newtown taking place in 1814, and schools were established from time to time. In 1870 a portion of Newtown was incorporated as Long Island City and the schools were placed under the city government in charge of a Board of Education of five members appointed by the Mayor. The village of Flushing was incorporated in 1837. In 1848 it was provided with a Board of Education of five members elected by the people.

In neither Queens nor Richmond, however, was there any central organization in charge of the public schools. There were numerous school districts and district officers, but not until the incorporation of these two boroughs into the Greater City was there anything that resembled centralized local school authority.





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**FOURTH REPORT**

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**REPORT ON THE FINANCES OF THE CITY OF  
NEW YORK**

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**March, 1922**

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## REPORT OF THE FINANCES OF THE CITY OF NEW YORK, MARCH, 1922

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*To the Legislature and to the Charter Revision Commission:*

The city has run in debt approximately a hundred thousand dollars a day since the greater city was incorporated. The funded debt has fluctuated around the constitutional debt limit for ten years. The tax rate has risen until it has reached, if not passed, the constitutional tax limit. All other means of raising funds to meet the ever rising tide of expenditures having been exhausted, resort has been had to various devices, including doubtful interpretations of constitutional limitations not contemplated at their enactment, to statutory relief unsound in principle if not unconstitutional like the general fund bond legislation, to increasing and making permanent the floating debt which in the eye of the law was intended to be small and temporary, and to the use for current expenses of the income of public utilities allocated in law and equitably applicable to the payment of the principal and interest of bonded indebtedness incurred in the construction of such utilities. These devices proving inadequate, the power of assessment has been resorted to by the city administration, which controls the department of taxes and assessments, until the assessment has reached approximately 94 per cent of the actual value, a rate much higher than the rest of the State. Like the other devices pursued, this is nearly exhausted.

The net debt of the city as of December 31, 1921, was \$1,224,-475,347.51, of which \$1,110,795,697.51 was funded and \$113,-679,650 floating debt represented by revenue bonds, special revenue bonds and tax notes. The total net debt as of December 31, 1911, was \$809,353,129.29, of which \$756,711,343.05 was funded and \$52,641,786.24 floating debt. The present debt amounts to \$217.64 per capita of the population. Exhibit "A," hereto attached, is a statement of the net funded debt since 1898. The budget for 1921 was \$345,530,039.77 and for 1911, \$173,967,835.16.

The budget for 1921 is made up of:

Cost of administration.....	\$217,960,329 20
Debt service .....	105,528,527 30
State taxes .....	22,041,183 27
	245,529,040 77

The budget for 1911 was made up of:

Cost of administration.....	\$123,306,013	17
Debt service .....	50,661,821	99
State taxes .....		None.

Tables showing the budgets, cost of administration, debt service, State taxes and tax levies since 1898 are hereto attached marked respectively Exhibits "B" and "C."

The difference between budget and levy for the same year arises from the annual revenue from income paying properties like the docks, ferries, water system, and taxes received from the State, constituting the general fund. These receipts amounted to \$63,216,718.87 in 1921, and to \$32,154,342.95 in 1911.

The assessment for real property in 1921 was \$9,972,985,104, personal \$213,422,175, a total of \$10,186,207,279. The assessment for real property in 1911 was \$7,858,840,164, personal \$357,923,123, a total of \$8,216,763,287. While the cost of government in this period has increased 81 per cent, the assessment has increased only 24 per cent. A table showing the assessments since 1898 is hereto attached, marked Exhibit "D."

The real estate tax rate for 1921 (Manhattan) was 2.77 and for 1911, 1.72248, for Brooklyn, 1921, 2.80, and 1911, 1.75502. For other years see World Almanac, 1922, page 557.

A table showing the per capita cost of government during successive city administrations is hereto annexed and marked Exhibit "E."

#### ABUSES IN FINANCIAL MANAGEMENT

*Floating or Short Term Debt.*— The average monthly balances for the first half of the year 1921 shows the short term or floating debt of the city as follows:

Revenue bonds .....	\$103,549,833	33
Special revenue bonds.....	27,150,066	67
Tax notes .....	4,628,902	53
Corporate stock notes.....	109,584,442	73
	<u>\$244,913,245</u>	<u>26</u>

After deducting from this debt such of these securities as are held in the sinking funds, there was an outstanding average

balance of \$201,191,900. Carrying this debt as a floating debt is the source of great loss to the city.

Revenue bonds are issued in anticipation of the payment of taxes during the year in which they are issued, and to be paid out of such taxes. Special revenue bonds are issued in anticipation of an appropriation in the budget of the year following their issue. Tax notes are issued to pay for public improvements to be redeemed by taxes in the tax levy or levies of the year or years next following the adoption of the budget or budgets in which the expenditure is authorized. Corporate stock notes are issued in anticipation of the sale of bonds, with the proceeds of which they are to be paid, and are part of the funded debt.

#### (a) *Revenue Bonds*

The taxes in each calendar year are allocated to the year in which they are levied. Such taxes are payable in the months of May and November. The city borrows money for its expenses from January first until taxes are paid in May by issuing revenue bonds, payable out of the year's taxes. As the city requires more each year for expenses than taxes levied, and there are delinquent taxes not paid during the year in which they are levied, payment of the bonds is delayed. They are in fact, though not in form, renewed from time to time to carry back taxes. The total arrears of taxes for the year 1921 was \$56,854,-113.14, and the whole amount of back taxes as of December 31, 1921, was \$113,142,538.63. A statement of back taxes is hereto attached, marked Exhibit "F."

The revenue bonds outstanding December 31, 1921, amounted to \$78,077,000. These were increased by new issues commencing January 1st to meet the cost of administration until taxes are paid in May. A statement of revenue bonds outstanding to June, 1921, will be found in Exhibit "G," hereto attached.

#### (b) *Special Revenue Bonds*

In 1909 the Constitution was amended to permit the city of New York to issue "bonds to be redeemed out of the tax levy for the year next succeeding the year of their issue, provided that the amount of such bonds which may be issued in any one year in excess of the limitations herein contained shall not exceed one-tenth of one per centum of the assessed valuation." It was undoubtedly anticipated at the time this provision was adopted that

the limitation of one-tenth of one per centum would be an absolute limitation, but an examination of the context makes it doubtful whether this limitation takes effect before the city reaches or passes the debt limit. Special revenue bonds have been issued in much larger amounts than one-tenth of one per cent, and the practice has been sanctioned by legislative enactment. The amount outstanding December 31, 1921, was \$30,602,650, or more than three times the amount named in the constitution. A statement of such bonds outstanding since 1917 is contained in Exhibit "G."

Special revenue bonds are intended to meet contingencies not anticipated when the budget is made up, but have been issued for any and everything as a means of increasing revenue for the current year, to be paid out of taxes of the following year. In 1920 the city having all but reached the tax limit, authorized special revenue bonds, to the amount of \$37,735,181.35, to meet expenses. A statement of such authorizations is contained in Exhibit "H," hereto attached. The multiplicity of the authorizations forbids a full statement in detail, but as illustrative of the multitude of abuses under this provision, the following items are given from these authorizations: "A tablet to the donor of Hero Park — \$450." "Coal for municipal ferries, \$244,472.50." "Premiums on bonds of municipal officers, \$12,560.98."

(c) *Tax Notes*

Tax notes now constitute a minor item of the floating debt. Five millions are outstanding.

The volume of business transacted by the city in carrying \$135,000,000 of revenue bonds, special revenue bonds and tax notes is by no means represented by the amount outstanding at any date. These securities, like the corporate stock notes, exceeding in amount one hundred million dollars, are issued and reissued at short periods, after the fashion of commercial paper. The total issue for 1921, including renewals or new issues to take up old issues, are for:

Revenue bonds .....	\$369,000,983
Special revenue bonds .....	30,602,650
Tax notes .....	5,000,000
	<hr/>
	\$404,603,633
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The issue and reissue of corporate stock notes amounted to \$230,185,500.

Such a course of municipal business is carried on at great cost, owing to the high rate of interest on short term paper and the expense incident to so many transactions. The city is always an applicant at the banks for millions of dollars on short loans. As the debt is never redeemed, but met by the issue of new paper, "temporary" is a misnomer. It is as "permanent" as any part of the debt, but not a limitation to incurring further debt.

While the corporate stock notes are less subject to criticism because issued as a part of the funded debt with a view to converting them into bonds, they swell the floating debt and add to its perils. The legislative committee of 1915, investigating the finances of the City of New York, reported (1916) in relation to this feature of its finances:

"Great embarrassment and loss in the City's finances have arisen from the custom of keeping a large amount of short time commercial paper on the market. In August, 1914, the City had outstanding of such paper \$25,000,000 in corporate stock notes, issued in anticipation of bond issues, and \$73,000,000 of short time paper chargeable to current revenues issued in anticipation of taxes. Of this paper \$77,000,000 was held in Europe. The crisis resulting from the war compelled the City to borrow of the New York banks \$100,000,000 to meet this paper and current expenses and to charge off a loss of more than \$4,000,000 in expenses, commissions and interest. The City was caught in the same way in 1907 and the City administration in each case regarded itself as fortunate in escaping a worse predicament from a default on the City's commercial paper.

"The issuing of short-term paper in anticipation of taxes is unavoidable under the present system of collecting taxes for each calendar (fiscal) year in May and November. The City always spends borrowed money for its current expenses. Such issues could be avoided if taxes were collected in January and July. The Committee favors making this change. To avoid the shock that would otherwise be felt by real estate, it should be provided that taxpayers may in 1917 have until April 30, instead of May 31, in which to pay taxes, and a sliding scale adopted for three years, so that January 31

and July 31 will be the last days for the payment of taxes in 1920.

“The annual interest charge for these loans has averaged three and a half million dollars. The total amount paid in the last ten years is \$36,470,837, or substantially \$5,000,000 more than the City has paid during the same period in direct State taxes. To this amount, lost to the City through a system of discounting substantially all of the taxes before they reach the City treasury, must be added the \$4,000,000 lost on the hundred million loan in 1914, and upwards of \$1,000,000 lost in 1907.”

The conditions condemned in this passage of the report of 1916 without a single dissent, involving an annual loss of three and a half million dollars have continued until the loss is now five and a half million dollars.

The city comptroller testified that the city is thrown into the short term money market for \$142,000,000 twice a year by reason of the failure to advance the tax date, and that it is safe to take as a round figure \$150,000,000 for short-term loans on this account.

A bill to advance the tax dates from May and November to January and July was passed by the Legislature in 1916, but vetoed by the mayor because of a technical defect, with a statement of approval of the principle of the bill, and in expectation that it would become a law in 1917. War conditions prevented the enactment of the law, which should not now be further deferred. The comptroller sought this legislative relief in 1921, and testified that he informed the Legislature, “that the responsibility for a financial crisis would be upon them if they did not pass the tax date bill, because the failure to pass that bill results in outstanding obligations at a sum far in excess of what the money market is in condition to stand in normal times.”

*Sinking Funds.*—There are eight sinking funds, of which five were inherited from municipalities incorporated in the present city, and relate only to indebtedness which they were created to protect. These sinking funds are as follows:

Sinking fund for the payment of interest on the (old) city debt.

Sinking fund for the redemption of the (old) city debt No. 1.

Sinking fund of the City of Brooklyn.

Water sinking fund of the City of Brooklyn.



Sinking fund of Long Island City for the redemption of fire bonds.

Sinking funds have been established and maintained by the present city as follows:

Sinking fund of the City of New York.

Rapid Transit sinking fund of the City of New York.

Water sinking fund of the City of New York.

The total amount reported as held by these funds on December 31, 1921, was \$603,590,922. The transactions of the funds, which are substantially duplicated each year, will be referred to the year preceding this inquiry, 1920. Substantially all of the holdings of the sinking funds consist of obligations of the city. As principal and interest fall due, it is paid into the funds and they are increased from year to year. They are also increased from year to year by the amount paid in for amortization. Assets of the sinking funds are always deducted in statements of the city debt.

The sinking funds of the old municipalities stand in marked contrast to the sinking funds of the present city. They were secured by pledging revenues to debts incurred. These revenues have not only proved adequate, but have produced large surpluses which inure to the benefit of the present city.

The sinking fund for the payment of the interest on the (old) city debt is chargeable \$476,372.08 annually for interest on outstanding bonds while its cash receipts from interest on its investments, Croton water rents, ferries and other pledged revenues, is approximately \$14,000,000. The sinking fund for the payment of (old) city debt No. 1, charged with the payment of \$35,832,891.79 in bonds falling due in 1929, receives from its securities now amounting to \$35,000,000 (besides \$376,500,000 general fund bonds), and from dock rents and other pledged revenues more than nine million dollars annually.

These huge surpluses have not been overlooked by the city government.

*General Fund Bonds.*—In 1903, section 222 of the charter was enacted, under which the sinking fund commission determines the amount of the surplus in each of these funds, and directs its transfer to the city treasurer for expenses of administration, and in reduction of the tax rate. This section provides for the issue of general fund bonds by the city, to be deposited in

place of the surplus removed, and for the cancellation of such bonds as soon as the old city debt is paid. Such bonds are in fact no more than receipts by the city for the money withdrawn. Three hundred seventy-six million and five hundred thousand dollars of the general fund bonds have been issued since 1903. They are reported as a part of the sinking fund holdings, but as a matter of bookkeeping only. Deducting these bonds from the whole amount of such holdings, the sinking fund contains only \$227,090,922, instead of \$603,590,922, the apparent total. The funds actually transferred to the city treasurer under this provision to date amount to \$296,661,385.81 and the funds so transferred for each year are as follows:

1903 . . . . .	\$8,462,583 33
1904 . . . . .	9,216,437 50
1905 . . . . .	10,423,625 01
1906 . . . . .	10,886,958 33
1907 . . . . .	12,297,087 50
1908 . . . . .	12,704,416 66
1909 . . . . .	14,943,083 33
1910 . . . . .	14,367,812 50
1911 . . . . .	14,359,916 66
1912 . . . . .	13,885,875 00
1913 . . . . .	17,811,629 56
1914 . . . . .	18,744,589 04
1915 . . . . .	17,563,445 21
1916 . . . . .	17,306,232 88
1917 . . . . .	18,004,678 08
1918 . . . . .	19,321,109 59
1919 . . . . .	20,085,308 22
1920 . . . . .	23,000,574 96
1921 . . . . .	23,276,022 45
Total . . . . .	<u>\$296,661,385 81</u>

The surplus increase each year with the increase in receipts from pledged revenues, among which are water, docks and ferries. The discrepancy between the sums annually transferred to the city treasury and the annual issue of general fund bonds arises from the issue of bonds to cover interest on the general fund bonds

previously issued, and is likewise only a matter of bookkeeping. The comptroller's testimony on these transactions follows:

"The surplus moneys in the Sinking Fund No. 1 of the old City of New York have been taken out under the act of the legislature passed in that year and held and applied to the reduction of taxation, and altogether, up to the present time, more than \$350,000,000 of moneys pledged to the payment of the City's debt has in that way been applied to reduce current taxes, and general fund bonds substituted, and that is merely a memorandum showing the total amount that the sinking funds have been depleted by applying their cash to current expenses.

"I may add that that money could be better applied in reducing the City's debt.

"I think it is beating the devil around the bush, that is what I think about it.

"The act of 1903, although no one from 1903 to 1921 has challenged its constitutionality, is an utterly indefensible bit of legislation.

"My present judgment is that it is entirely irregular and unsound to take the revenue received from self-sustaining properties for which debt has been incurred and apply those revenues for any other purposes than to the payment of the interest and the amortization of that debt, except where there may be a surplus so great that you can never have any possible use for it, and then I think you could very well apply it to the interest and amortization of some other debt that is not self-sustaining.

"There is a gross diversion of them from their proper application. Revenues from docks, or the revenues from water, or, for that matter, from any other self-sustaining enterprise, rapid transit, so far as it is self-sustaining, should be applied to the payment of interest and to provide for the redemption of the bonds that have been issued to provide those several public improvements. They should not be diverted to reduce taxation and then throw this other burden of redemption and interest into the budget over and above the tax limit."

The practice thus established of diverting sinking fund assets, in their nature applicable to specific debts, to ordinary city expenses has proved so convenient to successive administrations

that they have turned into these sinking funds receipts from docks, ferries and water, which were not pledged to the funds, thereby facilitating and covering the misapplication.

Substantially all cash accumulating in the sinking funds is absorbed annually by purchasing new issues of city securities. Thirty million dollars was so absorbed in 1920.

The results of sinking fund management may be summarized as follows:

(a) The sinking funds furnish no security for the debt held by the public. That debt must be paid by taxation. The sinking fund securities could be disposed of, if a market could be found, and the proceeds applied, but that has been discounted by treating such securities as cancelled in computing the city debt, and when disposed of to the public, such securities would have to be met by taxation.

(b) Taxes have been increased by taking funds which should be applied to keep down debt service, for expenses of administration, this in effect increasing to that extent the 2 per cent constitutional tax limitation and by adding instead of deducting the amount of such funds to debt service which has no constitutional limitation. In this way \$9,471,722.74 of Croton water rents, \$1,633,677.56 from the ferries and \$6,974,093.31 from dock leases, besides lesser revenues derived from permanent utilities diverted from application to the funded debt, were applied to the cost of administration in 1920. In the same year there was included in the budget for debt service for the water supply, \$8,619,289.17; for docks and municipal ferries, \$3,940,402.40. The issue of corporate stock and bonds for water supply in the same year amounted to \$3,120,100. The practice is indefensible and the reverse of the practice in relation to the old subways, where the receipts are directly applicable to the payment of amortization and interest; to the Brooklyn water system, where the receipts go to pay the debt; and to bridges, where the receipts are applied to the expenditures on bridges.

The taxes levied having passed the constitutional limit in 1921, such transfers operated to further increase prohibited taxes in the amounts so transferred, and in the same way to keep barely within the limit in 1920. The practice is condemned by the present comptroller, who testified that in practical effect it expanded the tax limit.

Nothing could be more complicated and confusing than the sinking fund system established under the title of the sinking

fund of the city transit sinking fund and the water sinking fund and provides for each funded debt allocated on paper to its own amortization. While the funds are indiscriminately mixed, sinking funds, if maintained at all, should be separately maintained. Such was manifestly the purpose of the constitutional amendment of 1909, as applied to the \$69,000,000 of dock bonds exempted under its provisions, but no separate sinking fund has ever been provided. If the present system of sinking funds had been organized with a view to concealing their purpose and effect, the inquiring citizen could not have been rendered more helpless.

A sinking fund is defined as "a fund created by gradual accumulations for sinking or paying a debt, or providing against contingencies." These sinking funds answer neither purpose of the definition. On the contrary, they promote the increase of debt and extravagance, involve a multitude of costly transactions without profit, stimulate a false sense of security and confuse the public as to the city's real financial condition. This is in marked contrast to the operation of the sinking funds of the municipalities out of which the city was formed. These were adequately secured, have safely provided for the bonded debts charged against them, and have furnished huge surpluses for manipulation by succeeding administrations of the greater city in violation of every sound principle of finance. The sinking fund commission, as the responsible director of these funds, is worse than useless and should be abolished.

A statement showing the transactions of the sinking funds, with their interlocking and interweaving hodge podge of revenues, internal investments, contributions, redemptions, interest payments and transfers, is hereto annexed and marked Exhibit "I."

*Refunding City Debt.*—The funded debt of the city has been issued without system and matures so irregularly as to invite future peril to the city's credit. Of the \$914,441,412.68 falling due from 1922 to 1967, only \$22,000,000 falls due before 1928. None falls due in the years 1931, 1938, 1939, 1943, 1944, 1945, 1946, 1947. Seven hundred and eighty-one million dollars falls due after 1951, and \$109,000,000 in the year 1960.

This unscientific arrangement is expensive as it is inexpedient, and the investigations of the Committee indicate that by making provision for the payment of the debt in equal annual installments for amortization and interest, a saving of approximately \$178,000,000 can be made by 1967, the last date of maturity. The payments as they fall due with compound interest have been

computed and compared with the equal annual payments on the basis of 5 per cent as an average return on the funds held for application to future debt. The plan for redemption is set forth in the report of the Committee's actuaries, Messrs. Perine & Nichols, marked Exhibit "J," hereto attached. If criticism be made that assurance is lacking of the annual return of 5 per cent on such funds, on the ground that it may be too high, nothing more serious would in such event occur than a partial loss of the profit indicated. This would not be important for a number of years, as the interest and bonds falling due will substantially absorb the payments. As the funded debt is issued at a low rate of interest, such funds would be reasonably sure to draw a higher rate of interest than the debt they are kept to redeem. If the plan be adopted, a sinking fund should be established and invested in other obligations than of the City of New York. The State has always found such a course wise and profitable.

The payments by the city under this plan would be less than the amounts now currently paid for amortization and interest, and would continue to be less until 1930. No embarrassment can arise from the obligation to maintain existing sinking funds for parts of the funded debt. It can be arranged by consolidation or transfer, or if necessary, payments to existing sinking funds can be treated as partial payments to the new sinking fund until the time arrives when the old funds go out of existence.

Future debts can be provided for in the same way by providing for periodical funding in the same manner with like security.

#### LOSS FROM MUNICIPAL OWNERSHIP

The city suffers great loss by reason of its investment in property which falls under the classification of municipal ownership.

A. *Docks.*—As appears by this Committee's report on the dock department, the city owns dock property worth \$300,000,000. This property serves State and National purposes even more than municipal, and could, as appears from payments for dock service by lessees, readily give a net return of 6 per cent, or \$18,000,000. But the financial statement of the docks is:

Total receipts.....		\$7,094,240
Cost of administration.....	\$1,202,427	
Two per cent depreciation on estimated value of dock construction Jan. 1, 1920 (\$70,000,000).....	1,400,000	
Loss of taxes on dock property not used by the city.....	4,775,150	
		<u>7,377,577</u>
Deficiency.....		<u>\$283,337</u>

The docks occupied by the city for municipal purposes are assessed at \$20,000,000, and the value of the use may be estimated as 7 per cent over and above taxes, or \$1,400,000, giving an apparent net return on the whole investment of approximately \$1,100,000, or approximately \$17,000,000 less than its fair rental value. The city is now engaged in completing docks on Staten Island costing \$25,000,000, which have already been rented at an annual loss of \$600,000.

The city had outstanding in 1920 bonds issued for docks and ferries amounting to \$101,372,036 (greater now) on which it paid \$4,353,464 in interest, or \$3,153,464 more than its apparent complete net return.

B. *Subways.*— The cost to the city of the original subways, that is, the Bronx-Manhattan line and the Brooklyn line, was \$51,013,724, the amortization and interest charges on which are paid under the terms of the contracts under which they were built.

The amount expended or placed under contract for the construction of the dual subways, that is, those built under Contract 3 (Interborough) and Contract 4 (Brooklyn Rapid Transit), appeared on March 1, 1921, to be \$226,220,432. In addition to these sums, the city's contractual obligation to complete lines now building, or still to be built under the dual contracts, will require an additional expenditure estimated at \$40,000,000, for which provision has not yet been made. The city paid in interest on this indebtedness for 1920 \$7,250,000, for which it received no return.

It may be a counsel of perfection to suggest that the city's property interest in the subways vastly exceeds the amount of the investment, and should give a handsome revenue to the city treasury. It will be a step in the right direction when the receipts equal the disbursements.

C. *Ferries.*— The ferries likewise are unprofitable. The statement for 1920 is as follows:

	Total receipts	Expenditures
Staten Island division.....	\$1,446,490 87	\$2,011,514 04
Brooklyn division.....	192,252 99	594,485 43
Astoria division.....	27,589 90	205,483 69
	<hr/>	<hr/>
	\$1,666,333 76	\$2,811,483 16
Over receipts.....		1,145,149 40
Excess of disbursements over receipts.....		1,045,149 40
		<hr/> <hr/>

To this must be added interest and depreciation on \$8,668,345.24, expended for wharf property and construction of

terminals since 1903, and interest and depreciation on terminal property of the city acquired before 1903, amounting at a conservative estimate to \$600,0000 annually.

The city has expended since 1903 \$4,357,270.29 for boats. Their present inventory value or rate of depreciation does not appear, but it must be a very considerable sum. Two million dollars would be a conservative estimate of the annual loss from operation of the ferries.

The annual loss on docks, subways and ferries focts up over \$26,000,000. It may be noted in this connection that there is no profit and loss account on city owned property. Such statements would contribute to economy in management and expenditure. While the properties were acquired for the accommodation of the public, they were also acquired for the expectation that they would be self-sustaining, and a source of revenue rather than a drag on the city treasury and a burden to the taxpayer. The city treasury gets none of the receipts from the docks or ferries which are paid into the sinking funds of the old City of New York, and the city borrows such receipts on general fund bonds. The subway receipts are absorbed in providing for amortization and interest. Nothing could be more unsound financially or absurd than the exemption of \$51,000,000 of subway bonds and \$69,000,000 of dock bonds to enable the city to incur further debt, when the subways, as a whole, and the docks and ferries are run at a fearful loss. The constitutional amendment of 1909 manifestly contemplated that these properties should be self-supporting, but carelessness in drafting and skill in manipulating its provisions have enabled the city to avoid to its own detriment compliance with this requirement.

#### THE ABANDONMENT OF THE "PAY-AS-YOU-GO" POLICY

Among the abuses in financial management in the city, none is of greater importance than the virtual abandonment of the "pay-as-you-go" policy. When the city, to avoid defaulting on its securities, found it necessary to borrow \$100,000,000 in 1914, the syndicate which financed the loan imposed as a condition of its negotiation the adoption of the pay-as-you-go policy, and the board of estimate, on the 11th day of September, 1914, adopted the following resolution:

"Resolved, That the Board of Estimate and Apportionment hereby declares that it will pursue the following plan in financing public improvements:



“(1) The cost of all improvements of the revenue-producing class, such as rapid transit, docks, railway and water terminals and water supply, shall be defrayed by the issue of fifty-year corporate stock as heretofore;

“(2) The cost of all permanent improvements, other than those of the revenue-producing class, hereafter authorized by this board, shall be financed as follows:

“(a) Those authorized subsequent to the passage of this resolution and during the year 1915 shall be paid for, three-quarters by the issue of fifteen year corporate stock. The corporate stock so issued shall mature either in not more than fifteen years, amortized as provided by law, or in equal annual installments, during a period of not more than fifteen years. The remaining one-quarter of the cost of such improvements shall be paid through the medium of a one-year bond payable from the next annual tax budget.

“(b) Those authorized in the year 1916 shall be paid for, one-half by the issue of corporate stock maturing as aforesaid. The remaining one-half of the cost of such improvements shall be paid through the medium of a one-year bond payable from the next annual tax budget.

“(c) Those authorized in the year 1917 shall be paid for, one-quarter by the issue of corporate stock as aforesaid. The remaining three-quarters of the cost of such improvements shall be paid through the medium of a one-year bond payable from the next annual tax budget.

“(d) The foregoing statements of policy contemplate the financing of improvements authorized during the year 1918 and subsequent years through the inclusion of the entire cost thereof in the annual budget of the City, excepting the revenue-producing improvements hereinbefore mentioned.

“(3) In so far as corporate stock notes issued by the City of New York as a part of the proposed plan of \$100,000,000 shall be retired by issues of corporate stock, the corporate stock so issued shall mature as provided in clauses (a), (b) and (c) of paragraph 2 of these resolutions.

“(4) The cost of public works already authorized, whether under contract or not, but in respect of which new bonds are to be issued, is to be financed in the same manner as above provided, with the exception of the cost of revenue-producing improvements hereinbefore mentioned.

“Nothing herein contained shall be deemed to affect their corporate stock or assessment bonds issued to replenish the street improvement fund or the fund for street and park openings.”

The joint legislative committee in 1916 recommended the enactment of a statute embodying the provisions of this resolution. By section 2 of chapter 615 of the Laws of 1916 it was accordingly enacted:

“The City of New York shall not, except as hereinafter provided, expend any part of the proceeds of sales of corporate stock or serial bonds for other than revenue-producing improvements.”

By the terms of the act of 1916 this policy first took full effect in the year 1918. As the pressure of war finances was at its height in that year, the city applied for and secured by chapter 658 of the Laws of 1918, the suspension of the pay-as-you-go policy to permit the issue of “fifteen million dollars for each calendar year of the present war, dating from January 1, 1918, and for one year after the termination of the war \* \* \*. For the purposes of this act, the termination of the war shall be as fixed by proclamation of the President of the United States.”

Owing to the failure to proclaim peace until the year 1921, the city secured by this act the right to issue \$15,000,000 of long-term bonds for a period of five years, and has taken full advantage of the act, issuing the full \$75,000,000. While within the law, it was not within the spirit of the law, and constitutes a serious evasion of this sound principle of finance.

Notwithstanding the relief thus secured, the city again applied for a modification of the policy, and by the enactment of chapter 960 of the Laws of 1920, exempted from its provisions, long-term bonds for the erection of school buildings, and the acquisition of sites. The purpose of the act is by this means subverted, and the city has in the brief period since 1916 issued approximately \$100,000,000 of corporate stock or long-term bonds in violation of the pledge of the city made in 1914.

#### TAX LIMIT EXCEEDED

The constitutional 2 per cent tax limit is fixed and determined by the valuation of the real and personal estate of the city as shown by the last assessment-rolls, and not as shown by the current assessment-rolls. The city, therefore, in 1921 exceeded the tax limit by \$20,000,000.

The last sentence in section 10 of article 8 of the Constitution provides:

“The amount hereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants, or any such city of this state, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt.”

Referring to the clause in the same section as to county or city debt, it reads:

“No county or city, shall be allowed to become indebted for any purpose or in any manner to an amount which including existing indebtedness shall exceed ten per centum of the assessed valuation of the real estate of such county or city, subject to taxation as it appeared by the assessment rolls of said county or city on the last assessment for state or county taxes prior to the incurring of such indebtedness.”

It is, therefore, clear that the assessment referred to in the tax limit provision is the last assessment, and not the current assessment.

The assessed valuation of the real and personal estate of the city for 1920 was \$8,922,627,892 and for 1921 \$10,186,207,279. The tax levy, exclusive of debt service and State tax, was barely within the 2 per cent limitation of \$203,724,145.58, if computed on the assessment of 1921. It exceeded 2 per centum on the assessment of 1920 (\$178,452,557.84) by approximately twenty millions of dollars. Each tax levy prior to 1921 has been uniformly within 2 per cent of the tax levy of the preceding year. The 1921 levy was a clear violation of the constitutional provision as hitherto understood throughout the State. Tax rolls are not completed until they are extended, and the tax roll of the city for 1921, the current tax roll on which this limitation was sought to be made, was not completed until March 28, 1921, when the tax in excess of the limit was assessed. It was not assessed upon the last assessment-roll as required, but upon the current assessment-roll. The reasons for this conclusion were presented to the Committee during the examination of the city

officials in an opinion by its counsel, which is annexed to this report as a part of Exhibit "K."

The city has violated the spirit and purpose of the 2 per cent tax limitation by using the receipts from income-paying utilities for expenses and charging all interest on the bonded debt of such utilities to debt service. The city received from Croton water rent, through the general fund bonds statute in 1920, \$9,471,722.74; from docks, \$6,974,093.31; from ferries, \$1,633,677.56, or over \$18,000,000, and collected by taxes for debt service, interest on the Croton water debt, \$8,619,289.17, and interest on the bonded debt of docks and ferries, \$3,940,402.40. Under this practice, the more the city is in debt for income-paying properties, the greater will be its available funds for expenses in excess of the 2 per cent tax limitation. To illustrate: If the city, having reached the 2 per cent limit, purchases or contracts for a public utility costing a hundred million dollars, for which bonds are issued, with an annual amortization and interest charge of \$4,000,000, and a revenue of \$3,000,000, amortization and the interest charge of \$4,000,000 go into the debt service, and the \$3,000,000 revenue goes into the city treasury for expenses in excess of the 2 per cent tax rate. The comptroller testified, "This acts in practical effect to expand the tax limit."

#### DEBT LIMIT EXCEEDED

Section 10, article 8, of the Constitution provides:

"No county or city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation, shall be allowed to become indebted in any further amount until such indebtedness shall be reduced within such limit."

In the frequent amendments to this section, relief has been granted the City of New York by the following exceptions to this rule:

*First.*—Revenue bonds issued against taxes in the levy of the year in which they are issued. Of these the amount outstanding has averaged a hundred million dollars in recent years.

*Second.*—Special revenue bonds issued against taxes to be levied in the next succeeding year. Of these about thirty million dollars have been issued in each of the last two years.

*Third.*—Bonds for water supply, of which \$206,000,000 are now outstanding.

*Fourth.*—County bonds amounting to \$6,600,000.

*Fifth.*— Debts hereafter incurred for revenue purposes where such revenue exceeds repairs, maintenance, interest and amortization charges. This may be regarded as a dead letter, as the city is a stranger to such investments.

*Sixth.*— Any indebtedness heretofore (1909) incurred by the City of New York “for any rapid transit or dock investment may be so excluded proportionately to the extent to which the current net revenue received by said city therefrom shall meet the interest and amortization installments thereof, provided that any increase in the debt incurring power of the City of New York which shall result from the exclusion of debts heretofore incurred shall be available only for the acquisition or construction of properties to be used for rapid transit or dock purposes.”

Attention is now directed to the sixth exception.

The margin of the city's debt incurring power is reported by the comptroller as follows:

January 1, 1918.....	\$18,419,078 91
January 1, 1919.....	52,099,492 55
January 1, 1920.....	21,439,370 05
January 1, 1921.....	34,804,248 86
January 1, 1922.....	133,645,964 51

In reaching these results the comptroller in each of his statements has treated as exempt from the debt limit \$120,000,000 under this exception (\$69,000,000 for docks and \$51,000,000 for subways), thus allowing to the city a debt incurring power for other purposes than docks and subways of \$120,000,000. This exemption is not justified by the Constitution. The bonds are not excluded for general purposes; the exclusion is for a specific purpose only, viz., docks and rapid transit, and the debt incurring power of the city is increased in this sum for no other purpose. Except for such purpose, the excluded bonds, as well as the debt subsequently incurred, must be treated as a part of the debt of the city in fixing its debt limit. The city's debt incurring power as of January 1, 1922, is, therefore, \$13,645,964.51, and not \$133,645,964.51, and the city has incurred debt in excess of the constitutional limit in each of the preceding years referred to, and for most of the time since the alleged exemption of the dock and rapid transit bonds. The opinion of the counsel of the Committee presented to the Committee during the examination of the city officials on this point is contained in Exhibit “L,” hereto attached.

## GENERAL CONSIDERATIONS ON THE TAX LIMIT AND DEBT LIMIT

As the tax limit and the debt limit are a source of annoyance to those seeking other and greater appropriations, some advocate their repeal, claiming that "the strength of sin is the law." They would abolish the sin by repealing the law. But these principles have their roots in economic law, the law of personal rights and the law of self-preservation by the State. Without such restraints taxable property would be confiscated, the financial soundness of the city imperiled, and when the tax-bearing capacity is exhausted the State would be deprived of its potential capacity to tax for State purposes 63 per cent of its real estate.

Financial abuses in city management, and the failure to correct or attempt to correct them, all indicate an indisposition to retrench or economize. Remedies are not hard to find, they are at hand, but not employed. Expenditures and employment, made on a war basis, have not been reduced. The State, the Nation and all private business have made heavy cuts in their budgets, but the city not. City officials without exception denied before the Committee the possibility of economies in any other way than the fall in price of commodities, and the expenditures show an unrestrained growth. This curiosity could not exist in any other municipality in the State, or even in the city, with an informed public opinion. The weight of taxes in the long run falls as heavily upon the poor as upon the rich. It is easier for the taxpayer to realize this when he pays his taxes than for the tenant when he pays his rent or buys his groceries.

In searching for reasons for this apparently inexplicable condition of the public mind, the Committee caused a census of the taxpaying and nontaxpaying voters to be taken in nineteen election districts, selected in the city at random. The returns show 8,477 nontaxpaying voters and 521 taxpaying voters. One district returned 493 nontaxpaying voters and one taxpaying voter.

For census see Exhibit "M."

## MANIFEST FINANCIAL REFORMS

Among the reforms which present conditions call for are the following:

Docks . . . . .	\$17,000,000
Subways (amortization and interest on bonds) . . . . .	7,250,000
Ferries . . . . .	2,000,000
Actuarial payment of funded debt . . . . .	4,000,000

Retrenchment from 3 per cent to 10 per cent on city's expenses of administration (3 per cent) ..	5,500,000
Saving by advancing the tax dates.....	5,500,000
Saving by bringing county government under the jurisdiction of the city .....	2,500,000
Additional State appropriation for schools.....	15,000,000
	<hr/>
	\$58,750,000
	<hr/> <hr/>

These reforms cannot be hoped for from the city government as now organized. They cannot be achieved by law alone, but they can be met by a reorganization of city government with the aid of law. An indispensable condition is the constitution of a board of finance, or some similar body, as recommended in the Committee's first report. A redistribution of powers among existing officials and boards will be more of the same thing, and without effect.

It is not claimed that these reforms can all be immediately realized, but the plan can be immediately put in operation, great progress made promptly, and the end reached within a reasonable time.

While some small relief may come from stopping mandatory legislation, it will amount only to the difference between the sums required by law and the sums the city would expend for the same purposes. The greatest injury to the city from this legislation lies in its use as a screen to hide great and substantial faults of city management.

#### STATE TAXES

The city cannot escape bearing its share of the burden of State taxes. The legislative committee of 1915 found the indirect taxes were equitably distributed over the whole State. The direct State taxes are really negligible, amounting to \$22,041,183.27 in 1921. The city received from State taxes in the same year \$44,499,014.62. The State is now paying the city for schools nearly as much as the direct State tax of 1921. Inequalities, if any, are not hard to correct, but they will not be reached by outcries against so small a burden to maintain the State of which the city is a part, when 63 per cent of the value of all real property is in the city. The State tax, like mandatory legislation, is a mote to distract attention from the beams. The city taxes were in 1921, \$284,146,634. The people of the city paid to the Federal government \$859,851,705.63, of which more than \$634,-

000,000 was for income taxes. Not an unnecessary dollar of State tax should be imposed, but the relative importance of the interests provided for cannot be overlooked.

#### FINANCIAL REQUIREMENTS OF CITY

Besides the ordinary city expenses, the city requires vast sums of money for new improvements. The Transit Board fixes the amount required for subways at \$500,000,000 in the next ten years, of which \$200,000,000 will be required within five years. Docks, a marginal railway, markets, schools, tunnels and bridges are all necessary to the welfare of the city. A billion dollars for extraordinary expenses will not more than suffice in the next ten years. Under the present management the city cannot meet these expenditures from current revenues, or by incurring debt, but if it will put its house in order and practice economies, common to States, municipalities and private business, it can make satisfactory progress.

#### NECESSITY OF CONSTITUTIONAL AMENDMENT

The constitutional provisions affecting the city are found in section 10, article 8 of the Constitution. Since its adoption in 1894, it has been amended five times by the insertion of clauses of exemption and exception principally to meet temporary emergencies in city finances. The result is a hodge-podge. It is involved. The new clauses, inserted without recasting the entire section, frequently confuse the meaning of the whole. The section now covers many unrelated matters, and instead of being a constitutional guide, is a labyrinth of words and provisions in which the reader is lost. It serves as often to foster violations of sound finance as to prevent them. The section should be re-drawn in several sections and re-enacted to meet the conditions described in this report.

#### RECOMMENDATIONS FOR RELIEF

I. The Committee recommends changing the tax dates from May first and November first to January first and July first, under a system of gradual change to the prior month, and annex a copy of the proposed bill for that purpose.

II. Restoration of the "Pay-as-you-go" policy, as enacted in 1916.

III. Abolition of the sinking funds at the earliest day practicable and of the sinking fund commission. Care of the funds to be vested in the Comptroller.



IV. Repeal of the general fund bond legislation, and the application of all sinking fund receipts to the payment of interest and reduction of the city debt, and specifically of the application of funds received from the income-paying properties to the debts created for the acquisition of such properties.

V. Placing public utilities on a self-supporting and independent basis, with separate profit and loss accounts.

VI. Inauguration of an actuarial system of payments to provide for the existing debt, and the inauguration of a new serial bond system on the same basis to provide for new debt.

VII. Amending section 10, article 8 of the Constitution in accordance with the recommendations of this report.

VIII. Simplification of government through such constitutional amendment and enactment of statutes in accordance with the terms of this report.

The Committee refers to recommendations already made bearing upon the finances of the city as follows:

(a) First Report.— Recommending the establishment of a finance board of nine members, to be elected by the city at large for six years, three to be elected every other year.

(b) Second Report.— Department of Docks, recommending a new dock commission of three members, to be appointed by the mayor, one from a list to be named by the maritime interests of the city, one from a list to be named by the New York Chamber of Commerce, and one at will, who shall be chairman of the commission, with an eight year tenure of office.

(c) Third Report.— Recommending the granting of complete autonomy to a board of education appointed on nonpolitical lines. Reference is had to these reports for a full statement of the Committee's recommendations.

Respectfully submitted,

SCHUYLER M. MEYER, *Chairman*,  
THEODORE DOUGLAS ROBINSON,  
FREDERICK W. KAVANAUGH,  
MAXWELL S. HARRIS,  
SIMON L. ADLER,  
SOL ULLMAN,  
JOHN R. YALE,  
THEODORE STITT,  
WALTER W. WESTALL.

ELON R. BROWN,

*Counsel.*

## EXHIBIT "A"

*Showing Growth of Net Funded Debt Less Sinking Fund Since Consolidation*

Year		
1898	.....	\$250,510,551 64
1899	.....	256,843,289 25
1900	.....	277,691,434 97
1901	.....	298,873,969 50
1902	.....	311,760,974 30
1903	.....	334,176,991 30
1904	.....	400,945,164 75
1905	.....	430,477,000 39
1906	.....	474,653,205 12
1907	.....	537,577,801 03
1908	.....	589,045,654 07
1909	.....	648,062,228 92
1910	.....	689,363,508 53
1911	.....	760,995,992 15
1912	.....	827,910,800 94
1913	.....	820,064,364 22
1914	.....	892,172,621 88
1915	.....	942,216,168 29
1916	.....	973,734,136 52
1917	.....	1,007,495,164 14
1918	.....	1,020,481,661 25
1919	.....	1,025,583,349 79
1920	.....	1,027,811,089 70
1921	.....	1,031,201,252 27

## EXHIBIT "B"

*Showing Cost of Administration, Debt Service, Tax Deficiencies, State Taxes and Total Budget Since 1910*

YEAR	Cost of administration	State taxes	Debt service	Tax deficiencies	Grand total
1910	\$112,684,574 65	.....	\$46,443,695 72	\$4,000,000 00	\$163,128,270 37
1911	113,306,013 17	.....	50,661,821 99	10,000,000 00	173,967,835 16
1912	122,247,015 95	\$4,301,345 65	51,254,258 17	3,287,366 74	181,090,256 31
1913	127,487,027 86	7,947,031 96	54,977,381 34	2,300,000 00	192,711,441 16
1914	133,307,730 54	4,576,303 43	52,611,517 65	2,500,000 00	192,995,551 62
1915	133,045,313 04	.....	59,832,381 04	6,112,092 14	198,989,786 52
1916	131,767,945 70	13,975,021 73	63,213,210 11	4,000,000 00	212,956,177 54
1917	136,369,567 87	.....	69,744,568 95	5,000,000 00	211,114,136 82
1918	150,969,542 80	8,463,756 38	75,590,460 02	3,100,000 00	238,123,759 20
1919	159,735,867 17	8,522,629 61	77,931,938 10	1,835,000 00	248,025,434 88
1920	188,663,790 10	8,539,156 37	74,811,538 66	1,675,000 00	273,689 485 13
1921	216,280,330 20	22,041,183 27	105,528,527 30	1,680,000 00	345,530,039 77

## EXHIBIT "C"

*Showing Budget Total, General Fund Revenues Deducted and Amount of Tax Levy*

Year	Total	General	Tax levy
	Budget	Fund	
1899.....	\$95,209,259 84	\$9,026,191 26	\$86,183,768 58
1900.....	92,397,446 46	9,855,272 71	82,542,173 75
1901.....	99,826,582 67	11,787,949 88	88,038,632 79
1902.....	100,349,619 30	11,396,711 67	88,952,907 63
1903.....	98,898,968 92	21,266,304 98	77,632,663 94
1904.....	108,592,693 48	22,521,665 21	86,071,028 27
1905.....	111,964,648 52	22,979,002 77	88,985,645 75
1906.....	119,032,841 75	24,934,694 33	94,098,147 42
1907.....	130,915,324 19	28,965,070 61	101,950,253 58
1908.....	143,997,841 74	27,454,945 65	116,542,896 09
1909.....	156,976,273 01	34,231,062 84	122,745,210 17
1910.....	163,509,272 56	32,030,989 45	131,478,283 11
1911.....	174,394,997 51	32,154,342 95	142,240,654 56
1912.....	181,477,865 09	30,971,807 62	150,506,057 47
1913.....	193,189,076 31	41,581,991 46	151,607,084 85
1914.....	193,382,860 69	43,235,935 35	150,146,925 34
1915.....	200,618,401 32	40,831,063 61	159,787,337 71
1916.....	213,647,436 34	37,996,936 34	175,650,500 00
1917.....	212,670,401 26	35,827,901 26	176,842,500 00
1918.....	241,633,829 47	38,233,016 67	203,400,812 80
1919.....	248,588,256 70	43,831,760 98	204,756,495 72
1920.....	273,689,485 13	60,020,647 78	213,668,837 35
1921.....	345,530,039 77	63,216,718 87	282,313,320 90

## EXHIBIT "D"

*Schedule of Real and Personal Property Assessments Since 1918*

Year	Real estate	Personal property	Grand totals
1898.....	\$2,533,730,809	\$548,987,900	\$3,082,718,709
1899.....	2,932,445,464	545,906,565	3,478,352,028
1900.....	3,168,557,700	485,574,495	3,654,132,195
1901.....	3,237,778,261	550,192,612	3,787,970,873
1902.....	3,330,647,579	526,400,139	3,857,047,718
1903.....	4,751,550,826	680,866,092	5,432,416,918
1904.....	5,015,463,779	625,078,878	5,640,542,657
1905.....	5,221,582,301	690,561,926	5,912,144,227
1906.....	5,738,487,245	567,306,940	6,305,794,185
1907.....	6,240,480,602	554,861,313	6,795,341,915
1908.....	6,722,415,789	435,774,611	7,158,190,400
1909.....	6,807,179,704	443,320,855	7,250,500,559
1910.....	7,044,192,674	372,644,825	7,416,837,499
1911.....	7,858,840,164	357,923,123	8,216,763,287
1912.....	7,861,898,890	342,963,540	8,204,862,430
1913.....	8,006,647,861	325,418,440	8,332,066,301
1914.....	8,049,859,912	340,295,560	8,390,155,472
1915.....	8,108,760,787	352,051,755	8,460,812,542
1916.....	8,207,822,361	376,530,150	8,584,352,511
1917.....	8,254,549,000	419,156,315	8,673,705,315
1918.....	8,339,642,851	251,414,875	8,591,057,726
1919.....	8,428,322,753	362,412,780	8,790,735,533
1920.....	8,626,121,707	296,506,185	8,922,627,892
1921.....	9,972,985,104	213,422,175	10,186,207,279

## EXHIBIT "E"

## Schedule Showing Yearly Per Capita Cost and Average Per Capita Costs Under the Various Administrations

Year:	Budget appropriations			Per capita	
	Yearly exclusive of appropriation to provide deficiency in collection of taxes	Total for four years	†Population, yearly.	Average for four years	
				Yearly	years
1898.....	\$77,473,084 77	.....	3,350,000	\$23 12	.....
1899.....	93,520,082 03	.....	3,549,558	26 35	.....
1900.....	90,778,972 48	.....	3,437,202	26 41	.....
1901.....	98,100,413 43	.....	3,485,000	28 15	.....
Total for Robert A. Van Wyck, administration. ....					
		\$359,872,552 71	.....	.....	\$26 04
Year:					
1902.....	\$98,619,600 88	.....	3,582,930	\$27 53	.....
1903.....	97,119,031 10	.....	3,653,501	26 58	.....
1904.....	106,674,955 09	.....	3,750,000	28 45	.....
1905.....	109,817,593 03	.....	3,850,000	28 53	.....
Total for Seth Low and Geo. B. McClellan, administration. ....					
		412,231,180 10	.....	.....	27 78
Year:					
1906.....	\$116,805,490 37	.....	4,014,304	\$29 10	.....
1907.....	127,421,505 66	.....	4,152,860	30 68	.....
1908.....	140,572,266 17	.....	4,285,435	32 80	.....
1909.....	153,622,701 06	.....	4,422,685	34 73	.....
Total for Geo. B. McCellan, administration. ....					
		538,421,963 26	.....	.....	31 90
Year:					
1910.....	\$159,128,270 37	.....	4,766,883	\$33 38	.....
1911.....	163,967,835 16	.....	4,983,385	33 33	.....
1912.....	177,802,889 77	.....	5,173,064	34 37	.....
1913.....	190,411,441 16	.....	5,372,983	35 44	.....
*Total for William J. Gaynor, administration. ....					
		691,310,436 46	.....	.....	34 11
Year:					
1914.....	\$190,495,551 62	.....	5,468,100	\$34 84	.....
1915.....	192,877,694 08	.....	5,585,772	34 53	.....
1916.....	208,956,177 54	.....	5,602,841	37 29	.....
1917.....	206,114,136 82	.....	5,737,492	35 92	.....

\* Year 1913 of Mayor Gaynor's administration completed by Ardolph L. Kline.

† Population estimated except in census years.

## EXHIBIT "E" — (Concluded)

## Schedule Showing Yearly Per Capita Cost and Average Per Capita Costs Under the Various Administrations

Year;	Budget appropriations			Per capita	
	Yearly exclusive of appropriation to provide deficiency in collection of taxes	Total for four years	Population, yearly	Yearly	Average for four years
Total for John Purroy Mitchell, administration.....		\$798,443,560 06			\$35 65
Year:					
1918.....	\$235,023,759 00		5,872,143	\$40 02	
1919.....	246,190,435 00		6,006,794	40 99	
1920.....	272,014,485 13		5,620,048	48 40	
1921.....	343,850,039 77		5,753,151	59 77	
Total for John F. Hylan, administration.....		<u>1,097,078,718 90</u>			<u>47 18</u>

EXHIBIT "F"

STATEMENT SHOWING THE AMOUNT OF UNCOLLECTED TAXES AS AT DECEMBER 31, 1921, CLASSIFIED AS TO GENERAL CHARACTER OF PROPERTY AGAINST WHICH TAXES ARE LEVIED

Tax levies of—	Real estate, i.e., lands and buildings	Special franchises	Real estate of corporations	Personal property	Totals
1898 and prior.....	\$759,596 23		\$436 74	\$740,118 19	\$1,499,714 42
1899.....	126,273 62		8,982 15	1,704,328 84	1,831,039 20
1900.....	81,764 37	\$215,172 05	4,970 05	879,543 95	1,185,462 52
1901.....	66,806 01	52,945 92	4,773 67	1,023,621 78	1,147,943 76
1902.....	53,003 91	39,613 71	5,137 84	1,297,807 68	1,405,193 97
1903.....	63,180 96	27,825 34	8,329 61	1,552,864 00	1,639,008 14
1904.....	56,445 10	29,474 99	9,467 07	1,394,682 60	1,488,932 30
1905.....	48,106 40	22,753 96	8,446 44	1,576,708 62	1,657,036 05
1906.....	86,640 85	32,107 56	8,412 05	893,518 07	1,020,712 92
1907.....	114,490 07	114,498 69	9,707 84	1,044,750 32	1,282,151 13
1908.....	176,888 97	7,854 56	339,098 94	339,098 94	533,530 31
1909.....	214,101 27	21,081 63	12,436 74	339,421 10	587,040 74
1910.....	250,123 84	25,014 23	67,047 50	333,511 03	675,696 60
1911.....	401,073 93	76,510 45	77,402 27	266,617 78	811,604 43
1912.....	542,916 30	75,974 88	243,654 24	308,949 93	1,005,643 33
1913.....	649,043 61	145,168 99	225,119 47	1,442,435 77	2,480,302 61
1914.....	840,571 01	159,775 60	78,312 72	1,579,586 87	2,805,052 95
1915.....	1,050,055 81	58,727 75	310,866 02	1,861,009 45	3,048,105 73
1916.....	1,368,954 00	472,512 19	393,110 17	2,319,554 18	3,613,869 42
1917.....	1,840,785 55	916,244 39	394,295 34	1,847,503 25	5,469,694 29
1918.....	3,107,108 51	1,532,334 95	805,721 64	2,994,427 55	6,881,242 05
1919.....	4,658,733 50	2,026,292 85	1,048,012 54	3,347,186 80	10,485,175 54
1920.....	9,033,396 62	4,191,381 38			17,620,177 34
Total arrears.....	\$25,500,060 44	\$10,243,066 07	\$3,792,444 33	\$30,548,783 91	\$70,174,354 75
1921.....	31,264,052 70	7,011,243 03	1,728,305 12	3,039,583 03	43,043,183 88
Totals.....	\$56,854,113 14	\$17,254,309 10	\$5,520,749 45	\$33,588,366 94	\$113,217,538 63
Payments made in 1915 held in escrow pending determinations as to proper application.....		75,000 00			75,000 00
Total uncollected.....	\$56,854,113 14	\$17,179,309 10	\$5,520,749 45	\$33,588,366 94	\$113,142,538 63

EXHIBIT "G"

SCHEDULE SHOWING MONTHLY OUTSTANDING BALANCES OF CORPORATE STOCK NOTES, TAX NOTES, SPECIAL REVENUE BONDS AND BILLS OF THE PERIOD DECEMBER 31, 1917, TO JUNE 30, 1921

	CORPORATE STOCK NOTES		TAX NOTES		SPECIAL REVENUE BONDS	
	Total outstanding	Amounts held as investments by sinking fund	Total outstanding	Amounts held as investments by sinking fund	Total outstanding	Amounts held as investments by sinking fund
December 31, 1917.....	\$18,447,000 00	\$5,872,000 00	\$4,600,000 00	\$4,600,000 00	\$11,000,000 00	\$7,510,000 00
January, 1918.....	21,047,000 00	8,472,000 00	2,100,000 00	1,850,000 00	9,900,000 00	6,760,000 00
February, 1918.....	23,565,000 00	11,397,000 00	2,100,000 00	1,850,000 00	8,825,000 00	6,110,000 00
March.....	25,861,000 00	11,398,000 00	2,350,000 00	2,100,000 00	8,825,000 00	6,110,000 00
April.....	26,321,000 00	12,153,000 00	2,600,000 00	2,350,000 00	8,625,000 00	6,110,000 00
May.....	27,821,000 00	13,653,000 00	2,850,000 00	2,600,000 00	9,125,000 00	6,610,000 00
June.....	33,179,000 00	22,903,000 00	1,500,000 00	1,250,000 00	6,615,900 00	5,860,000 00
July.....	32,903,000 00	22,903,000 00	1,500,000 00	1,250,000 00	6,615,900 00	5,860,000 00
August.....	34,809,000 00	24,809,000 00	2,000,000 00	1,750,000 00	8,115,900 00	7,360,000 00
September.....	38,709,000 00	23,709,000 00	2,750,000 00	2,500,000 00	9,615,900 00	8,860,000 00
October.....	39,934,000 00	14,934,000 00	2,750,000 00	2,500,000 00	10,465,900 00	9,710,000 00
November.....	41,594,000 00	8,594,000 00	3,000,000 00	2,760,000 00	7,215,900 00	10,460,000 00
December.....	45,550,000 00	6,550,000 00	3,000,000 00	2,750,000 00	12,321,000 00	11,570,100 00
Average monthly balance (13).....	31,518,461 52	14,411,307 69	2,546,153 83	2,315,383 08	9,020,800 00	7,606,930 77
January, 1919.....	46,410,000 00	7,410,000 00	3,150,000 00	3,150,000 00	12,200,000 00	11,820,100 00
February.....	48,565,000 00	13,165,000 00	3,050,000 00	3,050,000 00	8,710,000 00	8,220,100 00
March.....	50,715,000 00	29,165,000 00	900,000 00	900,000 00	2,239,900 00	1,750,000 00
April.....	52,415,000 00	33,365,000 00	900,000 00	900,000 00	2,739,900 00	2,250,000 00
May.....	54,905,000 00	35,855,000 00	900,000 00	900,000 00	3,339,900 00	2,700,000 00
June.....	57,255,000 00	38,705,000 00	1,150,000 00	1,150,000 00	3,589,900 00	2,950,000 00
July.....	59,465,000 00	40,965,000 00	1,150,000 00	1,150,000 00	3,589,900 00	2,950,000 00
August.....	61,370,000 00	40,970,000 00	1,550,000 00	1,300,000 00	4,589,900 00	2,950,000 00
September.....	63,120,000 00	40,970,000 00	1,550,000 00	1,300,000 00	4,589,900 00	2,950,000 00

	CORPORATE STOCK NOTES			TAX NOTES			SPECIAL REVENUE BONDS		
	Total outstanding	Amounts held as investments by		Total outstanding	Amounts held as investments by		Total outstanding	Amounts held as investments by	
		sinking fund	sinking fund		sinking fund	sinking fund		sinking fund	sinking fund
October.....	\$66,121,030 00	\$25,571,000 00	\$1,830,000 00	\$1,830,000 00	\$1,550,000 00	\$5,939,900 00	\$4,300,000 00	\$4,300,000 00	
November.....	66,678,000 00	22,378,000 00	2,050,000 00	2,050,000 00	1,830,000 00	5,939,900 00	4,330,000 00	4,330,000 00	
December.....	66,829,000 00	22,579,000 00	2,050,000 00	2,050,000 00	1,800,000 00	7,939,900 00	4,300,000 00	4,300,000 00	
Average monthly balance.....	57,820,666 66	27,591,500 00	1,683,333 33	1,683,333 33	1,579,166 66	5,450,750 00	4,283,983 33	4,283,983 33	
January, 1920.....	67,169,000 00	30,19,000 00	2,000,000 00	2,000,000 00	2,000,000 00	8,739,000 00	4,000,000 00	4,000,000 00	
February.....	67,319,000 00	31,069,000 00	2,000,000 00	2,000,000 00	2,000,000 00	10,129,900 00	4,000,000 00	4,000,000 00	
March.....	67,419,000 00	31,169,000 00	1,850,000 00	1,850,000 00	1,850,000 00	12,829,900 00	4,000,000 00	4,000,000 00	
April.....	68,619,000 00	31,369,000 00	1,850,000 00	1,850,000 00	1,850,000 00	13,789,900 00	3,250,000 00	3,250,000 00	
May.....	67,869,000 00	31,619,000 00	1,850,000 00	1,850,000 00	1,850,000 00	13,789,900 00	3,250,000 00	3,250,000 00	
June.....	68,119,000 00	36,319,000 00	450,000 00	450,000 00	450,000 00	11,239,900 00	700,000 00	700,000 00	
July.....	74,624,000 00	38,569,000 00	1,015,000 00	1,015,000 00	450,000 00	13,739,900 00	700,000 00	700,000 00	
August.....	77,404,000 00	41,339,000 00	1,515,000 00	1,515,000 00	450,000 00	14,749,900 00	700,000 00	700,000 00	
September.....	82,399,142 73	42,094,142 73	2,890,000 00	2,890,000 00	450,000 00	15,874,900 00	700,000 00	700,000 00	
October.....	84,411,442 73	34,856,442 73	2,640,000 00	2,640,000 00	200,000 00	16,884,900 00	700,000 00	700,000 00	
November.....	89,591,442 73	35,846,442 73	2,640,000 00	2,640,000 00	200,000 00	23,237,900 00	700,000 00	700,000 00	
December.....	92,098,442 73	33,059,942 73	3,961,683 01	3,961,683 01	521,683 01	36,392,900 00	700,000 00	700,000 00	
Average monthly balance.....	75,586,872 58	34,852,414 24	2,055,140 25	2,055,140 25	1,022,640 25	15,949,983 33	1,950,000 00	1,950,000 00	
January, 1921.....	94,983,442 73	40,059,942 73	4,396,683 01	4,396,683 01	521,683 04	31,252,900 00			
February.....	98,918,442 73	41,559,942 73	4,896,683 01	4,896,683 01	521,683 04	30,542,900 00			
March.....	102,560,442 73	44,059,942 73	4,646,683 04	4,646,683 04	521,683 01	28,969,900 00			
April.....	110,586,442 73	44,059,942 73	4,496,683 04	4,496,683 04	521,683 04	28,674,900 00			
May.....	122,598,942 73	44,609,942 73	4,696,683 04	4,696,683 04	521,683 04	24,794,900 00			
June.....	127,889,942 73	44,609,942 73	4,640,000 00	4,640,000 00	560,000 00	18,664,900 00			
Average monthly balance.....	109,584,442 73	43,159,942 73	4,628,902 53	4,628,902 53	561,402 53	27,150,066 67			

EXHIBIT "G"—(Continued)

## SCHEDULE SHOWING MONTHLY OUTSTANDING BALANCES OF CORPORATE STOCK NOTES, TAX NOTES, SPECIAL REVENUE BONDS AND BILLS OF THE PERIOD DECEMBER 31, 1917, TO JUNE 30, 1921



REVENUE BONDS AND BILLS

	Total outstanding	Amounts held as investments by sinking fund	Totals	Total balances of sinking fund	Net balances outstanding
December 31, 1917.....	\$39,210,900 00	.....	\$73,257,900 00	\$17,982,000 00	\$55,275,900 00
January, 1918.....	55,403,400 00	.....	89,450,400 00	17,082,000 00	72,368,400 00
February, 1918.....	84,898,718 43	\$1,236,818 43	119,388,718 43	20,593,818 43	98,794,900 00
March.....	90,980,218 43	1,236,818 43	128,016,218 43	20,844,818 43	107,171,400 00
April.....	101,471,218 43	1,736,818 43	139,017,218 43	22,349,818 43	116,667,400 00
May.....	88,760,863 98	7,032,963 98	128,556,863 98	29,895,963 98	98,660,900 00
June.....	49,143,500 00	.....	90,438,400 00	30,013,000 00	60,425,400 00
July.....	59,093,500 00	.....	100,112,400 00	30,013,000 00	70,099,400 00
August.....	64,041,500 00	.....	108,966,400 00	33,919,000 00	75,047,400 00
September.....	84,040,000 00	.....	135,114,900 00	35,069,000 00	100,045,900 00
October.....	94,037,500 00	.....	147,187,400 00	27,144,000 00	120,043,400 00
November.....	81,228,500 00	.....	133,038,400 00	21,804,000 00	111,234,400 00
December.....	34,013,000 00	.....	94,888,000 00	20,870,100 00	74,017,900 00
Average monthly balance (13).....	71,332,524 56	864,878 41	114,417,939 94	25,198,501 48	89,219,438 46
January, 1919.....	55,663,000 00	250,000 00	117,423,000 00	22,630,100 00	94,792,900 00
February.....	75,370,000 00	250,000 00	135,695,000 00	24,635,100 00	111,009,900 00
March.....	99,341,000 00	250,000 00	153,195,900 00	32,065,000 00	121,130,900 00
April.....	116,139,000 00	250,000 00	172,193,900 00	36,765,000 00	135,428,900 00
May.....	102,289,000 00	250,000 00	161,433,900 00	39,705,000 00	121,728,900 00
June.....	61,039,000 00	250,000 00	123,033,900 00	43,055,000 00	79,978,900 00
July.....	64,889,000 00	250,000 00	129,093,900 00	45,315,000 00	83,778,900 00
August.....	70,175,000 00	250,000 00	137,684,900 00	45,470,000 00	92,214,900 00
September.....	84,023,500 00	250,000 00	153,283,400 00	45,470,000 00	107,813,400 00
October.....	94,021,000 00	250,000 00	167,881,900 00	31,671,000 00	136,210,900 00
November.....	6,271,000 00	.....	136,938,900 00	28,478,000 00	108,460,900 00
December.....	32,371,000 00	.....	109,189,900 00	28,679,000 00	80,510,900 00
Average monthly balance.....	76,465,958.33	208,333.33	141,420,708.33	35,332,350 00	106,088,358.33

## EXHIBIT "G"—(Concluded)

SCHEDULE SHOWING MONTHLY OUTSTANDING BALANCES OF CORPORATE STOCK NOTES, TAX NOTES, SPECIAL  
REVENUE BONDS AND BILLS OF THE PERIOD DECEMBER 31, 1917, TO JUNE 30, 1921  
REVENUE BONDS AND BILLS

	Amounts held as		Totals	Total balances of sinking fund	Net balances outstanding
	Total outstanding	investments by sinking fund			
January, 1920.....	\$53,570,000.00	.....	\$131,478,900.00	\$36,919,000.00	\$94,559,900.00
February.....	61,170,000.00	.....	140,618,900.00	37,069,000.00	103,549,900.00
March.....	83,540,000.00	.....	165,638,900.00	37,019,000.00	128,619,900.00
April.....	111,245,000.00	.....	195,503,900.00	36,469,000.00	159,034,900.00
May.....	95,400,000.00	.....	178,908,900.00	36,719,000.00	142,189,900.00
June.....	65,050,000.00	.....	144,858,900.00	37,469,000.00	107,389,900.00
July.....	55,739,000.00	.....	145,117,900.00	39,719,000.00	105,398,900.00
August.....	59,319,000.00	.....	152,987,900.00	42,489,000.00	110,498,900.00
September.....	71,164,000.00	.....	172,328,042.73	43,244,142.73	129,083,900.00
October.....	91,094,000.00	.....	195,030,342.73	35,756,442.73	159,273,900.00
November.....	94,785,000.00	.....	210,254,342.73	36,746,442.73	173,507,900.00
December.....	62,770,500.00	.....	195,223,525.77	34,281,625.77	160,941,900.00
Average monthly balance.....	75,403,875.00	.....	168,995,871.16	37,825,054.49	131,170,816.67
January, 1921.....	83,350,500.00	.....	213,983,525.77	40,581,625.77	173,401,900.00
February.....	84,630,500.00	.....	218,988,525.77	42,081,625.77	176,906,900.00
March.....	108,483,500.00	.....	244,660,525.77	44,581,625.77	200,078,900.00
April.....	138,711,500.00	.....	282,439,525.77	44,581,625.77	237,857,900.00
May.....	120,551,500.00	.....	272,642,025.77	45,331,625.77	227,310,400.00
June.....	85,571,500.00	.....	236,765,342.73	45,169,942.73	191,595,400.00
Average monthly balance.....	103,549,833.33	.....	244,913,245.26	43,721,345.26	201,191,900.00

## EXHIBIT "H"

*Schedule of Special Revenue Bond Authorizations During Year  
1920*

Armory Board .....	\$30,359 96
Bellevue and allied hospitals.....	92,605 19
Board of Aldermen and City Clerk.....	66,800 00
Board of City Record.....	294,371 37
Department of Public Welfare .....	240,724 92
County Clerk, New York county.....	2,985 78
County Clerk, Kings county .....	655 82
County Clerk, Queens county .....	6,878 20
County Clerk, Richmond county .....	2,401 88
County Clerk, Bronx county .....	670 83
Claims .....	963,620 70
Commissions and commissioners.....	295,330 90
Public Service Commission.....	117,890 52
College of the City of New York.....	89,149 62
Courts .....	444,610 28
District Attorney .....	37,015 31
Department of Plant and Structures.....	1,093,501 42
Department of Correction .....	19,959 37
Department of Docks .....	85,298 3
Department of Education .....	13,060,480 11
Department of Health .....	247,150 13
Department of Parks, Manhattan and Rich- mond .....	84,955 59
Department of Parks, The Bronx .....	49,145 62
Department of Parks, Brooklyn .....	51,805 09
Department of Parks, Queens .....	14,389 86
Department of Street Cleaning .....	6,899,970 76
Department of Taxes and Assessments.....	6,657 73
Department of Water Supply, Gas and Elec- tricity .....	169,513 38
Fire Department .....	1,732,812 15
Miscellaneous .....	6,027,288 72
Hunter College of the City of New York.....	31,567 66
President, Borough of Brooklyn.....	502,712 10
Police Department .....	173,628 83
President, Borough of Manhattan .....	1,191,187 04
President, Borough of Queens .....	648,586 51
President, Borough of Richmond .....	217,439 80

President, Borough of the Bronx.....	\$393,742 76
Registers .....	189,433 43
Sheriffs .....	26,386 39
New York City Employees' Retirement System.....	13,184 58
Tenement House Department.....	4,562 89
Dreamland Park award .....	2,113,749 77
	<hr/>
Total .....	\$37,735,181 35
	<hr/> <hr/>

## EXHIBIT "I"

*The Story of the City's Sinking Fund Transactions During 1920*

The interlocking and interweaving hodge-podge of revenues, internal investments, contributions, redemptions, interest payments and transfers all gather into a single collection of fiscal accounts in the City Comptroller's office, constituting a record which may be best interpreted by tracing the origin and final resting place of the various moneys, with some attempt toward making a statement of sinking fund affairs in the order of their occurrence. The so-called *inter se* transactions are marked (\*) in each case.

An old and underlying account bears the title:

## SINKING FUND FOR THE PAYMENT OF INTEREST ON THE CITY DEBT

In this fund there was a cash balance on January 1, 1920, of .....	\$1,639,420 39
To this was added within the year ended December 31, 1920, revenue received by the city, in cash, and paid directly into this fund on account of Croton water rents and penalties.....	\$9,471,722 74
Moneys received from the city treasury on account of the redemption of its obligations as held for investment by this fund (See Schedule "A")...	2,305,000 00
Receipts from municipal ferry operations, paid directly into this fund.....	1,633,677 56
Ferry rents and leases.....	346,573 08
Fees, fines, penalties, costs, etc.....	1,665,568 49
House and ground rents.....	452,101 07
Interest on deposit.....	47,531 60
Revenue and investments.....	110,936 72
Interest on Croton water rents.....	48,345 96
Water lot rent.....	599 10
Fares—Astoria ferry.....	27,060 51
	<hr/>
	16,109,116 83
This makes a total for the year.....	\$17,748,537 22

Out of which there were disbursements in cash as follows:

Investments in Corporate Stock Notes of the City of New York issued in anticipation of the sale of corporate stock (See Schedule "B")	\$3,200,000 00
Interest charges met on city debt incurred prior to January, 1898	476,372 08
Refunds of revenue	21,863 66
Payments of contributions to sundry societies	13,470 00
These disbursements, in connection with the balance of cash on hand on December 31, 1920, of	736,831 48

Aggregated the sum of	<u>\$4,448,537 22</u>
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*The remainder becoming a matter of transfer to another account, amounting to the sum of	\$13,300,000 00
The account to which this transfer was made is called:	<u>=====</u>

*Sinking Fund for the redemption of the City Debt No. 1*

The cash balance of this account on January 1, 1920, was	\$940,106 13
*And in addition to the transfer above described, amounting to	\$13,300,000 00

There were receipts as follows:

*Investments of this fund purchased by Sinking Fund of the City of New York	6,675,780 67
*Investments of the fund maturing in 1920 and redeemable from and purchased by the Sinking Fund of the City of New York	230,686 78
Moneys received from the city treasury on account of the redemption of its obligations as held for investment by the fund (See Schedule "A")	2,600,000 00
Dock and slip rents	6,974,093 31
Forfeited security deposit	16,800 00
Market and cellar rents	420,150 26
Market wagon fees	18,873 25
Privileges	11,652 44
Franchises	501,753 33
Permits, street vaults	210,089 97
Fees, fines and penalties	1,353 00
Licenses	333,701 00
Interest on sinking fund deposits	54,907 81
Interest on city treasury balances	607,899 41
Interest on general fund bonds	9,500,547 96
Interest on all other bonds	1,448,455 73
Water lot quit rent	7 36
Chamberlain's commission of State tax	10,660 23
Collections by collector of assessments and arrears	42 65
Interest on assessments	03

<u>42,917,455 19</u>
----------------------

This makes a total for the year	\$43,857,561 32
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Out of which there were disbursements in cash as follows:

Investments in corporate stock notes of the City of New York, issued in anticipation of the sale of corporate stock	\$3,610,000 00
Redemption of corporate stock held by the public	7,305,300 00
*Redemption of corporate stock maturing in 1920, held by the Sinking Fund of the City of New York	172,000 00

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Refunds of revenue . . . . .	\$1,986 18	
These disbursements, in connection with the balance of cash on hand December 31, 1920, of . . . . .	268,275 14	
		<hr/>
Aggregated the sum of . . . . .		\$11,357,561 32
The remainder becoming a matter of transfer to the city treasury, and by it devoted to the acquirement of general fund bonds amounting to the sum of . . . . .		<hr/>
		\$32,500,000 00
		<hr/> <hr/>
The other sinking funds of the City of New York are detailed as follows:		

*Sinking Fund of the City of New York*

The cash balance of this account on January 1, 1920, was . . . . .		\$553,631 12
To this was added during the year, cash receipts as follows:		
Annual installment from 1920 tax budget . . . . .	\$8,000,000 00	
Revenue from investments . . . . .	4,006,435 32	
Moneys received from the city treasury on account of redemption of its obligations, as held for investments by this fund (See Schedule "A") . . . . .	10,630,000 00	
*Investments of this fund maturing in 1920, redeemed by sinking fund for redemption of City Debt No. 1 . . . . .	172,000 00	
*Investments of this fund maturing in 1920, redeemed by Water Sinking Fund, City of New York . . . . .	25,000 00	
Interest on balances of sinking fund bank deposits . . . . .	21,636 84	
apid transit railroad rentals . . . . .	4,234 54	
		<hr/>
		22,859,306 70
This makes a total for the year . . . . .		\$23,412,937 82
Out of which there were disbursements in cash as follows:		
Investments in corporate stock of the City of New York . . . . .	\$1,396,000 00	
Investments in miscellaneous securities of the City of New York (See Schedule "B") . . . . .	1,760,000 00	
Investments in serial bonds of the City of New York (See Schedule "B") . . . . .	700,000 00	
Investments in corporate stock notes of the City of New York, issued in anticipation of the sale of corporate stock (See Schedule "B") . . . . .	12,430,000 00	
*Investments of the sinking fund for the redemption of city debt (No. 1 purchased) . . . . .	6,675,780 67	
*Redemptions of corporate stock held by the sinking fund for the redemption of City Debt No. 1 . . . . .	230,686 78	
Accrued interest on corporate stock purchased as investment . . . . .	6,456 76	
*Installments of rapid transit rentals paid to this account in 1919 in error . . . . .	40,248 52	
These disbursements in connection with the balance of cash on hand December 31, 1920, of . . . . .	173,765 09	
		<hr/>
Aggregated the sum of . . . . .		23,412,937 82
		<hr/> <hr/>

*Rapid Transit Sinking Fund of the City of New York*

The cash balance of this account on January 1, 1920,  
was . . . . . \$39,079 46

To this was added during the year, cash receipts as follows:

Annual installment for 1920 tax budget . . . . .	\$1,225,000 00	
Revenue from investments . . . . .	262,709 33	
Moneys received from the city treasury on account of the redemption of its obligations as held for investments by this fund (See Schedule "A") . . . . .	300,000 00	
*Rapid transit installments paid to this fund by the Sinking Fund of the City of New York which were paid to that fund in the year 1919 in error . . . . .	40,248 52	
Interest on balance of sinking fund bank deposits . . . . .	1,400 15	
		<u>1,829,358 00</u>

This make a total for the year . . . . . \$1,868,437 46

Out of which there were disbursements as follows:

Investments in corporate stock notes of the City of New York issued in anticipation of the sale of corporate stock (See Schedule "B") . . . . .	\$555,942 73
Investments in corporate stock of the City of New York (See Schedule "B") . . . . .	1,303,000 00
These disbursements in connection with the balance of cash on hand December 31, 1920, of . . . . .	9,494 73

Aggregated the sum of . . . . . 1,868,437 46

*Water Sinking Fund of the City of New York*

The cash balance of this account on January 1, 1920,  
was . . . . . \$108,948 08

To this was added during the year, cash receipts as follows:

Moneys received from the city treasury on account of the redemption of its obligations as held for investments by the fund (See Schedule "A") . . . . .	\$4,500,000 00	
Revenue from investments . . . . .	820,030 78	
Interest on balances of sinking fund bank deposits . . . . .	8,930 02	
		<u>5,328,960 80</u>

This makes a total for the year . . . . . \$5,437,908 88

Out of which there were disbursements in cash as follows:

Investments in miscellaneous bonds of the City of New York (See Schedule "B") . . . . .	\$600,000 00
Investments in corporate stock notes of the City of New York issued in anticipation of the sale of corporate stock (See Schedule "B") . . . . .	700,000 00
*Redemption of corporate stock held by the public . . . . .	4,012,110 00
*Redemption of corporate stock held by the Sinking Fund of the City of New York . . . . .	25,000 00
These disbursements in connection with the balance of cash on hand December 31, 1920, of . . . . .	100,798 88

Aggregated the sum of . . . . . 5,437,908 88

*Sinking Fund of the City of Brooklyn*

The cash balance of this account on January 1, 1920, was.....		\$129,832 43
To this was added during the year cash receipts as follows:		
Bonds and mortgages, East Side Parkland:		
Principal.....	\$3,024 00	
Interest.....	2,019 20	
Moneys received from the city treasury on account of the redemption of its obligations as held for investments by this fund (See Schedule "A")..	700,316 96	
Prospect Park improvement:		
Installments.....	191 04	
Interest on installments.....	89 77	
Revenue from investments.....	289,616 34	
Interest on balances of sinking fund bank deposits	3,537 61	
		<hr/> 998,794 92

This makes a total for the year.....		\$1,128,627 35
Out of which there were disbursements of cash as follows:		
Investments in corporate stock notes of the City of New York issued in anticipation of the sale of corporate stock (See Schedule "B").....	\$250,000 00	
Investments in tax notes of the City of New York (See Schedule "B").....	250,000 00	
Investments in serial bonds of the City of New York (See Schedule "B").....	400,000 00	
Redemption of corporate stock held by the public	95,000 00	
These disbursements in connection with the balance of cash on hand December 31, 1920, of	133,627 35	
Aggregated the sum of.....		<hr/> 1,128,627 35

*Water Sinking Fund of the City of Brooklyn*

The cash balance of this account on January 1, 1920, was.....		\$44,438 62
To this was added during the year cash receipts as follows:		
Moneys received from the city treasury on account of the redemption of its obligations as held for investments by this fund (See Schedule "A")..	\$1,500,000 00	
Surplus water rents from water revenue, borough of Brooklyn.....	3,284,445 70	
Revenue from investments.....	196,041 40	
Interest on balances of sinking fund bank deposits	10,299 49	
		<hr/> 4,990,786 59
This makes a total for the year.....		\$5,035,225 21

Out of which there were disbursements in cash as follows:		
Investments in corporate stock of the City of New York (See Schedule "B").....	\$600,000 00	
Investments in serial bonds of the City of New York (See Schedule "B").....	425,000 00	
Investments in miscellaneous bonds of the City of New York (See Schedule "B").....	400,000 00	
Investments in corporate stock notes of the City of New York issued in anticipation of the sale of corporate stock (See Schedule "B").....	3,490,000 00	
Purchases from the public of New York city securities.....	74,605 00	



Accrued interest on bonds purchased from the public.....	\$1,054 95	
These disbursements in connection with the balance of cash on hand December 31, 1920, of	44,565 26	
	<hr/>	
Aggregated the sum of.....		\$5,035,225 21
		<hr/> <hr/>

*Sinking Fund of the Long Island City for the Redemption of Fire Bonds*

The cash balance of this account on January 1, 1920, was.....		\$11,656 54
To this was added during the year cash receipts as follows:		
Revenue from investments.....	\$690 00	
Interest on balances of sinking fund bank deposits	239 98	
	<hr/>	929 98
		<hr/>
This makes a total for the year.....		\$12,586 52
There were no expenditures from this fund during the year 1920.		
The cash balance on hand December 31, 1920, was		\$12,586 52
		<hr/>

The general method of making transfers between funds, at least as regards all of the largest of those transfers, has been uniform in the years prior to 1920 as far back as 1903, in which year charter authority was granted to the acquiring of general fund bonds. For example, the annual transfers from the interest sinking fund account to the No. 1 account corresponding with the item of \$13,300,000 in 1920 are found to have been as follows:

Year	Amount
1898 .....	\$2,500,000 00
1899 .....	1,500,000 00
1900 .....	1,500,000 00
1901 .....	3,000,000 00
1902 .....	4,750,000 00
1903 .....	4,515,000 00
1904 .....	4,300,000 00
1905 .....	4,950,000 00
1906 .....	5,650,000 00
1907 .....	7,450,000 00
1908 .....	8,000,000 00
1909 .....	9,250,000 00
1910 .....	9,000,000 00
1911 .....	8,000,000 00
1912 .....	7,000,000 00
1913 .....	11,250,000 00

Year	Amount
1914 .....	11,700,000 00
1915 .....	10,650,000 00
1916 .....	9,700,000 00
1917 .....	*11,300,000 00
1918 .....	11,250,000 00
1919 .....	11,250,000 00

## EXHIBIT " J "

HON. SCHUYLER M. MEYER, *Chairman,*

HON. ELON R. BROWN, *Chief Counsel,*

*New York State Legislative Committee to Investigate  
Affairs of the City of New York:*

DEAR SIRS.—The problem of providing a proper system of sounder amortization of the city's bonds held by the public is the most serious problem arising from the city's funded debt. A tabulation of all the maturities from 1922 to 1967, inclusive, shows that these were of record by the city as outstanding debt, on December 31, 1920, in the aggregate sum of \$914,441,412.68.

These issues were put out without any attempt to average the maturities by years. The borrowings were not required in the course of a long and uniform spreading out of constructive or other needs, necessitating the issue of about so many bonds in each of several years. The single project of rapid transit piled up a huge obligation needing to be met years hence, but no better apportioned to the fiscal opportunities of those future years than to present a series of balances (at least as now outstanding) of:

Maturities 1954 to 1960, inclusive.....	427 millions
Maturities 1961 .....	.... no maturities
Maturities 1962 to 1967, inclusive.....	307 millions

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734 millions

or about 80 per cent of the entire 914 millions, and this 80 per cent calling for redemption in the 14 years beginning with 1954. No redemptions are to occur in 1931, 1938, 1939, 1943, 1944, 1945, 1946 and 1947.

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\* This amount includes an item of \$800,000.00 which is an Investment in Rapid Transit Railroad Note No. 2026, purchased by the Sinking Fund for the payment of interest on the City Debt from the Sinking Fund for the Redemption of City Debt No. 1.

Furthermore the operations of sinking fund purchases of the city's own securities have had, and as long as continued must always have, the effect of constantly disarranging the quantities of oncoming annual redemption of publicly held bonds.

It is manifest that with but 70 millions of debt coming due between 1922 and 1936, and 62 millions coming due between 1937 and 1951, some fair, sound, business-like scheme of amortization is needed to provide for the enormous demands which may be made upon the city's treasury within the few years to follow the middle of the present century, and which will be made unless there are large refunding operations.

Such a scheme is available and is herein presented. It combines four main features, viz.:

First.—A fixed sum of annual contributions, subject to no variation whatever until 1967, save as the compounding interest rate of 5 per cent on sinking fund investments may prove to be slightly above or below the average money rate for such investments throughout the entire period.

Second.—It automatically rises by gradual steps, *i. e.*, accretions of unused balances, year by year, to a peak of 279 millions of dollars in the fund by 1953, and descends to a negligible sum left over, at the end of 1967, amounting to less than \$30,000.

Third.—The annual installment to be raised, \$42,800,000 annually, is a less sum than the aggregates of simple debt, plus interest on unpaid debt, in 21 of the 46 years beginning with 1922, and in fact less than the amount of the city's needs to redeem bonds and pay interest during that first year, 1922, to wit, \$44,343,103.64.

Fourth.—The accumulation of interest on sinking fund balances during the 46 years, figured at 5 per cent, or made equal to that rate of income by budgetary adjustment in any year in which there might be a surplus or deficiency, is an aggregate income of no less than \$234,543,352.56, all of which except an odd \$29,000 of final surplus may be made applicable to the retirement of a volume of debt now exceeding nine hundred millions of dollars.

In support of the plan a tabulation is appended hereto showing the details, year by year. Of its seven columns the first three, showing (1) debt to be met, (2) decreasing volumes of interest, and (3) the total burden of each year, will be found to be self-

explanatory. To these charges, in a fourth column, is added (4) the average cost of meeting payments at different periods within each year. The fifth, sixth and seventh columns are of the nature of credits, *i. e.*, respectively, (5) the values of \$42,800,000 contributed at the beginning of each year and invested at 5 per cent until the end of that year, (6) the increment at the same rate of interest on unexpended balances, and (7) the balances themselves, at the end of each year, cleared of redemptions, interest charges, and carrying charges (averaged) on the disbursement of interest.

These figures are offered as a fair general statement of conditions, prepared on an actuarial basis. We believe that this method can be availed of as the solution of one of New York city's most compelling problems. If sinking funds are hereafter created, in respect of new debt, the same plan may be applied or serial bonds issued without sinking funds at approximately balanced dates of maturity.

The raising of the fixed annual contributions for amortization purposes should be mandatory, varied by no surpluses or deficiencies except as the 5 per cent compounding interest rate might be found to vary. The character of investments should be carefully restricted, but with such restrictions the city may safely and confidently avail itself of the plan. It provides the utmost of protection to the bondholders; it relieves the inequalities which now imperil fiscal safety in future years, when vast, wholly unclassified obligations will need to be faced; it is a method in accord with the principles of such business foresight as is exercised by the largest corporations, notably banks, insurance companies, and many other organizations which need to take a forward look at large problems demanding scientific provision for debt service, based on the strictest of amortization.

Very respectfully yours,

PERINE & NICHOLS.

New York, N. Y., September 9, 1921.

REPORT ON THE CITY OF NEW YORK, MADE FOR THE NEW YORK STATE LEGISLATIVE COMMITTEE TO INVESTIGATE THE AFFAIRS OF THE CITY OF NEW YORK

Statement of amortization requirements during the forty-six years from 1922 to 1967 inclusive, showing that a series of annual contributions of \$42,800,000 each, with accumulated income at 5 per cent per annum on those contributions, and with the same rate of income compounded on the unexpended balances of each year, after retiring the maturing bonds of all the years, and all accruing interest on those bonds, will, by December 31, 1967, pay off the entire debt and its interest, leaving a surplus of \$29,811.22. (The \$914,441,412.68 of debt treated hereunder is that portion of the city's outstanding bonds [exclusive of 1921 maturities] publicly held as of December 31, 1920, which were redeemable on a basis of sinking fund requirements.)

Years	DEBIT			CREDIT		
	Maturing debt	Accruing interest	Total debt and interest	2½ per cent. on debt and interest	Contributions per cent. on \$42,800,000.00 at 105	Balances at end of years
1922	\$7,335,200.00	\$87,007,903.64	\$44,343,103.64	\$1,108,577.58	\$44,940,000.00	*\$511,681.22
1923	855,000.00	36,751,271.64	37,606,271.64	1,940,186.78	44,940,000.00	5,856,306.30
1924	5,210,371.00	36,725,621.64	41,935,992.64	1,048,389.80	44,940,000.00	8,104,729.18
1925	2,138,149.65	36,556,450.51	38,694,600.16	967,365.00	44,940,000.00	13,788,000.48
1926	2,320,000.00	36,487,402.52	38,807,402.52	970,185.05	44,940,000.00	19,639,812.93
1927	4,196,000.00	36,401,647.52	40,597,647.52	1,014,941.18	44,940,000.00	23,949,214.88
1928	12,989,492.36	36,254,287.52	49,243,779.88	1,231,094.48	44,940,000.00	23,949,214.88
1929	20,735,607.32	35,799,155.29	56,534,762.61	1,413,369.05	44,940,000.00	19,611,801.26
1930	1,196,500.00	35,119,184.03	36,315,684.03	907,892.10	44,940,000.00	7,584,259.66
1931	.....	35,077,306.53	35,077,306.53	876,932.65	44,940,000.00	15,479,896.51
1932	.....	35,077,306.53	35,177,306.53	879,432.65	44,940,000.00	25,449,652.16
1933	.....	35,073,806.53	35,573,806.53	889,345.15	44,940,000.00	35,605,395.50
1934	.....	35,056,806.53	35,186,806.53	878,929.15	44,940,000.00	45,862,513.69
1935	.....	35,053,306.53	35,286,306.53	872,157.65	44,940,000.00	57,089,912.69
1936	.....	35,045,151.53	37,962,893.54	1,199,072.33	44,940,000.00	68,084,444.14
1937	12,917,742.41	34,538,055.54	36,014,380.54	1,900,359.50	44,940,000.00	79,316,795.04
1938	.....	34,486,384.16	34,486,384.16	862,159.60	44,940,000.00	92,874,091.03
1939	.....	34,486,384.16	34,486,384.16	862,159.60	44,940,000.00	107,109,251.82
1940	21,225,249.04	34,486,384.16	55,711,633.20	1,392,790.83	44,940,000.00	100,336,290.38
1941	14,958,025.90	33,743,650.44	48,701,673.34	1,217,541.90	44,940,000.00	100,336,290.38
1942	4,659,950.00	33,223,819.53	37,883,769.53	947,094.23	44,940,000.00	111,462,027.23
1943	.....	33,060,721.28	33,060,721.28	826,518.03	44,940,000.00	128,087,889.28
1944	.....	33,060,721.28	33,060,721.28	826,518.03	44,940,000.00	145,545,044.43
1945	.....	33,060,721.28	33,060,721.28	826,518.03	44,940,000.00	163,875,057.34
1946	.....	33,060,721.28	33,060,721.28	826,518.03	44,940,000.00	183,121,570.90
1947	.....	33,060,721.28	33,060,721.28	826,518.03	44,940,000.00	203,330,410.14

REPORT ON THE CITY OF NEW YORK, MADE FOR THE NEW YORK STATE LEGISLATIVE COMMITTEE — (Concluded):

Years	DEBIT				CREDIT			Balances at end of years
	Maturing debt	Accruing interest	Total debt and interest	2½ per cent. on debt and interest	Contributions per cent. on \$42,800,000.00 at 105	5 per cent. on previous years' balances		
1948.....	3,875,000 00	33,060,721 28	36,935,721 28	923,393 03	44,940,000 00	10,166,520 51	220,577,816 34	
1949.....	3,910,500 00	32,925,096 28	36,835,596 28	920,889 90	44,940,000 00	11,028,890 82	238,790,220 98	
1950.....	4,000,000 00	32,788,228 78	36,788,228 78	919,705 70	44,940,000 00	11,939,511 05	257,961,797 55	
1951.....	8,495,900 00	32,655,728 78	41,151,628 78	1,028,790 70	44,940,000 00	12,898,089 88	273,619,467 95	
1952.....	24,869,300 00	32,358,372 28	57,227,672 28	1,430,691 80	44,940,000 00	13,680,973 40	273,582,077 27	
1953.....	20,376,120 00	31,487,946 78	51,864,066 78	1,296,601 65	44,940,000 00	13,679,103 86	279,040,512 70	
1954.....	78,607,070 00	30,774,782 58	109,381,852 58	2,734,546 30	44,940,000 00	13,952,025 64	225,816,139 46	
1955.....	32,342,480 00	28,023,535 13	60,366,015 13	1,509,150 38	44,940,000 00	11,290,806 97	220,171,780 92	
1956.....	38,023,500 00	26,792,335 93	64,815,835 93	1,620,395 88	44,940,000 00	11,008,589 05	209,684,138 16	
1957.....	96,930,840 00	25,271,395 93	122,202,235 93	3,055,055 88	44,940,000 00	10,484,206 91	139,851,053 26	
1958.....	21,999,500 00	20,984,172 33	42,983,672 33	1,074,591 80	44,940,000 00	6,992,552 66	147,725,341 79	
1959.....	50,500,000 00	20,104,192 33	70,604,192 33	1,765,104 80	44,940,000 00	7,386,267 09	127,682,311 75	
1960.....	109,465,000 00	18,084,192 33	127,549,192 33	3,188,729 80	44,940,000 00	6,384,115 59	48,268,505 21	
1961.....	.....	13,431,929 83	13,431,929 83	335,798 23	44,940,000 00	2,413,425 26	81,854,202 41	
1962.....	64,425,600 00	13,431,929 83	77,857,619 83	1,946,440 48	44,940,000 00	4,062,710 12	51,082,852 22	
1963.....	44,999,000 00	10,693,838 00	55,693,738 00	1,392,343 45	44,940,000 00	2,554,142 61	41,490,913 38	
1964.....	64,995,000 00	8,668,842 50	73,663,842 50	1,841,596 03	44,940,000 00	2,074,545 67	13,000,020 50	
1965.....	46,000,000 00	5,906,555 00	51,906,555 00	1,297,663 88	44,940,000 00	650,001 03	5,385,802 65	
1966.....	40,000,000 00	3,836,555 00	43,836,555 00	1,095,913 88	44,940,000 00	269,290 13	5,662,623 90	
1967.....	47,479,000 00	2,136,555 00	49,615,555 00	1,240,388 88	44,940,000 00	283,131 20	29,811 22	
Totals.....	\$914,441,412 68	\$1,331,171,798 78	\$2,245,613,211 46	\$56,140,329 88	\$2,067,240,000 00	\$234,543,352 56	\$29,811 22	
Net credit balance.....	.....	.....	.....	.....	.....	.....	.....	

\* Two items above are charges (in 1922-3) preliminary to the permanent establishing of the Sinking Fund on a credit basis.

## EXHIBIT "K"

*Memorandum by Counsel for the Joint Legislative Committee on the Constitutional Limitation of the Taxing Power of the City of New York*

The 2 per cent tax limit is fixed and determined by the valuation of the real and personal estate of the city as shown by the last or 1920 assessment rolls, and not as shown by the 1921 assessment rolls. The city has therefore in 1921 exceeded the prescribed tax limit by \$20,000,000.

This proposition is supported in *Emerson, et al.*, constituting the Board of Education of the City of Buffalo v. *Buck, et al.*, constituting the Council of the City of Buffalo, 230 N. Y. 380, decided by the Court of Appeals March 1, 1921.

The controversy arose between the City Council and the Buffalo Board of Education. The demands of the Board of Education coupled with the requirements of other departments of the city government would have increased the budget beyond the constitutional tax limit provided that limit was fixed by the valuation of the preceding year. The assessment for the current year 1920 had been raised about \$50,000,000, and if the limit was applicable to such assessment, the city had abundant taxing power to meet all the demands made by the board. The case was one for mandamus. Distinguished counsel were employed on both sides, and adopted without controversy the assessment of the prior year as the measure of the tax limit. The Court of Appeals in its opinion adopted this rule, and applied it in making its decision. The case is therefore on all four with the question as presented in New York.

The proposition is supported by reason as well as by authority.

This provision in the constitution was adopted in 1884 by article 8, section 11, and now appears in section 10 of article 8, and reads as follows: "The amount hereafter to be raised by tax for county or city purposes in any county containing a city of over one hundred thousand inhabitants or any such city of this State, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt."

The provision referred to "in this section in respect to county or city debt" reads "No county or city shall be allowed to be-

come indebted for any purpose or in any manner to an amount which including existing indebtedness shall exceed *ten per centum of the assessed valuation of the real estate of such county or city, subject to taxation as it appeared by the assessment rolls of said county or city on the last assessment for state or county taxes prior to the incurring of such indebtedness.*"

Applying the language of the latter provision to the former, the provision would read, "The amount hereafter to be raised by tax for county or city purposes in any county containing a city of over one hundred thousand inhabitants, or any such city of this State, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city [to be ascertained as prescribed in this section in respect to county or city debt] *subject to taxation as it appeared by the assessment rolls of said county or city on the last assessment for State or county taxes prior thereto.*"

The plain meaning of this language is that the limitation is as to the assessment of taxes in the preceding year.

(a) The assessment rolls referred to are not the assessment rolls in the course of preparation by the tax department, for use in assessing the State or county taxes, but they are the complete assessment rolls "of said city on the last assessment for state or county taxes prior thereto," after such assessment or levy is made by the Board of Aldermen. It cannot be said that there was an assessment for State and county taxes when the assessment rolls of 1921 were prepared and delivered to the Board of Aldermen. It is true that the real and personal estate of the city had been set down in the assessment rolls, and those assessment rolls delivered to the Board of Aldermen for the purpose of assessing or levying the taxes, but it cannot be said that such rolls of 1921 were the rolls "on the last assessment for state or county taxes prior thereto" at the time the city tax of 1921 was levied.

Assessment rolls are not completed until the tax is extended, and the extension is not finally completed until the warrant is signed fixing the levy, as the board may change or correct the extension of the tax until the warrant is issued, when it passes beyond their jurisdiction. Under existing statutes this must be done by March 28th. When the said levy was made in March, the last assessment for State or county taxes was the assessment of 1920 and not the assessment of 1921, and the reference is, therefore, to the rolls of 1920 and not to the rolls of 1921.



The word "assessment" clearly means the completed assessment or levy, and not uncompleted assessment rolls submitted to the aldermen who extend and levy the tax, and the reference is not to incomplete but to complete assessment rolls.

(b) The limitation should be construed to refer to an assessment for State and county purposes in the preceding year. It will be noted that the tax imposed cannot "*in the aggregate* exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city as it appeared by the assessment rolls of said county or city on the last assessment for state or county taxes." The year referred to is a calendar year. When a levy of city taxes is to be made, the test to be applied is, "Will such tax with prior taxes in the same year exceed two per cent?" If so, it is prohibited. It is not a reasonable interpretation of the provision to refer it to the assessment of State or county taxes levied during such year, since it is the "aggregate" of city taxes for the year which is referred to a former assessment. If it does not refer to the prior year, the following situation might arise: The city might levy two taxes in the same year, one before and one after the levying of the State and county taxes for that year. It is intolerable that a tax levy by the city should ever, in any contingency, depend for its validity upon an assessment for State or county taxes made after such city tax was levied. The levy of the first city tax in such a case would have a constitutional limit in the assessment for State or county taxes for the preceding year, and the later levy would have a constitutional limitation based on the same year. It is equally intolerable that such a limit on the first levy during the year by the city should be a different and other limit than the limit on a second levy by the city in the same year, made after the State and county taxes were levied for that year; or that the limit should be one figure for part of the year, and another figure for another part of the same year. It cannot be that the framers of the Constitution intended to make the limitation of 2 per cent in the aggregate in any one year depend upon the statutory calendar for levying taxes of that year, or upon a levy of State or county taxes during the year.

(c) The language of the amendment "as it *appeared*" by the assessment rolls on the last assessment of State or county taxes refers to a past event, not to a concurrent event. Had it referred to the assessment rolls on which the tax for 1921 was levied, the

language would have been in the present tense, and not in the past tense. It would then have read "as it appears" instead of reading "as it appeared."

It must be borne in mind that the levy of the city taxes is not necessarily made at the same time as the levy of the State and county taxes. As this is statutory, and the statute could provide for the levy of the city taxes in January and the levy of State and county taxes, not in March or April, but in any other month down to December, it is clear that if the State taxes were levied in December, and the city taxes in any preceding month, the limitation of 2 per cent would be on the assessment rolls used in levying the last State and county taxes. The levy is now made concurrently, at the same time, to wit, on March 28th, and the limitation as to city taxes is 2 per cent of the real and personal estate as it appeared by the assessment rolls on the "last assessment" for State or county taxes. This language is not apt to describe the assessment rolls on which the tax for State and county purposes, and for city purposes, is concurrently levied. The levy is limited by what appeared at a previous assessment, and not by what appears at a present assessment. The present assessment is not a past event and the reference is clearly to a past event. The Board of Aldermen being ready to levy the tax must consult the "last assessment for state and county taxes" to find the limitation on their power to levy and not to the assessment for State and county taxes they are about to levy.

(d) The city authorities have to be advised of the limit of the city's capacity to incur expense within the 2 per cent limit during the period prior to the assessment. The city expenditures for which the year's taxes provide, are going on for three months before the assessment is made. In fact the budget is adopted by the Board of Estimate five months before the assessment, or by November 1st of the preceding year. It cannot be that the city is to make up its tax budget or incur expense without reference to this limitation until the assessment is completed later in the year. Nor can the city have one limitation, namely, on the assessment of the preceding year until the new assessment is made, and then change the limitation to the new assessment, having two limitations in the same year. The new assessment might be less than the assessment of the former year. The limitation must be one and invariable, and if the new assessment shows a smaller tax roll, the tax will still be justified if not more than 2 per cent of the assessment roll of the preceding year.

The importance of this suggestion was greater under the charter of the City of New York as it stood at the time the constitutional amendment of 1884 was adopted than now. Then the assessment was not made until July, and as statutes in force at the time may be considered in the interpretation of a constitutional enactment, regard will be had to the law and practice prevailing at the time.

It has been suggested that the purpose of the Constitution was to limit the levy to 2 per cent of the assessment roll. This suggestion would be stronger if it were not for the fact that the 2 per cent limitation is in addition to providing for the interest and principal of the existing debt. The limitation is, therefore, never 2 per cent, but 2 per cent plus the interest and principal of debt. I think the more reasonable construction is that the limitation when fixed had to be an arbitrary one, and 2 per cent was fixed as that arbitrary limit. The basis of the tax on which the 2 per cent was levied had also to be arbitrary, and that was fixed as the last assessment for State or county taxes. I therefore see nothing in the provision which connects the 2 per cent with the valuation in the year in which the tax is levied.

#### EXHIBIT "L"

*Memorandum by Counsel for the Joint Legislative Committee  
on the Constitutional Limitations of the Debt Incurring  
Power of the City of New York.*

The Constitution does not warrant the exclusion of \$120,000,000 of dock and rapid transit bonds for general purposes, as appears in the comptroller's debt limit statement. The exclusion can be made for a specific purpose only, and the debt incurring power of the city is increased for no other purpose. Except for a special purpose, the excluded bonds as well as the debt incurred after their exclusion must be treated as a part of the debt of the city in determining its debt limit.

The limitations are all contained in section 10, article 8, of the Constitution, as amended in 1909, a copy of which is hereto annexed, with the *italic* type showing the amendments then made. A further amendment was made in 1917 to exclude the water debt in cities of the first class other than the City of New York, but in no way changing the limitations as to New York. The section has grown out of section 9, article 8, of the Constitution of 1846, which was amended as section 11, article 8, in 1874

and 1884, and as section 10, article 8, in 1894, 1899, 1903 and 1907. The clause under discussion in the amendment of 1909 reads:

(1) "and except further that any debt hereafter incurred by the city of New York for a public improvement owned or to be owned by the city, which yields to the city current net revenue, after making any necessary allowance for repairs and maintenance for which the city is liable, in excess of the interest on said debt and of the annual instalments necessary for its amortization may be excluded in ascertaining the power of said city to become otherwise indebted, provided that a sinking fund for its amortization shall have been established and maintained and that the indebtedness shall not be so excluded during any period of time when the revenue aforesaid shall not be sufficient to equal the said interest and amortization instalments;"

(2) "and except further that any indebtedness heretofore incurred by the city of New York for any rapid transit or dock investment may be so excluded proportionately to the extent to which the current net revenue received by said city therefrom shall meet the interest and amortization instalments thereof, provided that any increase in the debt incurring power of the city of New York which shall result from the exclusion of debts heretofore incurred shall be available only for the acquisition or construction of properties to be used for rapid transit or dock purposes. The legislature shall prescribe the method by which and the terms and conditions under which the amount of any debt to be so excluded shall be determined, and no such debt shall be excluded except in accordance with the determination so prescribed. The legislature may in its discretion confer appropriate jurisdiction on the appellate division of the supreme court in the first judicial department for the purpose of determining the amount of any debt to be so excluded."

The city could thus increase its debt-incurring power for dock and rapid transit construction (but for no other purpose) by the exclusion of self-supporting past indebtedness incurred for these purposes. The test would then be, if the city exceeded its normal debt-incurring power, whether the excess over such normal limit was in fact incurred for docks and rapid transit.

The purpose of the enactment of 1909, briefly stated, was to enable the city to increase its debt-incurring power, by excluding

from the city debt self-supporting investments whether in docks, rapid transit or other municipal income paying enterprises. But while conferring this power, extraordinary precautions were taken against increasing the debt-incurring power for investments in enterprises that were not self-supporting.

(a) By providing,

*“And except further that any debt hereafter incurred by the city of New York for a public improvement owned or to be owned by the city, which yields to the city current net revenue, after making any necessary allowance for repairs and maintenance for which the city is liable, in excess of the interest on said debt and of the annual installments necessary for its amortization may be excluded in ascertaining the power of said city to become otherwise indebted, provided that a sinking fund for its amortization shall have been established and maintained and that the indebtedness shall not be so excluded during any period of time when the revenue aforesaid shall not be sufficient to equal the said interest and amortization installments.”*

The exemption ceases to be effective as soon as the enterprise ceases to be self-supporting, or requires the imposition of a tax on the city.

(b) By providing,

*“and except further that any indebtedness heretofore incurred by the city of New York for any rapid transit or dock investments may be so excluded proportionately to the extent to which the current net revenue received by said city therefrom shall meet the interest and amortization installments thereof, provided that any increase in the debt incurring power of the city of New York which shall result from the exclusion of debts heretofore incurred shall be available only for the acquisition or construction of properties to be used for rapid transit or dock purposes.”*

The city has assumed that by making an expenditure equal to such excluded bonds, the exclusion becomes complete for all purposes; or, stated in another way, that after adding to the city debt by expending \$120,000,000 in nonself-supporting municipal enterprises (principally rapid transit) it was also entitled, in determining its debt-incurring power, to deduct for all purposes the bonds, excluded by the Appellate Division for a single pur-

pose, and treat them as exempt like water bonds. The effect of this process has been to increase the city's debt-incurring power for all purposes, and so of course for other purposes than docks or rapid transit, beyond what it was before the constitutional enactment.

Of course, but for this amendment both the bonds excluded for past indebtedness and the new expenditure for rapid transit and docks would have been computed as a part of the debt. The terms of the enactment show that, except in the case of docks and rapid transit, it was intended that both of such expenditures should still be computed as part of the debt unless the new expenditure came under clause (1) and became totally exempt because it was self-supporting.

The suggestion is made that the failure to thus increase the debt-incurring power, for other purposes than dock and rapid transit, would cripple the city financially. The answer is that it was the plain intention to do so, unless the city keeps within the constitutional limitations imposed. The 10 per cent limit was so intended, as were the carefully imposed restrictions in permitting certain exceptions to this limit, including the provision that exemptions for self-supporting enterprises will be lost or suspended if and while they cease to be self-supporting. Neither of these provisions is more drastic than the rule laid down as applicable to all cities that "all indebtedness in excess of such limitations except such as now may exist, shall be absolutely void except as herein otherwise provided. No county or city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation, shall be allowed to become indebted to any further amount until such indebtedness shall be reduced within such limit." The purpose of these limitations is clearly set forth by Judge Finch in the case of *Rochester v. Quintard*, 136 N. Y. 221, where it is said:

"The obvious theory of the constitutional provision is that the smaller cities of the state needed but one restraint and that relating to the purpose and occasion of their indebtedness, and not to its amount. Such cities were not likely, with their smaller necessities to make large loans and contract heavy debts, and so were left without restriction upon amounts or terms, save such as the citizens might themselves impose. But the larger cities, with their greater needs and the pressure of much more numerous non-taxpayers, and their swarm of claimants on the public treasury, did need

restraint, not only as to the purposes of the municipal indebtedness, but as to its amount; and so the restriction in that respect also was imposed; and yet, to prevent a greater evil which might result, and open the door to a necessity of the gravest character, it was enacted that even that restraint should not bar the further issue of bonds for a water supply; but since these would add to a debt already crowded to the extreme limit of prudence and safety, it was provided that such added debt should run for a moderate term of credit and be guarded by a sinking fund so as to reduce to the lowest reasonable point the continuance and menace of the debt already too large. The city which availed itself of the exceptional permission could do so only upon the conditions which were attached with a view to making the added debt as little harmful as possible. Of course, the line between the smaller and the larger cities, those which did not and those which did call for a limit of permitted debt, had to be drawn somewhat arbitrarily, and was fixed as the most reasonable test capable of application."

It does not seem to have occurred to the city authorities that the city could easily relieve itself of all embarrassment arising from these limitations by ceasing to roll up a huge indebtedness, which it has no intention of meeting, except by renewal or by substitute obligations greater in amount than the debt redeemed.

It may relieve itself of any embarrassment from the situation thus arising in several ways, some of which do not involve the painful suggestion of part payment of the debt. As an illustration and considering the situation as of January 1, 1921, when 10 per centum of the assessed valuation of the real estate was \$862,000,000, and as such the measure of the debt-incurring power of the city; if we assume that the city at that time had incurred indebtedness to the full measure of \$862,000,000, and had also expended \$120,000,000 for docks and rapid transit under the exclusion of a like amount by the Appellate Division for that specific purpose, the city would then have reached its debt limit on docks and rapid transit and be over the debt limit for all other purposes in the amount of \$120,000,000.

It could be relieved of its embarrassment in three ways:

1. It could pay \$120,000,000 in bonds, whether dock, rapid transit or other bonds, and be restored to its financial condition of solvency or zero, and no longer be over the debt limit.

2. It could increase its assessment more than a billion dollars, as it has done in the last year, and thus restore its financial condition to solvency or zero, and no longer be over the debt limit.

3. It could make the dock and rapid transit investment self-sustaining. Such investment would then immediately come under the first clause of the constitutional amendment of 1909, and as a self-sustaining investment *hereafter* made, become an exempt debt for all purposes. The city would thus be restored to financial solvency for general purposes or to zero.

It is true that the city would not in any of these supposed cases have further debt-incurring power, except for docks or rapid transit, until it had further increased its resources by another step in one of the ways suggested, but being square with the world, it would be in a position to seek and obtain further resources according to its needs and capacities.

It may be further remarked:

(A) The increase in the debt-incurring capacity, arising from the exclusion for a specific purpose only, of past indebtedness, would not have been exhausted by the expenditure of the \$120,000,000 for rapid transit and docks, had such investments been made self-sustaining, for in that case the new investment would immediately have become exempt and deducted from the total indebtedness of the city. The city would then have been in a position to invest another \$120,000,000 in docks and rapid transit and if it was self-sustaining and so within the terms of the first clause of the amendment, suffer no loss of debt-incurring power from the transaction, and the process could be indefinitely repeated.

The potential increase in the debt-incurring capacity arising from the exclusion of past indebtedness incurred for dock or rapid transit, cannot, in view of the refusal to include such indebtedness for any other purpose, be effective until the debt limit for other purposes is reached. It is not an exception as in the case of water bonds, but an exclusion, when the debt limit is computed, for docks and rapid transit only, and is a continuing increase in the debt-incurring power for docks and rapid transit so long as and as often as the new investment becomes self-sustaining.

(B) The objection that such a construction would deprive the city of all debt-incurring power and thus prevent it from making expenditures for necessary municipal purposes, is without force. The provision was enacted in contemplation of the possible



exhaustion of the debt-incurring power by the new investments if they were not self-sustaining. At the same time this was enacted (as of January 1, 1910) the provision for special revenue bonds was enacted which provides that the 10 per cent limit shall not prevent the City of New York from issuing bonds to be redeemed out of a tax levy next succeeding the year of their issue "provided the amount of such bonds which may be issued in any one year *in excess of the limitations herein contained*, shall not exceed one-tenth of one per centum of the assessed valuation of the real estate of said city, subject to taxation."

No limit was placed on special revenue bonds until the city had otherwise reached its debt limit, and then they were reduced to one-tenth of 1 per cent. This was clearly enacted with reference to the complete exhaustion of the city's debt-incurring power. The whole section bristles with warnings against the exhaustion of the debt-incurring power and visits the remedy on the offender.

(C) That such is the true construction is apparent from the omission in the constitutional amendment of 1909 of a requirement for a sinking fund for debt incurred for rapid transit or docks by reason of the exclusion of *previous investment* in docks and rapid transit, the only requirement being in such case that the exclusion for the special purpose shall be limited "proportionately to the extent to which the current net revenue received by said city therefrom shall meet the interest and amortization installments thereof." The provision suspending the exclusion during a period, if any, when the sinking fund was not maintained, or the revenue was not sufficient to equal the interest and amortization installments, applicable to expenditure *hereafter* made was not here repeated. A sufficient check against a non-self-supporting investment was provided in the resulting loss of debt-incurring power, and in the means opened to the city of relieving itself of such loss by the provision under the first clause exempting such debts completely where they were self-sustaining.

Both clauses must be construed together, and the constitutional purpose apparent in both enforced. It is *reductio ad absurdum* to conclude that as to indebtedness *hereafter* incurred for revenue producing improvements, the city will be charged with the full amount in limitation of its debt-incurring power, if adequate provision be not made and maintained for interest and amortization requirements from such revenues, and that the limitation will be revived if there is a temporary suspension of the self-support; but that the city can incur at will, indebtedness to the

full amount of bonds excluded for a specific purpose only, without any such check or any check whatever. Each provision supports the other. The investment under the excluded bonds would tide the city over the period of construction. If the city was unwilling to reduce its debt-incurring capacity by the new debt it could be relieved under clause (1) by making it self-sustaining either by the terms of the original investment or by increasing the revenue from its operation.

A good deal of confusion arises from the use in the debt limit statements of the word "exempt" in connection with past investments in docks and rapid transit. No such word occurs in the Constitution. The word there used is "exclude" or "excluded," and the exclusion in case of expenditures *hereafter* made is for general purposes and complete and may properly be described as *exempt*. In the case under consideration, that is, for expenditure *heretofore* made, the exclusion is for a special purpose only, and not to be made use of for any other purpose, and therefore not exempt. The argument that the city was enabled by this constitutional provision to add to its debt by an unproductive investment without suffering a limitation of its debt-incurring power, is not only in conflict with the specific amendment made in 1909, but with the general scope and purpose of the constitutional provisions limiting the indebtedness of cities. It is against the spirit of the Constitution, destructive of the limitations it imposes for the protection not only of the city, but of the State, and has been conceived along lines too common in the City of New York of finding *some* way to get the money without regard to consequences.

The conception that the exclusion of the rapid transit and dock bonds was for all purposes, whether a like amount was expended for a like purpose or not, first appears in the debt limit statement of the Comptroller of December 31, 1910. The conception that the expenditure for docks and rapid transit was to be allocated to the bonds excluded, first appears in the debt limit statement of December 31, 1911. This later view manifestly did not obtain when the statement of December 31, 1910, was made up, as several million dollars were expended for docks and rapid transit between the date of the order of exclusion and the making of the statement. The absence of this statement of fact demonstrates that that claim had not then taken shape. Later debt limit statements made before the expenditure of the full amount of the excluded bonds give the margin for "Rapid Transit only," and the margin for "Various municipal purposes" separately. This

statement is misleading as "Various municipal purposes" included docks and rapid transit, and every dollar of the debt-incurring power, however derived, and whether normal or extraordinary, was available for rapid transit and docks; but the impression is given that "various municipal purposes" does not include docks and rapid transit.

The theory is now boldly put forth that the city is entitled to the exemption of the bonds excluded, for all purposes, *because* of the expenditure of moneys equal in amount to the dock and rapid transit bonds excluded. The error springs from the conception that the expenditure for docks and rapid transit came out of a special fund created by the exclusion of the bonds before the debt limit was reached; and that the increase in the debt-incurring power was thus available for this purpose before the normal debt-incurring power was exhausted. But the city could not avail itself of an increase in the debt-incurring power for a special purpose before the normal debt-incurring power for all purposes was exhausted. It could not reserve its normal debt-incurring power and exhaust the increase for a special purpose. It is like attempting to consume the residue or remainder before consuming the major part, or taking a journey from New York to San Francisco and running first from Denver to Salt Lake City. The debt-incurring power is one power, both before and after its increase, and its exhaustion proceeds as debt is incurred. The normal limit may be reached by indebtedness for any purpose, including docks and rapid transit, and when reached the extraordinary limit or increased debt-incurring power can be availed of for docks and rapid transit only. If its extraordinary or increased debt-incurring power be so exercised, it will be at the expense of the debt-incurring power for every purpose, and the limitation so created will remain until the debt is reduced below the normal constitutional debt limitation.

The conclusion is, that the city has been over the debt limit much of the time for ten years. By reason of the billion dollar increase in the assessment, it now has a margin of \$17,000,000 which may be increased in the several ways suggested in this paper. If the conclusion here reached is ignored, the city will exercise a debt-incurring power of \$137,000,000, which with present demands on the treasury is not likely to last through another calendar year. There is no limit to the exhaustion of the city's credit except the Constitution.

*Limitation of Indebtedness of Counties, Cities, Towns and Villages; Exception as to City of New York*

[Constitution, Art. VIII, Sec. 10, as amended Nov. 2, 1909.]

No county, city, town or village shall hereafter give any money or property, or loan its money or credit to or in aid of any individual, association or corporation, or become directly or indirectly the owner of stock in; or bonds of, any association or corporation; nor shall any such county, city, town or village be allowed to incur indebtedness except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law. No county or city shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city subject to taxation, as it appeared by the assessment rolls of said county or city on the last assessment for State or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation, except such as now may exist, shall be absolutely void, except as herein otherwise provided. No county or city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation, shall be allowed to become indebted in any further amount until such indebtedness shall be reduced within such limit. This section shall not be construed to prevent the issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained, or to be contained in the taxes for the year when such certificates or revenue bonds are issued and payable out of such taxes; *nor to prevent the city of New York from issuing bonds to be redeemed out of the tax levy for the next year succeeding the year of their issue, provided that the amount of such bonds which may be issued in any one year in excess of the limitations herein contained shall not exceed one-tenth of one per centum of the assessed valuation of the real estate of said city subject to taxation.* Nor shall this section be construed to prevent the issue of bonds to provide for the supply of water; but the term of the bonds issued to provide the supply of water, *in excess of the limitation of indebtedness fixed herein, shall not exceed twenty years, and a sinking fund shall be created on the issuing of the said bonds for their redemption, by raising annually*

a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity. All certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes, which are not retired within five years after their date of issue, and bonds issued to provide for the supply of water, and any debt hereafter incurred by any portion or part of a city, if there shall be any such debt, shall be included in ascertaining the power of the city to become otherwise indebted; except that debts incurred by the city of New York after the first day of January, nineteen hundred and four, and debts incurred by any city of the second class after the first day of January, nineteen hundred and eight, and *debts incurred by any city of the third class after the first day of January, nineteen hundred and ten*, to provide for the supply of water, shall not be so included; and *except further that any debt hereafter incurred by the city of New York for a public improvement owned or to be owned by the city, which yields to the city current net revenue, after making any necessary allowance for repairs and maintenance for which the city is liable, in excess of the interest on said debt and of the annual instalments necessary for its amortization may be excluded in ascertaining the power of said city to become otherwise indebted, provided that a sinking fund for its amortization shall have been established and maintained, and that the indebtedness shall not be so excluded during any period of time when the revenue aforesaid shall not be sufficient to equal the said interest and amortization instalments, and except further that any indebtedness heretofore incurred by the city of New York for any rapid transit or dock investment may be so excluded proportionately to the extent to which the current net revenue received by said city therefrom shall meet the interest and amortization instalments thereof, provided that any increase in the debt-incurring power of the city of New York which shall result from the exclusion of debts heretofore incurred shall be available only for the acquisition or construction of properties to be used for rapid transit or dock purposes. The Legislature shall prescribe the method by which and the terms and conditions under which the amount of any debt to be so excluded shall be determined, and no such debt shall be excluded except in accordance with the determination so prescribed. The Legislature may in its discretion confer appropriate jurisdiction on the Appellate Division of the Supreme Court in the first judicial department for the purpose of determining the amount of any debt to be so excluded.*

*No indebtedness of a city valid at the time of its inception shall thereafter become invalid by reason of the operation of any of the provisions of this section.* Whenever the boundaries of any city are the same as those of a county, or when any city shall include within its boundaries more than one county, the power of any county wholly included within such city to become indebted shall cease, but the debt of the county, heretofore existing, shall not, for the purposes of this section, be reckoned as a part of the city debt. The amount hereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants, or any such city of this state, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt.

EXHIBIT "M"

*Analysis Showing the Number of Voters in Selected Election Districts Who Own Real Estate Therein and Pay Taxes Thereon, as Compared with Those Who Do Not*

BOROUGH OF MANHATTAN

<i>7 Assembly District</i>	<i>24 Election District</i>	
Total number of voters in district.....		580
Voters in district paying taxes on real estate.....		61
<i>7 A. D.</i>	<i>30 E. D.</i>	
Total number of voters in district.....		341
Voters in district paying taxes on real estate.....		15
<i>19 A. D.</i>	<i>20 E. D.</i>	
Total number of voters in district.....		417
Voters in district paying taxes on real estate.....		4
<i>19 A. D.</i>	<i>23 E. D.</i>	
Total number of voters in district.....		527
Voters in district paying taxes on real estate.....		2
<i>2 A. D.</i>	<i>15 E. D.</i>	
Total number of voters in district.....		494
Voters in district paying taxes on real estate.....		1

BOROUGH OF RICHMOND

<i>1 Assembly District</i>	<i>7 Election District</i>	
Total number of voters in district.....		285
Voters in district paying taxes on real estate.....		4

1 <i>A. D.</i>	19 <i>E. D.</i>	
Total number of voters in district.....		307
Voters in district paying taxes on real estate.....		51
1 <i>A. D.</i>	13 <i>E. D.</i>	
Total number of voters in district.....		415
Voters in district paying taxes on real estate.....		45
2 <i>A. D.</i>	22 <i>E. D.</i>	
Total number of voters in district.....		534
Voters in district paying taxes on real estate.....		62
<i>A. D.</i>	<i>E. D.</i>	
Total number of voters in district.....		497
Voters in district paying taxes on real estate.....		57

BOROUGH OF BROOKLYN

5 <i>Assembly District</i>	6 <i>Election District</i>	
Total number of voters in district.....		480
Voters in district paying taxes on real estate.....		53
21 <i>A. D.</i>	28 <i>E. D.</i>	
Total number of voters in district.....		331
Voters in district paying taxes on real estate.....		7
6 <i>A. D.</i>	12 <i>E. D.</i>	
Total number of voters in district.....		510
Voters in district paying taxes on real estate.....		61
6 <i>A. D.</i>	2 <i>E. D.</i>	
Total number of voters in district.....		517
Voters in district paying taxes on real estate.....		18
6 <i>A. D.</i>	28 <i>E. D.</i>	
Total number of voters in district.....		461
Voters in district paying taxes on real estate.....		20

BOROUGH OF BRONX

7 <i>Assembly District</i>	20 <i>Election District</i>	
Total number of voters in district.....		569
Voters in district paying taxes on real estate.....		10
7 <i>A. D.</i>	23 <i>E. D.</i>	
Total number of voters in district.....		644
Voters in district paying taxes on real estate.....		16
7 <i>A. D.</i>	25 <i>E. D.</i>	
Total number of voters in district.....		577
Voters in district paying taxes on real estate.....		20
7 <i>A. D.</i>	1 <i>E. D.</i>	
Total number of voters in district.....		512
Voters in district paying taxes on real estate.....		14

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## **FIFTH REPORT**

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### **REPORT AND SUMMARY OF EVIDENCE CONCERNING MANDATORY LEGISLATION, DEPARTMENTS OF POLICE, LICENSES, MARKETS AND PUBLIC WELFARE**

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**REPORT AND SUMMARY OF EVIDENCE CONCERNING  
MANDATORY LEGISLATION, DEPARTMENTS OF  
POLICE, LICENSES, MARKETS AND  
PUBLIC WELFARE**

March 14, 1922.

*To the Legislature and the Charter Revision Commission:*

The New York State Joint Legislative Committee to Investigate the Affairs of the City of New York submits herewith a report and summary of the evidence dealing with certain administrative phases of the municipal and county governments, as follows:

1. Mandatory Legislation Affecting the City of New York.
2. The Administration of the Police Department.
  - (a) Political Interference with Police Administration.
  - (b) Illegal Police Reinstatements.
  - (c) Demoralization of the Quartermaster's Division.
  - (d) 1918 Police Games.
  - (e) Speculation and Money Making by Police Officials.
3. Department of Licenses — Division of Licensed Vehicles.
4. Department of Markets.
5. Department of Public Welfare — Kings County Hospital Job.

In the first report of the Committee, dated December 19, 1921, we recommended the repeal of all mandatory legislation. The first subdivision of this report analyzes in detail the mandatory laws affecting the city. The other subdivisions of this report summarize briefly the evidence adduced by the Committee concerning some of the more conspicuous failures of the city administration to furnish to the citizens of New York an honest and efficient government.

Respectfully submitted,

SCHUYLER M. MEYER,

*Chairman.*

THEODORE D. ROBINSON,  
MAXWELL S. HARRIS,  
FREDERICK W. KAVANAUGH,  
SIMON L. ADLER,  
SOL ULLMAN,  
WALTER W. WESTALL,  
JOHN R. YALE,  
THEODORE STITT.



## MANDATORY LEGISLATION AFFECTING THE CITY OF NEW YORK

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### *Appropriations Which Are Completely Mandatory.*

A study of the effect of mandatory legislation upon the budget for 1921 shows that of the \$112,289,980.61 appropriated for personal service from the Tax Levy Budget of that year \$59,502,062.80 or 52.9 per cent represented mandatory appropriations which could not be increased or decreased by the budget makers, either because the exact amount was fixed by law or because the power of fixation was conferred upon officers other than the budget makers. In this connection, however, it should be noted that in many instances the budget makers have provided salaries in excess of the mandatory rates.

A list of these mandatory positions is set forth in the attached Exhibits 1, 2 and 4. These exhibits contain the citation of the law which compelled each of the appropriations.

### *Prevalence of Mandatory County Legislation.*

Mandatory legislation has concerned itself particularly with fixation of county salaries. Of the \$8,102,975.82 appropriated for personal service in county offices for 1921 \$6,226,532.27, or 76.8 per cent was mandatory as above defined (see Exhibits 1 and 2). The prevalence of mandatory county legislation may be explained in part by the fact that the Mayor has no veto power over bills affecting counties within the city of New York. It is doubtless also due in part to the fact that county officials have no representation upon the Board of Estimate. On the other hand, the heads of so-called "city departments" and "borough departments" have such representation through either the Mayor, Comptroller or a Borough President and hence can more readily secure appropriation which they desire.

### *Items Which Are Partly Mandatory.*

It must not be assumed that the remaining 47.1 per cent of the city budget for personal service or the remaining 23.2 per cent of the appropriation for county salaries is entirely discretionary with the budget makers. On the other hand there are certain classes of appropriations which are partly mandatory, as follows: There

are those as to which any reasonable necessary expense incurred must be paid irrespective of the amount appropriated. An example of this type is the appropriation for fees and commissions for experts employed by the District Attorney; (2) There are those appropriations where the rate of compensation is fixed by law but the number of positions is discretionary, for example, surgeons in the Police Department; (3) There are positions which are fixed by law although the rate of pay for such positions is discretionary. Examples of this type of mandatory legislation are too frequent to require citation; (4) Finally, the maintenance of certain bureaus or divisions is frequently required by law, although no specific position or salary therein is required, for example, Charter provisions specifying what bureaus shall be maintained in the Finance Department.

#### *1902 General Repeal of Mandatory Charter Provisions.*

In 1902 by the enactment of Chapter 435 amending Section 56 of the Charter, the Board of Aldermen was given power "to fix the salary of every officer or person whose compensation is paid out of the city treasury" (with certain specific exceptions) "*irrespective of the amount fixed by this act.*" This was in effect the blanket repealer of all mandatory salary provisions in the charter at that time. Thus the salary of the Mayor, fixed by Charter Section 94 and the salary of the Corporation Counsel, fixed by Charter Section 255, are both discretionary under Charter Section 56. The section fixing the Mayor's salary and the section fixing the Corporation Counsel's salary have both been amended in other particulars since 1902. No change was made in the salary rate however. The Corporation Counsel has held (see opinion June 10, 1915) that so long as the rate was not changed it was the intention of the legislature that the salaries should still be subject to change by the Board of Aldermen under Section 56.

#### *Ancient and Obscure Mandatory Statutes.*

To re-enact today such a repealer as that of 1902 would be of slight value for most mandatory statutes are not part of the Charter. They are to be found in unconsolidated statutes, some dating back as far as 1882, unrepealed sections of the Consolidation Act, various chapters of the Consolidated Laws, the Codes of Civil and Criminal Procedure, etc., etc. For example the new New York City Court act contains no reference to specific salaries,

except that the "salaries shall be fixed as prescribed by law." There are, however, unrepealed provisions of the Consolidation Act which compel certain salaries for interpreters and assistant clerks and certain other statutes enacted in 1898 which fix the salaries of stenographers and clerks in the city court (see Exhibit 4).

### *Blanket Repeal of Mandatory Legislation Recommended.*

Legislation is recommended empowering the budget makers to fix the number and compensation of all city and county positions, with certain specific exceptions, irrespective of any general or local law to the contrary. Two bills to accomplish this were introduced in 1916 by Senator Brown (see Exhibit 3 and Exhibit 5). One referred to city salaries and the other to county salaries. Each provided for a referendum. The consensus of opinion against mandatory legislation is apparently so general today as to obviate the necessity of a referendum.

Exhibits 1 and 2 attached to this report list the laws which compel particular *county* salaries and positions. Positions listed in Exhibit 2 would not be affected by the bill introduced by Senator Brown in 1916, (Exhibit 3). Such a law would make \$5,389,025.44 of mandatory appropriations discretionary with the budget makers and only \$837,506.83 of county salaries would still remain mandatory.

Exhibit 4 lists the laws which compel particular salaries and positions in the *city* and *borough* departments. The items marked with a star would not be affected by Senator Brown's bill of 1916 as finally amended (Senate Print No. 1734, Ex. 5). As the large item of teachers' salaries would not be affected \$50,647-415.67 of city and borough mandatory salaries would remain mandatory and only \$2,628,114.86 of them would become discretionary.

## EXHIBIT 1

### *Mandatory County Salaries.*

The following table indicates Mandatory County Salaries which would become discretionary if a bill similar to the one attached, Exhibit 3 (Senate Int. 590, Print 622, 1916), were enacted.

## COUNTY CLERK, NEW YORK COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
Counsel.....	\$5,500	\$5,000	1914, chap. 90
Clerk, Common Pleas and Superior Court Records.....	3,250	2,500	1896, chap. 885
Clerk, Common Pleas and Superior Court Records.....	3,000	2,500	1896, chap. 885

## DISTRICT ATTORNEY, NEW YORK COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
Assistant district attorney.....	\$12,000	\$12,000	1920, chap. 822
6 Assistant district attorneys.....	7,500	7,500	1920, chap. 822
7 Assistant district attorneys.....	10,000	10,000	1920, chap. 822
Medical assistant.....	5,500	5,500	1915, chap. 355
Secretary.....	4,680	4,180	1918, chap. 652
Chief clerk.....	6,000	5,500	1918, chap. 652
Deputy chief clerk.....	4,350	3,850	1918, chap. 652
Deputy chief clerk and auditor.....	4,350	4,350	1918, chap. 652
2 Clerks.....	3,250	2,750	1918, chap. 652
18 Clerks.....	2,880	2,250	1918, chap. 652
3 Clerks.....	2,400	2,400	1920, chap. 728
3 Clerks.....	2,400	2,400	1920, chap. 728
Clerk.....	2,400	2,400	1918, chap. 652
Law stenographer.....	3,250	2,750	1918, chap. 652
Chief law stenographer.....	2,874	2,178	1918, chap. 652
4 Law stenographers.....	2,299	1,716	1918, chap. 652
5 Law stenographers.....	2,200	1,650	1918, chap. 652
9 Law stenographers.....	1,982	1,452	1918, chap. 652
3 Law stenographers.....	1,830	1,320	1918, chap. 652
Engineering draftsman and photographer.....	2,220	1,650	1918, chap. 652
2 Telephone operators.....	1,449	990	1918, chap. 652
Chief process server.....	2,904	2,000	1912, chap. 191 and 1920, chap. 822
14 Process servers.....	2,220	1,500	1912, chap. 191, and 1920, chap. 822
7 Process servers.....	2,022	1,500	1912, chap. 191 and 1920, chap. 822
12 Process servers.....	1,956	1,500	1912, chap. 191 and 1920, chap. 822
16 Process servers.....	1,830	1,500	1912, chap. 191 and 1920, chap. 822
Messenger.....	1,532	1,056	1918, chap. 652
2 Messengers.....	1,351	924	1918, chap. 652
4 Messengers.....	1,071	726	1918, chap. 652
3 Messengers.....	800	462	1918, chap. 652
Librarian.....	2,500	1,100	1918, chap. 652
Clerk.....	3,250	2,750	1918, chap. 652
3 Clerks.....	2,904	2,200	1918, chap. 652
Stenographer.....	1,830	1,320	1918, chap. 652
2 Process servers.....	2,200	1,500	1912, chap. 191; 1920, chap. 822
3 Process servers.....	2,022	1,500	1912, chap. 191; 1920, chap. 822
Process server.....	1,956	1,500	1912, chap. 191, 1920; chap. 822
6 Process servers.....	1,830	1,500	1912, chap. 191; 1920, chap. 822
Messenger.....	800	462	1918, chap. 652



## COMMISSIONER OF RECORDS, NEW YORK COUNTY

NOTE.—Law of 1912, chap. 167, provide for a lump sum mandatory appropriation of \$100,000.

## COMMISSIONER OF RECORDS, SURROGATE'S COURT, NEW YORK COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
Commissioner.....	\$7,500	Same	1911, chap. 534
Deputy commissioner.....	6,000	Same	1911, chap. 534
Superintendent.....	5,000	Same	1911, chap. 534
General clerk.....	3,500	Same	1911, chap. 534
Clerk.....	2,320	Same	1911, chap. 534
Chief recording clerk.....	3,000	Same	1911, chap. 534
7 Recording clerks.....	2,320	Same	1911, chap. 534
Recording clerk.....	2,100	Same	1911, chap. 534
6 Index clerks.....	2,080	Same	1911, chap. 534
Index clerk.....	2,080	Same	1911, chap. 534
Messenger.....	2,080	Same	1911, chap. 534
2 Bookbinders.....	2,150	Same	1911, chap. 534
7 Laborers.....	1,464	Same	1911, chap. 534

## COMMISSIONER OF JURORS, NEW YORK COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
Commissioner.....	\$6,000	Same	1906, chap. 499
Assistant commissioner.....	3,800	Same	1906, chap. 499
Secretary.....	3,800	Same	1906, chap. 499
Clerk.....	2,640	Same	1906, chap. 499
Clerk.....	2,400	Same	1906, chap. 499
2 Clerks, each.....	2,200	Same	1906, chap. 499
6 Clerks, each.....	2,076	Same	1906, chap. 499
9 Clerks, each.....	1,920	Same	1906, chap. 499
7 Messengers (as Notice Server), each.....	1,920	Same	1906, chap. 499
2 Messengers (as Notice Server), each.....	1,823	Same	1906, chap. 499
2 Messengers, each.....	1,920	Same	1906, chap. 499

## PUBLIC ADMINISTRATOR, NEW YORK COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
Public administrator.....	\$10,000	Same	1898, chap. 230, § 31
Assistant public administrator..	5,500	\$5,000	1898, chap. 230, § 31

## SHERIFF, NEW YORK COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
Under sheriff.....	\$6,500	\$6,000	1920, chap. 565
15 Deputy sheriffs.....	3,500	Same	1920, chap. 565
15 Assistant deputy sheriffs.....	2,280	\$1,800	1920, chap. 565
Counsel.....	6,500	6,000	1920, chap. 565
Assistant counsel.....	4,000	3,500	1920, chap. 565
Chief clerk.....	4,500	4,500	1920, chap. 565

## NEW YORK STATE GUARD AND NAVAL MILITIA, NEW YORK COUNTY

NOTE.—Wages of all regular employees totaling \$331,055 are mandatory under Military Law, section 187 and following.

194 INVESTIGATION OF AFFAIRS OF NEW YORK CITY

SUPREME COURT, FIRST DEPARTMENT, NEW YORK AND BRONX COUNTIES

NOTE.—The salaries and wages for all officers and employees, except the justices, total \$1,141,600. All of these items are mandatory. Under various sections of the Judiciary Law and Education Law, see particularly Judiciary Law, sections 274 and 362, and Education Law, sections 1163 and 1166.

SUPREME COURT, FIRST DEPARTMENT, MAINTENANCE OF APPELLATE DIVISION COURT HOUSE, NEW YORK AND BRONX COUNTIES

NOTE.—Under Laws 1900, chapter 490, the entire appropriation of \$34,677 for salaries of the custodian, engineers, cleaners and all other employees is mandatory.

COURT OF GENERAL SESSIONS, NEW YORK COUNTY

	<i>Position</i>	<i>Budget</i>		<i>Law</i>
		<i>rate</i>	<i>rate</i>	
	Clerk.....	\$5,500	\$5,000	1911, chap. 526, § 1531
14	Deputy clerks.....	4,500	3,000	1911, chap. 526, § 1531
	Assistant clerk.....	4,500	3,000	1911, chap. 526, § 1531
9	Record clerks.....	3,500	3,000	1920, chap. 830
7	Clerks to judge.....	4,500	4,500	1920, chap. 316
6	Stenographers.....	5,040	5,040	1919, chap. 556
	Crier.....	3,600	3,600	1918, chap. 590 and 591
5	Interpreters.....	3,500	3,000	1918, chap. 590 and 591
2	Warden, Grand Jury.....	2,400	2,400	1918, chap. 590 and 591
53	Attendants.....	2,500	2,500	1920, chap. 790
9	Attendants.....	2,100	2,100	1918, chap. 648
2	Stenographers and typewriters..	3,000	3,000	1919, chap. 554
	Special interpreters.....	240	240	1921, chap. 482, § 388
	Pensions.....	3,000	3,000	1918, chap. 645

SURROGATE'S COURT, NEW YORK COUNTY

	<i>Position</i>	<i>Budget</i>		<i>Law</i>
		<i>rate</i>	<i>rate</i>	
	Chief clerk.....	\$11,000	Same	1911, chap. 775
	Deputy chief clerk.....	6,500	Same	1911, chap. 775
	Assistant deputy chief clerk....	4,500	Same	1911, chap. 775
	Law assistant.....	7,200	Same	1911, chap. 775
2	Law assistants.....	7,000	Same	1911, chap. 775
2	Law assistants.....	6,000	Same	1911, chap. 775
	Clerk of court.....	6,000	Same	1911, chap. 775
	Deputy clerk of court.....	3,600	Same	1911, chap. 775
	Clerk, additional part of court..	3,600	Same	1911, chap. 775
2	Clerks to the surrogate.....	4,200	Same	1911, chap. 775
2	Stenographers.....	4,500	Same	1911, chap. 775
	Stenographer.....	2,520	Same	1911, chap. 775
	Stenographer.....	1,830	Same	1911, chap. 775
	Assistant stenographer.....	2,520	Same	1911, chap. 775
	Stenographer.....	1,708	Same	1911, chap. 775
	Confidential stenographer to the surrogate.....	2,200	Same	1911, chap. 775
	Stenographer to surrogate.....	2,200	Same	1911, chap. 775
	Interpreter.....	2,400	Same	1911, chap. 775
	Superintendent of supplies.....	3,180	Same	1911, chap. 775
	Probate clerk.....	6,000	Same	1911, chap. 775
	First assistant probate clerk....	3,180	Same	1911, chap. 775
2	Confidential attendants to surrogate.....	2,500	Same	1911, chap. 775
	Second assistant probate clerk..	2,200	Same	1911, chap. 775
	Third assistant probate clerk...	2,200	Same	1911, chap. 775
	Administration clerk.....	4,500	Same	1911, chap. 775
	First assistant administration clerk.....	3,180	Same	1911, chap. 775
	Second assistant administration clerk.....	2,520	Same	1911, chap. 775

	<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
	Third assistant administration clerk.....	2,220	Same	1911, chap. 775
	Guardian clerk.....	3,000	Same	1911, chap. 775
	Assistant guardian clerk.....	2,520	Same	1911, chap. 775
	Guardian accounting clerk.....	3,180	Same	1911, chap. 775
	Assistant accounting guardian clerk.....	2,220	Same	1911, chap. 775
	Accounting clerk.....	3,600	Same	1911, chap. 775
	Assistant accounting clerk.....	2,850	Same	1911, chap. 775
	Certificate clerk.....	2,220	Same	1911, chap. 775
	Subpoena clerk.....	1,830	Same	1911, chap. 775
	Requisition clerk.....	1,830	Same	1911, chap. 775
	Clerk.....	2,220	Same	1911, chap. 775
	Special searcher.....	2,220	Same	1911, chap. 775
	Correspondence searcher.....	2,220	Same	1911, chap. 775
	Correspondence searcher.....	2,088	Same	1911, chap. 775
	Clerk of records.....	2,700	Same	1920, chap. 702
5	Record clerks.....	2,220	Same	1911, chap. 775
	Superintendent recording clerks.	2,700	Same	1911, chap. 775
	Chief examiner.....	2,220	Same	1911, chap. 775
	Assistant examiner.....	2,022	Same	1911, chap. 775
	Recording clerk (photographic recorder).....	2,401	Same	1911, chap. 775
	Recording clerk (assistant photographic recorder).....	2,100	Same	1911, chap. 775
20	Recording clerks.....	1,830	Same	1911, chap. 775
	Calendar clerk and superintendent of copyists.....	2,220	Same	1911, chap. 775
2	Copyists.....	1,830	Same	1911, chap. 775
	Librarian and chief messenger..	2,820	Same	1911, chap. 775
3	Messengers.....	2,820	\$2,100	1920, chap. 817, § 348a
6	Court attendants.....	2,500	2,100	1920, chap. 817, § 348a
	Attendant to chief clerk.....	2,160	2,160	1911, chap. 775
	Laborer.....	1,445	1,445	1911, chap. 775

COUNTY CLERK, BRONX COUNTY

	<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
	Deputy county clerk.....	\$4,500	\$4,000	1913, chap. 825, § 3
	Assistant deputy county clerk..	3,500	3,000	1913, chap. 825, § 3
	Secretary.....	2,640	2,000	1913, chap. 825, § 3
	Counsel.....	3,500	3,000	1913, chap. 825, § 3
	Chief clerk.....	3,250	2,500	1913, chap. 825, § 3
	Cashier.....	3,250	2,500	1913, chap. 825, § 3
	Notarial clerk.....	3,250	2,500	1913, chap. 825, § 3
	Equity clerk.....	3,500	3,000	1913, chap. 825, § 3

DISTRICT ATTORNEY, BRONX COUNTY

	<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
5	Assistant district attorneys.....	\$5,500	\$5,000	1918, chap. 632
3	Assistant district attorneys.....	4,000	3,500	1918, chap. 632
	Deputy ass stant district attorney.....	2,880	2,880	1918, chap. 632
	Secretary.....	3,500	3,000	1918, chap. 632
	Chief clerk.....	4,000	3,500	1918, chap. 632
	Clerk to Grand Jury.....	2,040	1,500	1918, chap. 632
2	Confidential stenographers.....	2,400	1,800	1918, chap. 632
	Warden of Grand Jury.....	2,040	1,500	1918, chap. 632
	Interpreter.....	2,040	1,500	1918, chap. 632
	Messenger.....	2,040	1,500	1918, chap. 632
8	County detectives.....	2,040	1,500	1913, chap. 825, § 3
2	Process servers.....	2,040	1,500	1918, chap. 632
	Stenographer to Grand Jury....	3,000	2,000	1918, chap. 632

REGISTER, BRONX COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>	
Deputy register.....	\$4,500	\$4,000	1913, chap. 825,	\$ 3
Assistant deputy register.....	3,500	3,000	1913, chap. 825,	3
Land title examiner.....	4,000	2,000	1913, chap. 825,	3
Cashier.....	3,250	2,500	1913, chap. 825,	3
Examiner.....	3,074	2,000	1913, chap. 825,	3
Secretary.....	3,074	2,000	1913, chap. 825,	3
Chief clerk.....	3,250	2,500	1913, chap. 825,	3

COMMISSIONER OF JURORS, BRONX COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>	
Commissioner.....	\$6,500	Same	1913, chap. 266,	\$ 8
Assistant commissioner.....	3,500	Same	1913, chap. 266,	8
Secretary.....	3,500	Same	1913, chap. 266,	8
Chief clerk.....	2,640	Same	1913, chap. 266,	8
Clerk.....	2,160	Same	1913, chap. 266,	8
Clerk, stenographer and typewriter.....	2,376	Same	1913, chap. 266,	8
3 Jury notice servers.....	1,848	Same	1913, chap. 266,	8
Messenger.....	920	Same	1913, chap. 266,	8

PUBLIC ADMINISTRATOR, BRONX COUNTY

	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>	
Public administrator.....	\$4,500	\$4,500	1913, chap. 825,	\$ 3

COMMISSIONER OF RECORDS, BRONX COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>	
Commissioner.....	\$5,500	\$5,000	1918, chap. 90	
Deputy commissioner.....	4,000	4,000	1918, chap. 299	
Superintendent.....	2,520	2,520	1918, chap. 299	
Chief clerk.....	2,400	2,400	1918, chap. 299	
Clerk.....	2,400	2,400	1918, chap. 299	
3 Clerks.....	1,500	1,500	1918, chap. 299	
2 Laborers.....	1,464	1,464	1918, chap. 299	
Photographer.....	1,825	1,825	1918, chap. 299	
Bookbinder.....	2,150	2,150	1918, chap. 299	
Coylists (temporary).....	6,000	.....		

SHERIFF, BRONX COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>	
Under sheriff.....	\$5,500	\$5,000	1913, chap. 825,	\$ 3
10 Deputy sheriffs.....	3,500	3,500	1920, chap. 738	
5 Assistant deputy sheriffs.....	1,800	1,800	1920, chap. 738	
Counsel.....	5,000	5,000	1920, chap. 738	
Cashier.....	3,500	3,500	1920, chap. 738	
Secretary.....	3,000	3,000	1920, chap. 738	
Chief clerk.....	3,000	3,000	1920, chap. 738	

NEW YORK STATE GUARD AND NAVAL MILITIA, OF BRONX COUNTY

NOTE.—Wages of all regular employees, totaling \$93,440, are mandatory under Military Law, section 187, and following.

LAW LIBRARY, BRONX COUNTY

	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>	
Librarian.....	\$2,340	\$3,500	1921, chap. 635	

## SURROGATE'S COURT, BRONX COUNTY

<i>Position</i>	<i>Budget Mandatory</i>		<i>Law</i>
	<i>rate</i>	<i>rate</i>	
Chief clerk and clerk of the court	\$5,000	\$5,000	1920, chap. 738
Probate clerk.....	4,500	4,500	1920, chap. 738
Administration clerk.....	4,000	4,000	1920, chap. 738
Cashier.....	3,500	3,500	1920, chap. 738
Attendant and messenger.....	1,944	1,944	1920, chap. 817, § 348a

## COUNTY COURT, BRONX COUNTY

<i>Position</i>	<i>Budget Mandatory</i>		<i>Law</i>
	<i>rate</i>	<i>rate</i>	
County detective.....	\$3,000	\$3,000	1920, chap. 779
County detective.....	3,000	3,000	1920, chap. 779
Court stenographer.....	4,200	4,000	1920, chap. 818
Court attendant.....	2,160	2,160	1920, chap. 816, § 352
4 Court attendants.....	2,500	2,500	1920, chap. 816, § 352
Interpreter.....	2,304	2,304	1921, chap. 639
Interpreter (temporary).....	200	200	1921, chap. 482
Court stenographer (temporary)	2,000	2,000	1921, chap. 4

## COUNTY CLERK, KINGS COUNTY

<i>Position</i>	<i>Budget Mandatory</i>		<i>Law</i>
	<i>rate</i>	<i>rate</i>	
Deputy county clerk.....	\$6,000	\$5,000	1921, chap. 586
Assistant deputy county clerk..	3,820	2,500	1921, chap. 586
Counsel.....	4,000	3,500	1921, chap. 586
Secretary.....	2,400	1,500	1921, chap. 586
Expert of records.....	3,500	3,000	1921, chap. 586
Chief of old records.....	2,040	1,100	1921, chap. 586
2 Assistant to chief of old records	2,040	1,000	1921, chap. 586
Bookkeeper.....	2,851	2,000	1921, chap. 586
Cashier.....	2,640	2,000	1921, chap. 586
Law clerk.....	3,320	2,500	1921, chap. 586
Notarial clerk.....	3,330	2,250	1921, chap. 586
Clerk.....	2,640	2,000	1921, chap. 586
Equity clerk in charge.....	2,880	2,000	1921, chap. 586
Equity clerk.....	2,880	2,000	1921, chap. 586
2 Equity clerks.....	2,640	1,500	1921, chap. 586
Docket clerk in charge.....	2,640	2,000	1921, chap. 586
2 Docket clerks.....	2,640	1,500	1921, chap. 586
Docket clerk.....	2,112	1,500	1921, chap. 586
3 Index clerks.....	2,040	1,500	1921, chap. 586
Stenographer.....	1,830	1,200	1921, chap. 586
Document searcher.....	2,040	1,200	1921, chap. 586
2 Comparers.....	2,040	1,000	1921, chap. 586
Clerk.....	2,112	1,200	1921, chap. 586
4 Clerks.....	1,708	1,200	1921, chap. 586
Messenger.....	1,464	800	1921, chap. 586
2 Custodians.....	1,708	1,000	1921, chap. 586
Laborer.....	1,405	1,000	1921, chap. 586
4 Copyists (temporary).....	2,520	2,160	1921, chap. 586

## DISTRICT ATTORNEY, KINGS COUNTY

<i>Position</i>	<i>Budget Mandatory</i>		<i>Law</i>
	<i>rate</i>	<i>rate</i>	
Assistant district attorney.....	\$10,000	Same	1920, chap. 864
3 Assistant district attorneys.....	9,000	Same	1920, chap. 864
Assistant district attorney.....	8,400	Same	1920, chap. 864
2 Assistant district attorneys.....	7,500	Same	1920, chap. 864
3 Assistant district attorneys.....	6,000	Same	1920, chap. 864
2 Assistant district attorneys.....	7,500	Same	1920, chap. 864

198 INVESTIGATION OF AFFAIRS OF NEW YORK CITY

	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>	
1 District (assistant) attorney....	7,500	Same	1920, chap. 864	
1 Assistant district attorney.....	6,500	Same	1920, chap. 864	
Assistant district attorney.....	6,000	Same	1920, chap. 864	
Chief clerk.....	5,500	\$5,000	1914, chap. 468,	\$ 3
3 Clerks.....	2,640	2,000	1914, chap. 483,	\$ 3
2 Clerks.....	2,400	2,000	1914, chap. 468,	\$ 3
Clerk.....	2,220	2,000	1914, chap. 468,	\$ 3
Clerk.....	2,160	2,000	1914, chap. 468,	\$ 3
Stenographer and private secretary.....	2,520	2,000	1916, chap. 187	
5 Stenographers and private secretaries.....	2,160	2,000	1916, chap. 187	
11 County detectives.....	2,160	1,800	1911, chap. 452,	\$ 5
County detective.....	2,040	1,800	1911, chap. 452,	\$ 5
Messenger.....	1,708	1,200	1914, chap. 468,	\$ 3
Attendant.....	1,708	1,200	1914, chap. 468,	\$ 3

REGISTER, KINGS COUNTY

	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
Deputy register.....	\$5,500	Same	1920, chap. 823
Assistant deputy register and deputy register.....	3,850	Same	1920, chap. 823
Counsel.....	3,850	Same	1920, chap. 823
Secretary.....	2,400	Same	1920, chap. 823
Expert of records.....	4,070	Same	1920, chap. 823
Land title examiner.....	3,850	Same	1920, chap. 823
Chief block index clerk.....	3,300	Same	1920, chap. 823
Chief searcher and examiner....	3,600	Same	1920, chap. 823
Tickler clerk.....	3,480	Same	1920, chap. 823
Chief clerk of copyists.....	3,410	Same	1920, chap. 823
Notarial clerk.....	2,640	Same	1920, chap. 823
2 Examiners' assistants.....	2,880	Same	1920, chap. 823
First assistant tickler clerk....	2,616	Same	1920, chap. 823
Chief current index clerk.....	2,616	Same	1920, chap. 823
Chief clerk of records.....	2,616	Same	1920, chap. 823
Bookkeeper.....	2,880	Same	1920, chap. 823
Executive clerk.....	2,340	Same	1920, chap. 823
Chattel mortgage clerk.....	2,616	Same	1920, chap. 823
Satisfaction clerk.....	2,520	Same	1920, chap. 823
2 Abstract clerks.....	2,376	Same	1920, chap. 823
Abstract clerk.....	2,280	Same	1920, chap. 823
Assistant cashier.....	2,616	Same	1920, chap. 823
Stenographer.....	2,376	Same	1920, chap. 823
Assistant index clerk.....	2,376	Same	1920, chap. 823
6 Assistant index clerks.....	2,160	Same	1920, chap. 823
Entry clerk.....	2,376	Same	1920, chap. 823
Mailing clerk.....	2,160	Same	1920, chap. 823
3 Comparers.....	2,376	Same	1920, chap. 823
Comparer.....	2,376	Same	1920, chap. 823
3 Assistant comparers.....	2,376	Same	1920, chap. 823
Assistant notarial clerk.....	2,376	Same	1920, chap. 823
Assistant notarial clerk.....	2,160	Same	1920, chap. 823
Delivery clerk.....	2,232	Same	1920, chap. 823
Second assistant tickler clerk...	1,980	Same	1920, chap. 823
Second assistant tickler clerk...	1,944	Same	1920, chap. 823
Assistant chattel mortgage clerk	1,980	Same	1920, chap. 823
3 Clerks.....	2,088	Same	1920, chap. 823
6 Clerks.....	1,980	Same	1920, chap. 823
Clerk.....	1,944	Same	1920, chap. 823
2 Clerks.....	1,920	Same	1920, chap. 823

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
5 Clerks.....	1,800	Same	1920, chap. 823
8 Clerks.....	1,794	Same	1920, chap. 823
Clerk.....	1,560	Same	1920, chap. 823
27 Copyists.....	1,872	Same	1920, chap. 823
2 Copyists.....	1,794	Same	1920, chap. 823
2 Copyists.....	1,680	Same	1920, chap. 823
Copyist.....	1,560	Same	1920, chap. 823
Copyist.....	1,512	Same	1920, chap. 823
2 Copyists.....	1,440	Same	1920, chap. 823
2 Custodians.....	1,711.00	Same	1920, chap. 823
Custodian.....	1,656	Same	1920, chap. 823
2 Custodians.....	1,440	Same	1920, chap. 823
Telephone operator.....	1,680	Same	1290, chap. 823
7 Messengers.....	1,440	Same	1920, chap. 823
Messenger.....	1,296	Same	1920, chap. 823
Keeper of coat room.....	1,422	Same	1920, chap. 823

COMMISSIONER OF RECORDS, KINGS COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
Commissioner.....	\$5,000	Same	1920, chap. 821
Deputy commissioner.....	4,000	Same	1920, chap. 821
Superintendent.....	3,000	Same	1920, chap. 821
Assistant superintendent.....	3,000	Same	1920, chap. 821
Secretary.....	2,000	Same	1920, chap. 821
Chief clerk.....	3,162.50	Same	1920, chap. 821
Stenographer.....	1,955	Same	1920, chap. 821
Stenographer.....	1,800	Same	1920, chap. 821
Supervisor of copying.....	2,530	Same	1920, chap. 821
Chief of division.....	2,530	Same	1920, chap. 821
4 Chiefs of division.....	2,300	Same	1920, chap. 821
Chief clerk — old records.....	2,300	Same	1920, chap. 821
Assistant chief of division.....	2,185	Same	1920, chap. 821
Assistant chief of division.....	1,840	Same	1920, chap. 821
3 Clerks.....	2,070	Same	1920, chap. 821
2 Clerks.....	1,955	Same	1920, chap. 821
Clerk.....	1,868.75	Same	1920, chap. 821
4 Clerks.....	1,840	Same	1920, chap. 821
3 Clerks.....	1,800	Same	1290, chap. 821
2 Draftsmen.....	1,800	Same	1920, chap. 821
Clerk.....	1,740	Same	1920, chap. 821
2 Clerks.....	1,680	Same	1920, chap. 821
Clerk.....	1,650	Same	1920, chap. 821
4 Clerks.....	1,560	Same	1920, chap. 821
4 Clerks.....	1,470	Same	1920, chap. 821
Foreman of bindery.....	2,300	Same	1920, chap. 821
4 Bookbinders.....	1,620	Same	1920, chap. 821
Custodian.....	1,800	Same	1920, chap. 821
Custodian.....	1,200	Same	1920, chap. 821
6 Laborers.....	1,500	Same	1920, chap. 821

COMMISSIONER OF JURORS, KINGS COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
Commissioner.....	\$6,000	Same	1921 chap. 412; 1911, chap. 628
Deputy commissioner.....	4,000	Same	1921, chap. 640
Secretary.....	3,250	Same	1921, chap. 640
Clerk.....	2,772	Same	1921, chap. 640
Fine and exempt clerk.....	2,520	Same	1921, chap. 640
7 Clerks.....	2,160	Same	1921, chap. 640
9 Jury notice servers.....	1,823	Same	1921, chap. 640
Stenographer.....	1,464	Same	1921, chap. 640

## SHERIFF, KINGS COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
Under sheriff.....	\$6,500	\$6,000	1901, chap. 705
8 Deputy sheriffs.....	2,904	2,200	1901, chap. 705
8 Assistant deputy sheriffs.....	2,040	1,500	1918, chap. 647
Counsel.....	5,500	5,000	1901, chap. 705
Chief clerk.....	3,300	2,500	1901, chap. 705
Assistant clerk.....	2,760	2,000	1901, chap. 705
Equity clerk.....	2,760	2,000	1901, chap. 705
Assistant equity clerk.....	2,520	1,800	1901, chap. 705
Secretary.....	2,040	1,500	1901, chap. 705
Accountant.....	2,160	1,500	1901, chap. 705
Confidential stenographer.....	1,823	Same	1901, chap. 705
Telephone operator.....	1,464	Same	1901, chap. 705
Warden.....	3,500	3,000	1901, chap. 705
Deputy warden.....	2,640	2,000	1901, chap. 705
Bookkeeper.....	2,040	1,500	1901, chap. 705
8 Keepers.....	1,708	1,200	1901, chap. 705
3 Matrons.....	1,464	1,000	1901, chap. 705
2 Cleaners.....	1,100	750	1901, chap. 705
2 Cooks.....	600	300	1901, chap. 705

## NEW YORK STATE GUARD AND NAVAL MILITIA, KINGS COUNTY

NOTE.—Wages of all regular employees totaling \$259,770 are mandatory under Military Law, section 187, and following.

## SUPREME COURT, SECOND DEPARTMENT, KINGS COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
General clerk.....	\$5,000	Same	1921, Chap. 246, § 168.
Assistant general clerk.....	4,500	Same	1921, Chap. 246, § 168.
Consultation and opinion clerk.....	7,000	Same	1921, Chap. 246, § 168.
4 Clerks.....	4,250	Same	1921, Chap. 246, § 168.
8 Clerks.....	3,750	Same	1921, Chap. 246, § 168.
5 Clerks.....	3,250	Same	1921, Chap. 246, § 168.
8 Clerks.....	2,750	Same	1921, Chap. 246, § 168.
11 Clerks to justices.....	4,000	Same	1921, Chap. 246, § 168.
12 Stenographers.....	4,200	Same	1921, Chap. 246, § 168.
Confidential attendant.....	3,500	Same	1921, Chap. 246, § 168.
39 Attendants.....	2,500	Same	1921, Chap. 246, § 168.
4 Attendants.....	2,000	Same	1921, Chap. 246, § 168.
5 Interpreters.....	3,300	Same	1921, Chap. 246, § 168.
2 Typewriter operators.....	2,500	Same	1921, Chap. 246, § 168.

## SUPREME COURT, SECOND DEPARTMENT, APP. DIV., KINGS COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
Deputy clerk.....	\$28,522.69	.....	See laws cited in 1921 budget, page 276.
2 Confidential clerks.....			
Case and consultation clerk Attendants.....			
Confidential clerks to justices...	\$16,719.60	.....	See laws cited in 1921 budget, page 276.

## SURROGATE'S COURT, KINGS COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
Law assistant.....	\$4,000	Same	Code Civil Procedure.
Chief clerk and clerk of court.....	9,000	Same	§ 2492 and 2493, Surrogate court Act, § 22.



<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
Accounting clerk.....	6,500	Same	§ 2492 and 2493, Surrogate court Act, § 22.
Assistant accounting clerk.....	3,000	Same	§ 2492 and 2493, Surrogate court Act, § 22.
Probate clerk.....	6,000	Same	§ 2492 and 2493, Surrogate court Act, § 22.
Assistant probate clerk.....	3,500	Same	§ 2492 and 2493, Surrogate court Act, § 22.
Administration clerk.....	3,500	Same	§ 2492 and 2493, Surrogate court Act, § 22.
Assistant administration clerk..	3,500	Same	Code Civ. Proc., §§ 2492, 2493 and Surrogate Act, Sec. 22....
Certificate and financial clerk..	5,000	Same	Code Civ. Proc., §§ 2492, 2493 and Surrogate Act, § 22.
Guardian accounting clerk.....	5,500	Same	Code Civ. Proc., §§ 2492, 2493 and Surrogate Act, § 22.
Calendar clerk.....	4,000	Same	Code Civ. Proc., §§ 2492, 2493 and Surrogate Act, § 22.
Index clerk.....	3,250	Same	Code Civ. Proc., §§ 2492, 2493 and Surrogate Act, § 22.
5 Recording clerks.....	2,160	Same	Code Civ. Proc., §§ 2492, 2493 and Surrogate Act, § 22.
2 Clerks.....	2,400	Same	Code Civ. Proc., §§ 2492, 2493 and Surrogate Act, § 22.
5 Clerks.....	2,280	Same	Code Civ. Proc., §§ 2492, 2493 and Surrogate Act, § 22.
Stenographer.....	3,000	Same	Code Civ. Proc., §§ 2492, 2493 and Surrogate Act, § 22.
Stenographer.....	2,160	Same	Code Civ. Proc., §§ 2492, 2493 and Surrogate Act, § 22.
Typewriter copyist.....	2,160	Same	Code Civ. Proc., §§ 2492, 2493 and Surrogate Act, § 22.
Comparer.....	2,160	Same	Code Civ. Proc., §§ 2492, 2493 and Surrogate Act, § 22.
Chief of records and interpreter.	4,000	Same	Code Civ. Proc., §§ 2492, 2493 and Surrogate Act, § 22.
Assistant chief of records.....	2,040	Same	Code Civ. Proc., §§ 2492, 2493 and Surrogate Act, § 22.
Chief custodian?.....	2,160	Same	Code Civ. Proc., §§ 2492, 2493 and Surrogate Act, § 22.
2 Custodians.....	2,160	Same	Code Civ. Proc., §§ 2492, 2493 and Surrogate Act, § 22.
Chief court attendant.....	3,000	Same	Code Civ. Proc., §§ 2492, 2493 and Surrogate Act, § 22.

202 INVESTIGATION OF AFFAIRS OF NEW YORK CITY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
3 Court officers.....	2,500	Same	Code Civ. Proc., §§ 2492, 2493 and Surrogate Act, § 22.
Telephone operator.....	1,600	Same	Code Civ., Proc. §§ 2492, 2493 and Surrogate Act, § 22.
Law assistant.....	6,000	Same	Code Civil Proc., §§ 2492, 2493 and Surrogate Act, § 22
Stenographer.....	3,000	Same	Code Civil Proc., §§ 2492, 2493 and Surrogate Act, § 22
Clerk.....	2,500	Same	Code Civil Proc., §§ 2492, 2493 and Surrogate Act, § 22
Stenographer.....	2,000	Same	Code Civil Proc., §§ 2492, 2493 and Surrogate Act, § 22
Court officer.....	2,400	Same	Code Civil Proc., §§ 2492, 2493 and Surrogate Act, § 22
2 Recording clerks.....	1,500	Same	Code Civil Proc., §§ 2492, 2493 and Surrogate Act, § 22
4 Laborers, temporary totaling...	5,776	Same	Code Civil Proc., §§ 2492, 2493 and Surrogate Act, § 22.

COUNTY COURT, KINGS COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
Chief clerk.....	7,500	Same	Judiciary Law, §§ 195 and 284
Deputy chief clerk.....	5,500	Same	Judiciary Law, §§ 195 and 284
5 Confidential clerks.....	3,250	2,750	1917, Chap. 808
2 Clerks.....	4,500	Same	Judiciary Law, §§ 195 and 284
4 Clerks.....	4,300	Same	Judiciary Law, §§ 195 and 284
2 Clerks.....	3,800	Same	Judiciary Law, §§ 195 and 284
Clerk.....	3,700	Same	Judiciary Law, §§ 195 and 284
6 Clerks.....	3,500	Same	Judiciary Law, §§ 195 and 284
Clerk.....	2,520	Same	Judiciary Law, §§ 195 and 284
Clerk.....	2,160	Same	Judiciary Law, §§ 195 and 284
5 Stenographers.....	5,000	Same	Judiciary Law, §§ 197 and 310
Stenographer and typewriter...	2,520	Same	Judiciary Law, §§ 195 and 284
Chief court attendant.....	3,800	Same	1920, Chap. 816, § 352
Assistant chief court attendant.	3,300	Same	1920, Chap. 816, § 352
19 Court attendants.....	2,500	Same	1920, Chap. 816, § 352
3 Court attendants.....	2,400	Same	1920, Chap. 816, § 352
Court attendant.....	2,160	Same	1920, Chap. 816, § 352

<i>Position</i>	<i>Budget Rate</i>	<i>Mandatory Rate</i>	<i>Law</i>
3 Detectives.....	3,800	Same	Judiciary Law, §§ 195 and 284
2 Detectives.....	2,640	Same	Judiciary Law, §§ 195 and 284
Detective.....	2,400	Same	Judiciary Law, §§ 195 and 284
Warden, grand jury.....	4,000	Same	Judiciary Law, §§ 195 and 284
2 Interpreters.....	4,000	Same	Judiciary Law, §§ 195 and 284
2 Interpreters.....	2,160	Same	Judiciary Law, §§ 195 and 284
Chief probation officer (male)...	2,160	Same	Judiciary Law, §§ 195 and 284
2 Probation officers (male).....	2,160	Same	Judiciary Law, §§ 195 and 284
2 Probation officers (female).....	2,160	Same	Judiciary Law, §§ 195 and 284
Telephone operator.....	1,464	Same	Judiciary Law, §§ 195 and 284
Messenger.....	2,400	Same	Judiciary Law, §§ 195 and 284
2 Laborers.....	1,449	Same	Judiciary Law, §§ 195, and 284
Female prison helper.....	1,464	Same	Judiciary Law, §§ 195 and 284
Telephone operator.....	900	Same	Judiciary Law, §§ 195 and 284
Stenographer.....	4,500	Same	Judiciary Law, §§ 195 and 284
Stenographer, transcript fees totaling \$939.50.....			Code Crim. Proc. 456

THE SUPREME COURT LIBRARY IN THE BOROUGH OF BROOKLYN

<i>Position</i>	<i>Budget Rate</i>	<i>Mandatory Rate</i>	<i>Law</i>
Librarian.....	\$4,800	Same	Education Law, § 1167
Assistant librarian.....	3,000	Same	Education Law, § 1167
Clerk.....	2,000	Same	Education Law, § 1167
Assistant clerk.....	900	Same	Education Law, § 1167

COUNTY CLERK, QUEENS COUNTY

<i>Position</i>	<i>Budget Rate</i>	<i>Mandatory Rate</i>	<i>Law</i>
Deputy county clerk.....	\$4,500	\$4,500	1912, chap. 540, § 3
Assistant deputy county clerk..	3,900	3,000	1912, chap. 540, § 3
Counsel to county clerk.....	3,500	3,000	1912, chap. 540, § 3
Private secretary.....	2,700	1,500	1912, chap. 540, § 3
Bookkeeper.....	2,112	1,500	1912, chap. 540, § 3
Financial clerk.....	3,250	2,500	1912, chap. 540, § 3
Deputy financial clerk.....	3,000	2,000	1912, chap. 540, § 3
2 Assistant tickler clerks.....	2,064	1,500	1912, chap. 540, § 4
Notarial clerk.....	2,520	1,800	1912, chap. 540, § 4
Superintendent of block index..	3,140	3,000	1912, chap. 540, § 4; 1914, chap. 434
Index clerk.....	2,400	1,800	1912, chap. 540, § 4
2 Index clerks.....	2,160	1,500	1912, chap. 540, § 4
Chief recording clerk.....	2,808	1,800	1912, chap. 540, § 4
Assistant chief recording clerk..	2,040	1,500	1912, chap. 540, § 4
Chattel mortgage clerk.....	2,064	1,500	1912, chap. 540, § 4

204 INVESTIGATION OF AFFAIRS OF NEW YORK CITY

Position	Budget rate	Mandatory rate	Law
Satisfaction clerk.....	2,280	1,500	1912, chap. 540, § 4
2 Docket clerks.....	2,040	1,500	1912, chap. 540, § 4
Naturalization clerk.....	2,040	1,500	1912, chap. 540, § 4; U. S. Stat. 1906, chap. 359, § 13
Assistant naturalization clerk...	1,708	1,200	1912, chap. 540, § 4; U. S. Stat. 1906, chap. 359, § 13
Mailing clerk.....	2,040	1,300	1912, chap. 540, § 4
Clerk.....	1,830	1,500	1912, chap. 540, § 4
Chief clerk of marriage license bureau.....	2,112	1,500	1912, chap. 540, § 4
Assistant chief clerk of marriage license bureau.....	1,756	1,200	1912, chap. 540, § 4
General clerk.....	1,756	1,200	1912, chap. 540, § 4
3½ General clerks.....	1,708	1,200	1912, chap. 540, § 4
Supervisor of copying mutilated records.....	2,160	1,500	1912, chap. 540, § 4
10 Copyists of mutilated records...	1,708	1,200	1912, chap. 540, § 4
Recording clerk, copyist.....	1,830	1,200	1912, chap. 540, § 4
11 Recording clerks, copyists.....	1,708	1,200	1912, chap. 540, § 4
4 Comparers.....	2,112	1,500	1912, chap. 540, § 4
Searcher.....	2,880	2,000	1912, chap. 540, § 4
Map draftsman.....	2,040	1,200	1912, chap. 540, § 4
Stenographer.....	1,830	1,200	1912, chap. 540, § 4
Record clerk and custodian....	1,561	1,000	1912, chap. 540, § 4
Custodian.....	1,464	1,000	1912, chap. 540, § 4
Bank messenger and clerk.....	1,464	1,000	1912, chap. 540, § 4
Messenger and clerk.....	1,449	800	1912, chap. 540, § 4
Messenger.....	1,439	800	1912, chap. 540, § 4

DISTRICT ATTORNEY, QUEENS COUNTY

Position	Budget Rate	Mandatory Rate	Law
Assistant district attorney.....	\$4,500	\$7,500	1921, chap. 161
3½ Assistant district attorneys.....	3,500	6,500	1921, chap. 161
2 Deputy assistant district attorneys.....	2,772	5,000	1921, chap. 161
Chief clerk.....	3,140	4,000	1921, chap. 161
Legal examiner.....	3,074	4,500	1921, chap. 161
Clerk.....	2,088	2,750	1921, chap. 161
Clerk (bail clerk).....	1,200	2,500	1921, chap. 161
Clerk.....	824	1,800	1921, chap. 161
Stenographer.....	2,376	2,400	1921, chap. 161
Stenographer.....	.....	2,400	1921, chap. 161
Stenographer to grand jury....	1,464	1,464	1921, chap. 161
Stenographer to grand jury.....	.....	1,464	1921, chap. 161
County detective.....	1,944	2,100	1921, chap. 161
Investigator.....	2,160	2,400	1921, chap. 161
4 County detectives.....	1,823	2,000	1921, chap. 161
County detective.....	1,683	1,683	1921, chap. 161
Typist clerk.....	900	1,800	1921, chap. 161
Private secretary.....	.....	3,000	1921, chap. 161
3 Process servers.....	.....	1,500	1921, chap. 161
Phone operator.....	.....	1,200	1921, chap. 161
Stenographer transcript fees totaling \$1,000.....	.....	.....	Code Crim. Proc. 952 V

COMMISSIONER OF JURORS, QUEENS COUNTY

<i>Position</i>	<i>Budget Rate</i>	<i>Mandatory Rate</i>	<i>Law</i>
Commissioner.....	\$5,000	Same	1920, chap. 819
Assistant commissioner.....	3,250	Same	1921, chap. 640, § 6
Clerk.....	2,160	Same	1921, chap. 640, § 6
2 Clerks.....	1,823	Same	1921, chap. 640, § 6
Jury notice server.....	1,610	Same	1921, chap. 640, § 6
Stenographer.....	1,376	Same	1921, chap. 640, § 6

PUBLIC ADMINISTRATOR, QUEENS COUNTY

<i>Position</i>	<i>Budget Rate</i>	<i>Mandatory Rate</i>	<i>Law</i>
Public administrator.....	\$3,500	Same	1921, chap. 778

NEW YORK STATE GUARD AND NAVAL MILITIA, QUEENS COUNTY

NOTE.—Wages of all regular employees totaling \$7,300 are mandatory under Military Law, section 187, and following.

SUPREME COURT, QUEENS COUNTY

<i>Position</i>	<i>Budget Rate</i>	<i>Mandatory Rate</i>	<i>Law</i>
Special deputy clerk.....	\$4,250	Same	Judiciary Law, § 168
3 Special deputy clerks.....	3,750	Same	Judiciary Law, § 168
3 Assistant special deputy clerks..	2,750	Same	Judiciary Law, § 168
Chief court attendant.....	2,500	Same	Judiciary Law, § 168
6 Court attendants.....	2,400	Same	Judiciary Law, § 168
Court attendant.....	1,800	Same	Judiciary Law, § 168
Court attendant.....	2,500	Same	Judiciary Law, § 168
Interpreter.....	2,500	Same	Judiciary Law, § 168
Interpreter.....	2,400	Same	Judiciary Law, § 168

SUPREME COURT, SECOND DEPARTMENT, APPELLATE DIVISION, QUEENS COUNTY

<i>Position</i>	<i>Budget Rate</i>	<i>Mandatory Rate</i>	<i>Law</i>
Deputy clerk.....	\$9,299 06	.....	See laws cited in 1921 budget, page 276
2 Confidential clerks.....			
Case and consultation clerk..			
Attendants.....			
Confidential clerks to justices...	5,451 05	.....	See laws cited in 1921 budget, page 276

COUNTY COURT, QUEENS COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
Confidential clerk.....	\$3,250	\$2,750	1917, chap. 808
Special deputy clerk.....	4,500	Same	Judiciary Law, § 287
2 Assistant special deputy clerks..	3,350	Same	Judiciary Law, § 287
Assistant special deputy clerk..	3,100	Same	Judiciary Law, § 287
Stenographer.....	4,200	4,000	1920, chap. 818
Court crier.....	2,592	Same	Judiciary Law, § 365
Chief court attendant.....	2,500	Same	Judiciary Law, § 351
3½ Court attendants.....	2,280	Same	Judiciary Law, § 351
Interpreter.....	2,700	Same	Judiciary Law, § 386
2 County detectives.....	3,000	Same	1920, chap. 779

## DISTRICT ATTORNEY, RICHMOND COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
Assistant district attorney . . . .	\$3,500	Same	1920, chap. 795
Assistant district attorney . . . .	3,500	Same	1920, chap. 795
Chief or confidential clerk . . . .	2,500	Same	1920, chap. 795
Grand jury stenographer . . . . .	2,000	Same	1920, chap. 795
Grand jury stenographer . . . . .	1,500	Same	1920, chap. 795
Process server and clerk . . . . .	1,800	Same	1920, chap. 795
Messenger . . . . .	1,500	Same	1920, chap. 795
Assistant district attorney . . . .	2,500	Same	1920, chap. 795

## COMMISSIONER OF JURORS, RICHMOND COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
Commissioner . . . . .	\$2,500	\$1,500	1899, chap. 441
Assistant commissioner . . . . .	2,160	2,160	1921, chap. 640, § 6
Clerk . . . . .	2,160	2,160	1921, chap. 640, § 6

## NEW YORK STATE GUARD AND NAVAL MILITIA, RICHMOND COUNTY

NOTE.—Wages of all regular employees totaling \$13,505 are mandatory under Military Law, section 187, and following.

## SUPREME COURT, RICHMOND COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
Special deputy clerk . . . . .	\$4,500	Same	Judiciary Law, § 168
Special deputy clerk . . . . .	4,250	Same	Judiciary Law, § 168
Clerk . . . . .	3,250	Same	Judiciary Law, § 168
Court attendant . . . . .	2,600	Same	Judiciary Law, § 354
2 Court attendants . . . . .	2,100	Same	Judiciary Law, § 354
Confidential clerks to justices . .	1,666.36	Same	Judiciary Law, §§ 160 and 279

## SUPREME COURT, SECOND DEPARTMENT, APPELLATE DIVISION, RICHMOND COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
Deputy clerk . . . . .	\$1,644 02	. . . . .	See laws cited at page 290 of the 1921 budget
2 Confidential clerks . . . . .			
Case and consultation clerk . .			
Attendants . . . . .			
Confidential clerks to justices . .	963 71	. . . . .	See laws cited at page 290 of the 1921 budget

## COUNTY COURT AND SURROGATE'S COURT, RICHMOND COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
Court stenographer . . . . .	\$4,200	\$4,000	1920, chap. 818.

## SUPREME COURT LIBRARY, RICHMOND COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
Librarian . . . . .	\$3,000	Same	Education Law, 1180-c
Assistant Librarian . . . . .	1,464	Same	Education Law, 1180-c
Junior clerk . . . . .	900	Same	Education Law, 1180-c

Grand total above mandatory fixations . . . . . \$5,389,025.44

## EXHIBIT 2

*Mandatory County Salaries.*

The following is a list of the Mandatory County Salaries which would not be affected by a bill similar to the one attached Exhibit 3 (Senate Int. 590, Print 622, 1916) because they pertain to judicial or elective offices. It is interesting to note that the salaries of the County Clerk of Richmond county and the Sheriff of Queens County are, at present, discretionary although they are also elective officers. Furthermore, the additional compensation to the County Judges for services in drawing jurors, is discretionary under Judiciary Law Section 26 although they are judicial officers. It will be noted that the Commissioners of Jurors of each county are listed in Table I, although in a later amendment to Senate Int. 590 of 1916 Commissioners of Jurors were also excepted from its operation.

## NEW YORK COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
County clerk.....	\$15,000	Same	1884, chap. 299
District attorney.....	15,000	Same	1920, chap. 822
Register.....	12,000	Same	1921, chap. 227, § 2510
Sheriff.....	12,000	Same	1920, chap. 565
28 Justices of the Supreme Court, first department, New York and Bronx counties.....	7,500	Same	Const., art. VI, § 12
7 Judges, court of general sessions	17,500	Same	1911, chap. 526
2 Surrogates.....	15,000	Same	1919, chap. 641

## BRONX COUNTY

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
County clerk.....	\$10,000	Same	1913, chap. 266, § 4
District attorney.....	10,000	Same	1913, chap. 266, § 4
Register.....	10,000	Same	1913, chap. 266, § 4
Sheriff.....	10,000	Same	1913, chap. 266, § 4
Surrogate.....	10,000	Same	1913, chap. 266, § 4
County judge.....	10,000	Same	1913, chap. 266, § 4
Visiting judge.....	2,000	Same	1921, chap. 141

## KINGS COUNTY

County clerk.....	\$12,000	Same	1911, chap. 641
District attorney.....	15,000	Same	1920, chap. 825
Register.....	12,000	Same	1911, chap. 780
Sheriff.....	15,000	Same	1901, chap. 705
14 Justices of Supreme Court, second department.....	7,500	Same	Const., art. VI, § 12
Justices designated to Appellate Division from other districts..	8,042 11	Same	Judiciary Law, § 76
Official referees at Appellate Division.....	39,728 46	Same	Judiciary Law, § 116
Official referees.....	2,820 06	Same	1913, chap. 724
Surrogate.....	15,000 00	Same	1919, chap. 641

QUEENS COUNTY			
<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Law</i>
County clerk.....	\$8,000 00	Same	1912, chap. 540
District attorney.....	12,000 00	Same	1912, chap. 161
Additional compensation to justices of second department residing outside Kings county.	39,519 64	Same	Const., art. VI, § 12
Justices designated to Appellate Division from other districts..	2,621 91	Same	Judiciary Law, § 76
Official referees to Appellate Division.....	12,952 40	Same	Judiciary Law, § 116
Official referees.....	919 41	Same	1913, chap. 724
Surrogate.....	10,000 00	Same	County Law, § 232
County judge.....	10,000 00	Same	County Law, § 232
RICHMOND COUNTY			
District attorney.....	\$15,000 00	Same	1915, chap. 408
Sheriff.....	6,000 00	Same	1916, chap. 83
Additional compensation to justices residing outside Kings county.....	6,986 84	Same	Const., art. VI, § 12
Judges designated to Appellate Division from other districts..	463 54	Same	Const., art. VI, § 12
Official referees of Appellate Division.....	2,289 91	Same	Judiciary Law, § 116
Official referee.....	162 55	Same	{ 1921, chap. 761 1913, chap. 724
County judge and surrogate....	7,500 00	Same	County Law, § 232
Grand total above mandatory fixations.....			\$837,506.83

EXHIBIT 3.

STATE OF NEW YORK.

No. 622

Int. 590.

IN SENATE,

FEBRUARY 21, 1916.

Introduced by Mr. Brown — (for the committee) — read twice and ordered printed, and when printed to be committed to the Committee on Affairs of Cities.

AN ACT

To provide for submitting to the voters of the city of New York the question; "Shall the expenses of County Offices of a county included within the city, and the salaries and compensation of all county officers and employees of any such county, except judicial or elective officers, be fixed by the city author-



ities;” and declaring the effect of an affirmative determination of such question.

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

Section 1. There shall be submitted to the voters of the city of New York at the general election held in November, nineteen hundred and seventeen, the question:

“ Shall the expenses of county offices of a county included within this city, and the salaries and compensation of all county officers and employees of any such county, except judicial or elective officers, be fixed by the city authorities? ”

If a majority of votes cast on such question at any election be in the affirmative the power to fix and determine the expenses of the county offices of any county included within the city, and the amount and the times and manner of payment of the salary or compensation of any county officers or employees of any such county, except a judicial or elective officer and the term of office and mode of appointment, number and grade of any appointive county officer, and of the clerks, assistants or employees in any county office, shall notwithstanding the provisions of any general, special or local law, be vested in the city authority or authorities which would have power, in the absence of statutory regulation, to fix and determine such expenses, salaries, compensation or other matters, if such offices, officers or employees were offices, officers or employees of the city.

§ 2. This act shall take effect immediately.

Amendments in later prints of this bill were as follows:

*Amendment No. I.*

except a judicial or elective officer, a commissioner of jurors, and officers or employees of a Court of Record, or an assistant or employee of a district attorney,

*Amendment No. II.*

judge or justices, an elective officer, a clerk of a court of record, a commissioner of juror, a district attorney,

EXHIBIT 4.

MANDATORY SALARIES IN 1921 BUDGET  
(EXCLUSIVE OF COUNTY POSITIONS)

BOARD OF ALDERMEN

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Mandatory total</i>	<i>Law</i>
Vice chairman.....	\$4,000	\$4,000	\$4,000*	Charter, § 18
Chairman, finance committee.....	4,000	4,000	4,000*	Charter, § 18
65 Aldermen.....	3,000	2,000	130,000*	Charter, § 18

BOARD OF ELECTIONS

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Mandatory total</i>	<i>Law</i>
All.....	.....	.....	964,073	Election Laws 200, Charter, § 230

LICENSE DEPARTMENT

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Mandatory total</i>	<i>Law</i>
Commissioner.....	7,500	7,500	7,500	Charter, 640

BOROUGH PRESIDENTS

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Mandatory total</i>	<i>Law</i>
Five.....	10,000	10,000	50,000*	Laws 1920, chap. 32, Charter, 33

BOARD OF EDUCATION

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Mandatory total</i>	<i>Law</i>
.....	.....	.....	49,912,415.67*	Education Law 887, subd. 7, represents product of mandatory 4.9 mill tax

COLLEGE OF THE CITY OF NEW YORK

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Mandatory total</i>	<i>Law</i>
Total Personal service.....	.....	.....	903,041.66	Laws 1918, chap. 533; Charter, § 1131

BROOKLYN INSTITUTE OF ARTS AND SCIENCES

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Mandatory total</i>	<i>Law</i>
.....	.....	.....	20,000	Charter, §§ 230; 624; Laws 1911, Chap. 696; Laws 1906, Chap. 618

POLICE DEPARTMENT

<i>Position</i>	<i>Budget rate</i>	<i>Mandatory rate</i>	<i>Mandatory total</i>	<i>Law</i>
Chief surgeon..	\$6,500	\$3,500	\$3,500	Charter, § 299
Marine inspector	4,900	4,400	4,400	Laws 1920, Chap. 708; Charter, § 276-C
Chief lineman..	2,400	1,200	1,200	Charter, § 276-A

FIRE DEPARTMENT

2 Deputy Commissioners....	5,500	5,000	10,000	Charter, § 720
Volunteer system:				
Queens.....	15,400	15,400	15,400	Charter, § 722
Richmond.....	10,800	10,800	10,800	Charter, § 722

DEPARTMENT OF PLANT AND STRUCTURES

Commissioner..	7,500	7,500	7,500	Laws 1916, Chap. 523
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CITY COURT

Position	Budget rate	Mandatory rate	Mandatory total	Law
10 Justices.....	\$12,000	\$12,000	\$120,000*	Law 1907, Chap. 707, § 4
10 Stenographers..	3,800	3,000	30,000	Law 1893, Chap. 651 and N. Y. C. Court Act § 11
1 Clerk.....	6,500	6,000	6,000	N. Y. C. Court Act § 5; and 1921
1 Deputy clerk..	4,500	3,000	3,000	Consol. Act. § 1275 Am'd. 1894 and N. Y. C. Ct. Act. § 5
1 Deputy Clerk..	4,000	2,000	2,000	Consol. Act. § 1275 Am'd 1894 and N. Y. C. Ct. Act. § 5
1 Deputy clerk..	3,560	2,000	2,000	Consol. Act. § 1275 Am'd. 1894 and N. Y. C. Ct. Act. § 5
2 Deputy clerks..	3,074	2,000	4,000	Consol. Act. § 1275, Am'd 1894 and N. Y. C. Ct. Act, § 5
12 Assistant clerks.	3,074	1,500	18,000	Consol. Act. § 1275, Am'd 1894 and N. Y. C. Ct. Act, § 5
1 Assistant clerk..	2,616	1,500	1,500	Consol. Act. § 1275, Am'd. 1894 and N. Y. C. Ct. Act, § 5
7 Assistant clerks.	2,520	1,500	10,500	Consol. Act. § 1275, Am'd. 1894 and N. Y. C. Ct. Act, § 5
3 Interpreters....	2,640	1,500	4,500	Consol. Act. § 1275, City Ct. Act, § 12
1 Chief attendant.	2,304	1,200	1,200	Laws 1898, Chap. 172 and N.Y. C. Ct. Act, § 14
24 Attendants.....	2,160	1,200	28,800	Laws 1898, Chap. 172 and N. Y. C. Ct. Act, § 14
1 Librarian.....	3,500	3,500	3,500	Laws 1921, Chap. 709; Salary fixed by Trustees of Library at not over \$5,000

CITY MAGISTRATES COURT

Position	Budget rate	Mandatory rate	Mandatory total	Law
1 Chief magistrate	11,000	10,000	10,000*	Laws 1915, Chap. 531

MUNICIPAL COURTS

Position	Budget rate	Mandatory rate	Mandatory total	Law
41 Justices.....	9,000	9,000	369,000*	Laws 1920, Chap. 310
6 Justices.....	8,000	8,000	48,000*	Laws 1920, Chap. 310
18 Clerks.....	3,500	3,000	54,000	Laws 1915, Chap. 279 and 581; Charter § 1373. All employees transferred "at their present salaries."
6 Clerks.....	3,000	2,000	12,000	Laws 1915, Chap. 279 and 581; Charter § 1373. All employees transferred "at their present salaries."

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18 Deputy clerks...	3,500	3,000	54,000	Laws 1915, Chap. 279 and 581-Charter § 1373. All employees transferred "at their present salaries."
6 Deputy clerks ..	3,000	2,000	12,000	Laws 1915, Chap. 279 and 581; Charter § 1373. All employees transferred "at their present salaries."
42 Assistant clerks.	3,500	3,000	126,000	48 provided in budget but only 44 were transferred in 1915.
2 Assistant clerks.	3,500	2,000	4,000	48 provided in budget but only 44 were transferred in 1915
45 Stenographers..	3,074	2,000	90,000	46 provided for, only 45 transferred
9 Interpreters....	2,232	1,500	12,500	46 provided for, only 45 transferred
12 Interpreter ....	2,160	1,500	18,000	46 provided for, only 45 transferred
1 Interpreter.....	2,088	1,500	1,500	46 provided for, only 45 transferred
1 Interpreter.....	2,040	1,500	1,500	46 provided for, only 45 transferred
2 Interpreters....	2,016	1,200	2,400	46 provided for, only 45 transferred
109 Attendants....	2,160	1,500	163,500	46 provided for, only 45 transferred
8 Attendants.....	1,944	1,500	12,000	46 provided for, only 45 transferred
1 Bookkeeper....	2,376	2,000	2,000	46 provided for, only 45 transferred
1 Attendant to Board of Justices.....	1,040	300	300	46 provided for, only 45 transferred
Grand total.....				\$53,275,530.53
Total of starred items.....				50,647,415.67
Total unstarred items.....				\$2,628,114.86

EXHIBIT 5.

STATE OF NEW YORK.

3d Rdg. 656. Nos. 626, 1487, 1557, 1734. Int. 594

IN SENATE,

FEBRUARY 21, 1916.

Introduced by Mr. Brown — (for the New York Committee) — read twice and ordered printed, and when printed to be committed to the Committee on Affairs of Cities — reported favorably from said Committee with amendments, and ordered reprinted as amended, and committed to the Committee of the Whole — amended and ordered reprinted as amended and

when printed to be recommitted to the Committee of the Whole — ordered to a third reading, amended and ordered reprinted retaining its place in the order of third reading.

### AN ACT

To provide for submitting to the voters of the city of New York the question: "Shall the salaries or compensation of all city or borough officers and employees, except the salaries of judicial or elective officers and of members of the supervising or teaching staff of the department of education, be fixed by the local authorities?" and declaring the effect of an affirmative determination of such question.

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

Section 1. There shall be submitted to the voters of the city of New York at the general election held in November, nineteen hundred and seventeen, the question: "Shall the salaries or compensation of all city or borough officers and employees, except the salaries of judicial or elective officers and of members of the supervising or teaching staff of the department of education, be fixed by the local authorities?" If a majority of the votes cast on such question at such election be in the affirmative, the board of aldermen of such city, upon the recommendation of the board of estimate and apportionment, shall have the exclusive power to fix the salary or compensation of every city or borough officer or employee whose salary or compensation is paid wholly or partly out of the city treasury, except the salary of a judge or justice or elective officers and clerks of courts of record whose salary is fixed by statute, and except the salaries of members of the supervising or teaching staff of the department of education, notwithstanding the provisions of any general, special or local law, and irrespective of the amount of salary or compensation fixed by any such law, subject only to the limitations and conditions prescribed by statute respecting the recommending or fixing of salaries or compensation of appointive officers or employees by such boards.

§ 2. This act shall take effect immediately.

## POLITICAL INTERFERENCE WITH POLICE ADMINISTRATION.

All experience has shown that a vital requirement for effective and impartial enforcement of the law by the Police Department is the complete freedom of that Department and its head, the Police Commissioner, from interference by the Mayor. The elective head of the city government is necessarily subject from a variety of quarters to pressure for special or privileged treatment. A policeman desires to be promoted, or to be detailed to a "soft berth," or to a precinct nearer his home. The proprietor of a motion picture house believes that the police are unduly severe in the enforcement of the law against the admission of minors. A countless variety of similar situations arises every day. Pressure upon the Mayor is continuous. If he succumbs and controls the police commissioner in the disposition of such matters, the police administration is bound to fail, for pull and influence, with their attendant demoralization, have then been the governing force in the department. Effective law enforcement is impossible when the rank and file of the force or the public generally become convinced that the Police Department is administered according to personal or political "pull." That the Police Department under Mayor Hylan and Commissioner Enright has been too much subject to this demoralizing tendency is established by the evidence before this Committee.

Mayor Hylan's first Police Commissioner was Frederick H. Bugher, who did not seek the appointment and was not eager to accept it.

On the Saturday preceding his appointment, in a conversation with Mayor-elect Hylan, Mr. Bugher stated that the Police Commissioner could make a success of the department only if he had an absolutely free hand and was not interfered with in any way, that he must be permitted to select all of his deputy police commissioners, make all promotions, assignments and appointments without any interference from the outside. Mr. Bugher told the Mayor-elect that he feared the commissioner would be interfered with by politicians and perhaps the incoming Mayor himself. He suggested that whoever was appointed commissioner be given six months in which to demonstrate whether he was capable of running the department or not and if the Mayor was not satisfied with the man he appointed, then, at the end of that time,

he should remove him and put in someone else, but he should not constantly interfere with him. Judge Hylan seemed to agree that that was the way it ought to be done.

When the Mayor told Mr. Bugher that he was to be appointed, Bugher urged him to think the matter over to see if he could not get a man who would better suit him and said further, if he accepted the appointment it would only be on the conditions which he had named to Mr. Hylan the previous Saturday. The Mayor replied, "It is because you talk that way — that's why I want you for my commissioner."

*Hylan recommends Solovei.*

On January 2nd, the Mayor sent for Bugher and introduced him to a Mr. Solovei. The Mayor said he (Solovei) would make an excellent deputy commissioner and asked Mr. Bugher to appoint him and put him in charge of the Detective Bureau as second deputy commissioner. Bugher told the Mayor that Solovei was not the kind of a man he wanted as one of the deputies as he had been counsel for one of the "pickpocket trusts." The Mayor said, "Oh, he has represented a few pickpockets and I have known him a long time and he is a good lawyer." Bugher said he did not feel like appointing him and the Mayor did not press the matter further.

On January 3rd, the Mayor sent for Bugher and introduced him to a lawyer, and asked Bugher to listen to the lawyer's complaint. It was in reference to policemen being detailed to certain hotels. The lawyer represented some people who owned a chain of hotels, in three of which uniformed policemen were stationed. The lawyer said he did not know why the policemen were there and he named the location of one of the hotels and Bugher told the Mayor, in the presence of the lawyer, that it had always been a disreputable resort and he would remove the patrolmen only after he had made a thorough investigation. After the lawyer went out the Mayor said that the lawyer was a very prominent man and probably as close to President Wilson as any man in the United States.

The Mayor sent first-grade Detective O'Hara to Bugher with instructions to appoint a certain individual as property clerk. Bugher sent back word to the Mayor that there was no vacancy as property clerk and that Bugher did not care for the man's appearance and would not have appointed him anyhow.

The second day that Bugher was in office, O'Hara came to him and handed him an envelope on which were written the names of policemen that the Mayor wanted Bugher to transfer from one post to another. Bugher told O'Hara to ask the Mayor to speak to him personally about the matter. The Mayor wrote Bugher a letter requesting him to appoint Edwin J. O'Malley a deputy police commissioner.

About the second week Bugher was in office he appointed Mr. Cambridge Livingston a deputy police commissioner. The Mayor telephoned to Bugher that afternoon when he saw the appointment in the evening papers and scolded him for making the appointment without consulting the Mayor. Bugher explained that he understood he was to make all the appointments and he selected Livingston because he would make a good trial deputy. He was a lawyer. The next day the Mayor sent for him and found fault with him again for appointing Mr. Livingston. His principal grievance was that Livingston lived on Fifth Avenue.

One day when Bugher was at City Hall the Mayor said that he wanted Bugher to reduce Dillon from the rank of Inspector to that of Captain. He was then acting as Chief Inspector. Bugher said that he thought it was unfair to reduce a man without cause. Indeed, Bugher had had the twenty-two inspectors before him on January 2nd, had told them he did not intend to make any reductions but was going to give them a chance and if they served loyally and faithfully they would remain inspectors.

The Mayor wrote Bugher a letter introducing Mr. Bert I. Snyder of the Brooklyn Eagle as a friend of his of long standing and said that he wished to make an exception to his policy against placing newspaper men in public office and to recommend Snyder as a deputy police commissioner. Previously Bugher had received a letter from the Mayor saying that he was "absolutely opposed to newspaper men and politicians running the Police Department." This was in connection with some reference he had seen in the press to the effect that Bugher was considering newspaper men for appointment. Bugher told the Mayor that he did not think Snyder would be a suitable man for a deputy commissioner. The Mayor asked why. Bugher said that he thought "the crowd over there would lull him to sleep in about 48 hours. He was a fine old gentleman."

The Mayor sent for Bugher in a great hurry one day. When he arrived at the Mayor's office, the Mayor told him a patrolman



had been fined five days' pay for drinking a cup of coffee while on duty in Brooklyn. Bugher stated that this was impossible as no police trials had been held up to that time during Bugher's administration. The Mayor insisted that it had been done and Bugher should make a thorough investigation. Bugher promised to do so and did, but no such thing had occurred.

During the twenty-three days Bugher was in office the Mayor sent for him almost every day in reference to some such matter or in reference to appointments, etc.

On January 22nd the Mayor sent for Bugher and handed him a presentment handed up by the Extraordinary Grand Jury appointed in connection with the Ruth Cruger case. It referred to nine motorcycle patrolmen who were indirectly connected with that case and recommended that they either be dismissed or placed on trial. Bugher stated that a copy had already been furnished to him by the District Attorney. The Mayor asked him what he was going to do about it. He said he was going to put them on trial. The Mayor said they should be dismissed. Bugher said, "But we cannot dismiss them because, there is not sufficient evidence to hold, that is, if we did dismiss them they will appeal to the courts and be reinstated." Bugher had known three or four of the men personally for ten or twelve years and believed them to be absolutely honest and thought it would be an injustice to their families to suspend them. He said, however, that he would give them a fair trial. Bugher had already had a copy of the Grand Jury minutes and studied them and had asked the District Attorney to assign one of his assistants to prosecute these men in the Police Department's trial court. After Bugher left the department he read in the papers that these men had been suspended by order of the Mayor, but none of them was dismissed.

Following this conference and later on the same day, January 22nd, Bugher wrote the Mayor, requesting that he either be permitted to run the department without interference or that the Mayor accept his resignation. On the 23rd, the Mayor wrote asking for his resignation, which Bugher submitted. The Mayor has sought to make it appear that Mr. Bugher's resignation was compelled because of his failure to prosecute the motor cycle policemen. It is clear, however, that Mr. Bugher's further tenure of his office was made impossible to any man of character and self-respect, by reason of the Mayor's continuous and demoralizing interference with the administration of the department.

*The Experiences of Deputy Commisisoner O'Grady.*

Mrs. Ellen O'Grady was appointed Fifth Deputy Police Commissioner on January 28, 1918, and resigned on December 13, 1920. She had served as a probation officer in Judge Hylan's court in East New York and was recommended to the Police Commissioner by Mayor Hylan. Commissioner Enright gave her no instructions as to what her duties were to be, but her predecessor had been doing welfare work on a small scale and she enlarged it, taking up an investigation of dancehalls among other things. After she had begun this investigation, Inspector McDonald was sent by order of the Police Commissioner to take this investigation out of her hands. Thereafter nothing further was ever done, so far as she could learn, to correct serious conditions in these dancehalls. Her investigations were made in October and November and in December, 1919, further investigation was taken from her. A few months later, owing to published criticisms, Commissioner Enright sent her a memorandum instructing her to investigate those dance halls. That was in April 1920. She sent him in reply, a written memorandum calling attention to the fact that a pretty thorough investigation had been started in November and December, 1919 by her and that she had secured sufficient evidence to make arrests when Inspector McDonald called at her office saying that the Commissioner had directed him to handle the whole situation and she had given him all her data.

Some time prior to December, 1920, the mother of a girl of 17 complained to Mrs. O'Grady that her daughter was remaining out nights and coming home with money that she had not earned. Mrs. O'Grady assigned two policewomen to investigate the matter. They brought this girl and two others, one of whom was also under 17, to Mrs. O'Grady's office. She questioned them carefully. They implicated two wealthy men. While in her office she had the girls telephone to the office of one of these men, verifying the fact that they were known to him. When she had thoroughly investigated the matter and had sufficient evidence she prepared to make an arrest and sent her policewomen with two of the girls, who were heavily veiled, to the office of one of the men. This was a few days prior to December 23rd. After she had dispatched her policewomen on this mission and sometime later that afternoon, Commissioner Enright sent for her and asked her about the case and if she was sure that she was right in the matter. He also asked if they were good girls. She replied by telling him that the girls were under the age of 18 and that the men were guilty of a crime. Shortly after she returned to her office from

Commissioner Enright's office she received a series of telephone calls from her policewomen. They stated that they had reached the office of the man in question and had been told that he was in and they would have to wait, and they had seen Ex-Inspector Hughes and the Commissioner's secretary, Mr. Hackett, come into the office and that they had been moved from one room to another and had found it impossible to arrest the man. They did not say that Hughes or Hackett ordered them not to arrest the man but stated that by their words and actions they prevented the arrest. Mrs. O'Grady determined to inform the Mayor about this and did so on December 23rd, confirming it with a written memorandum to the Mayor. She then sent the girls with the policewomen to Chief Magistrate McAdoo to make their complaint to him. Later, on December 23rd, after she had been to the Mayor's office she received a note from Commissioner Enright as follows: "Please make a thorough investigation and take proper police action in connection with the Seaman case and promptly advise me of the result." On December 26th, she wrote the Commissioner a full statement to the effect that she had already investigated the case and mentioned the interference of Ex-Inspector Hughes and Secretary Hackett. From that time on there was a series of petty persecutions which continued until her resignation.

It was this interference that ultimately led to Mrs. O'Grady's resignation. She had been investigating conditions in motion picture houses for some time, particularly violations of morality, and because she discovered the conditions were very bad, she finally wrote a statement for the press telling of the danger of motion picture houses, which later was published all over the country and in Europe and much commended. The Police Commissioner was offended by this and spoke to her about it, objecting because she had not consulted him before giving the letter to the press. Among other things, her investigation of motion picture houses disclosed the repeated violation of the law against admitting minors. Then came the catastrophe in the Catherine Street motion picture house where six little children were killed. She called her staff together and said that each of them should feel guilty because they had not enforced the law strenuously enough. This was on the morning of December 13, 1920. Later that day, Captain Ammon of her staff came to her saying that he had been in Commissioner Enright's office when Mr. Sidney Cohen, a motion picture exhibitor was there. Captain Ammon said, "Commissioner Enright told me to tell you that your people should not be so strenuous around the motion picture houses, that when they

find a flagrant violation of law tell Mr. Cohen and he will see to things or let the captain of the precinct know, but your people are altogether too strenuous." She then went into Commissioner Enright's office, removed her badge, laid it on his desk saying, "I am resigning" and left the room.

The Mayor's domination of Commissioner Enright in matters of appointment to exempt positions and of transfers within the department is shown by the following typical letters from the Mayor's office to the Police Department:

*From Assistant Secretary Sinnott, May 10, 1919.*

"The Mayor has directed that I send you the following names and addresses:

"Miss Elizabeth Helm, 473 Bainbridge Street, Brooklyn; Miss Hortense Thompson, 403 Sackett Street, Brooklyn; Miss Helen Burns, 588 Jefferson Avenue, Brooklyn; Miss Lillian L. Lefler, 57 Graves Street, Brooklyn; Mrs. Ray Nicoletti, 2812 Second Avenue, New York; Cora J. Ahearn, 344 East 19th Street; Anna . . . . ., 411 East 88th Street, Manhattan; Mary Gowan, 3079 Decatur Avenue, Bronx."

All of these women were appointed as policewomen.

*From Executive Secretary Kelly, January 23, 1920.*

"The Mayor approves your request of January 20th for permission to appoint to positions in the exempt class the following-named persons:

"George McNulty, Secretary to the Second Deputy Commissioner, at \$2400 per annum.

"Charles W. Hunt, Secretary to the Third Deputy Commissioner, at \$2400 per annum.

"Carol Underhill, Stenographer to the Fourth Deputy Commissioner, at \$1550 per annum.

"William Gillespie, Secretary to the Police Commissioner, at \$4000 per annum.

"Henry W. Dearbrn, Confidential Investigator, at \$1920 per annum.

"Felix P. Nicklas, Secretary to the Department, at \$3300 per annum."

*From Grover Whalen, June 18, 1918.*

"My dear Judge. Is it possible for you to approve the application for the transfer from the Far Rockaway Precinct to Rockaway Beach of Patrolman Joseph Dwyer,

Shield No. 539? I understand that this request has already been made through official channels."

The transfer was made June 21, 1918.

*From Grover Whalen, May 10, 1918.*

"Mr. John O'Neill, No. 4758 of the 40th Precinct Station desires to be transferred to the Telegraph Bureau of your Department. Anything that you may be able to do for him will be very much appreciated by

"Very truly yours,

"Grover Whalen."

*From Grover Whalen, May 16, 1918.*

"Some time ago I spoke to you about Patrolman O'Neill of the 40th Precinct who is desirous of being transferred to the Telegraph Bureau. Will you be good enough to advise me if it is possible to comply with the request. Thanking you in advance \* \* \*."

The transfer was made May 18, 1918.

*From Grover Whalen, August 19, 1918.*

"I send you a letter from John J. Doyle, 1 Kane Avenue, Arverne, Long Island, regarding the transfer to Rockaway of Patrolman Eldredge L. Warner, 22nd Precinct. If this transfer can be made, I would appreciate it very much.

"Very truly yours,

"Grover A. Whalen, Sec't. to Mayor."

The transfer was made August 22, 1918.

*From Grover Whalen, October 25, 1918.*

"Is it possible to transfer Lieut. Deering, stationed in Staten Island, (formerly connected with the Detective Bureau) to Manhattan? Some of our good friends are interested in the Lieutenant, and if you can consistently grant my request, the same will be very much appreciated. Very truly yours, Grover A. Whalen, Secretary to the Mayor."

Attached to this letter was a note:

"My dear Grover: Will you kindly keep the Lieut. Deering matter in mind? Sincerely yours, Thos. J. McManus, October 3, 1918."

The request was granted. Thos. J. McManus is "The"

McManus, well known as a former State Senator and Tammany Leader.

### ILLEGAL POLICE REINSTATEMENTS.

The evidence shows that twenty-nine police officers have, during this administration, been reinstated in violation of the established law, which forbids reconsideration of applications for reinstatement when such an application has once been considered and denied. These officers are still retained on the force in spite of findings by both the present Corporation Counsel and the present Commissioner of Accounts that such reinstatements were illegal. One officer was illegally reinstated merely so that he could be retired on a pension.

#### *Act of 1907.*

The first statute providing for rehearing of charges on which members of the police force had been dismissed and for reinstatement was Chapter 723 of the Laws of 1907, which added Section 1543-a to the Charter. It did not permit rehearing in cases of insubordination, conduct unbecoming an officer or member, cowardice or intoxication.

#### *Amendment of 1915.*

This charter section was revised in 1915 so as to eliminate these exceptions. Application by men previously dismissed or demoted had to be made within one year after the passage of the act. Those dismissed or demoted after the amending must apply within one year after dismissal.

#### *Abolition of Board of Review.*

Shortly after this amendment of 1915, Mayor Mitchel created a Board of Review consisting of the Police Commissioner, Fire Commissioner and Corporation Counsel to advise him in relation to applications under this amendment. On February 19, 1918, the present Mayor's secretary wrote Corporation Counsel Burr, "The Mayor does not expect to establish another Board of Review for this purpose and these functions will be carried out by the Police and Fire Commissioners." On January 12, 1918, Assistant Corporation Counsel Nelson advised the Mayor that such a board was without warrant of law, because not created by the Charter.

#### *Ordinance of July 2, 1918.*

At a meeting of the Board of Aldermen on July 2, 1918, an ordinance was passed purporting merely to transfer the provisions

of Charter Section 1543a to the Code of Ordinances, but in fact permitting applications thereunder to be made within a year after the enactment of the ordinance instead of within a year after the enactment of the statute. The Mayor approved this ordinance on July 26, 1918, but it was thereafter held invalid by the Corporation Counsel, in an opinion rendered November 29, 1918.

*Executive Board Created.*

Thereafter an Executive Board in the Police Department was created with a committee thereof known as the Laws and Regulations Committee, to which such applications for rehearing were referred.

*Advisory Committee Appointed.*

Under date of December 6, 1920, the Mayor wrote the Police Commissioner referring to the Commissioner of Accounts' investigation of applications for reinstatement, and stating that the Mayor had concluded to appoint an Advisory Committee to pass upon these applications, consisting of the Corporation Counsel, Fire Commissioner and Chief Inspector of the Police Department.

Following a public charge that numerous dismissed policemen had been illegally reinstated, the Mayor directed the Commissioner of Accounts to investigate.

*The "Functus Officio" Opinion.*

On November 24, 1919, the Commissioner of Accounts requested an opinion from the Corporation Counsel in the case of Patrolman George F. Frey pointing out that Mayor Mitchel had denied Frey's application for reinstatement, after which he applied to Mayor Hylan for a rehearing and the Mayor consented to a rehearing and Patrolman Frey had been reinstated. The Commissioner of Accounts asked a ruling particularly upon whether the denial by Mayor Mitchel made the matter "res adjudicata," stating that this question would affect a number of similar cases which the Commissioner of Accounts was examining. Under date of March 4, 1920, the Corporation Counsel replied in part as follows: "I incline to the view that if a Mayor denies an application of a uniformed member of either the Police Department or the Fire Department for a rehearing, under the provisions of Section 1543a of the Charter, he is *functus officio* and neither he nor his successor thereafter would have power to reconsider such determination and grant the person concerned a

rehearing." In spite of this opinion Patrolman Frey is still a member of the police force. That the Police Department had knowledge of this opinion is shown by the fact that on May 31, 1920, the Secretary of the Department wrote former Patrolman Frederick Blummert, referring to the Corporation Counsel's opinion as reason for denying application for rehearing, stating that the Police Commissioner was without jurisdiction, because a previous rehearing had been granted and dismissal affirmed.

#### *Illegal Reinstatements.*

Of the 38 cases of reinstatement under this section of the charter, 29 were illegal under the above opinion. Four of these reinstatements took place after the opinion had been rendered. Six others took place after a rehearing had once been granted and dismissal affirmed. In nineteen of these cases reinstatement was granted after rehearing had once been denied.

#### *Reinstated after "Functus Officio" Opinion.*

These four cases are Joseph Calcaterra, Frank P. Mallon, Edward J. Donnelly and Thomas J. Coyne. Taking the Calcaterra case as an example, it appears that he was dismissed on December 7, 1915, for being intoxicated in a dormitory of the Station-house and for discharging a revolver at a patrolman. On August 2, 1916, he applied to Mayor Mitchel for a rehearing, which was denied on November 21, 1916. On June 20, 1918, he applied to Mayor Hylan for a rehearing. On November 13, 1919, the Police Commissioner wrote the Mayor recommending a rehearing be granted. On January 5, 1920, the Commissioner of Accounts wrote the Mayor stating that although application was made to Mayor Mitchel "no action appears to have been taken thereon"—this, in spite of the fact that a copy of the letter of November 21, 1918, denying such application, was on file in the Mayor's office, and had been delivered to the Commissioner of Accounts to facilitate his study. Calcaterra was thereupon granted a rehearing, was reinstated and is still a member of the Police force.

#### *Reinstatement after Dismissal Affirmed.*

The six officers who have been reinstated in spite of the fact that their previous rehearing affirmed the dismissal are John A. Do'an, John P. Murtha, A. W. Bossard, J. E. Brady, Herman W. Schieb and Sergeant Everett Lewis. The Dolan case may be cited as an example of this class. Dolan was placed on trial on



August 9, 1915, before Deputy Commissioner Godley for conduct unbecoming an officer, neglect of duty and violations of the rules. It was charged that he and another officer had endeavored to extort payment of \$25 from one McNavens under fear of arrest and did actually obtain from him a \$5 payment. He was found guilty and dismissed and brought certiorari proceedings in which his dismissal was affirmed. He applied to Mayor Mitchel on July 27, 1916 for a rehearing. It was granted and the dismissal was confirmed upon such rehearing on December 20, 1917. He applied again to Mayor Hylan for a rehearing. The Mayor consented on October 23, 1918. The rehearing took place October 31, 1918 and on February 3, 1919 Dolan was reinstated.

#### *Reinstatements After Rehearing Denied.*

The nineteen officers who were reinstated before the "*functus officio*" opinion, but after an application for a rehearing had been denied, are John A. Kaht, A. J. Farley, Officer McGerald, G. A. Fortune, T. P. Madigan, Patrick McHugh, Hugh Gallagher, Theodore Unger, James J. Sheehy, M. R. Reardon, W. J. Raleigh, John Walsh, John Ryan, Thomas Dent, Francis J. Mang, Joseph Storch, George F. Frey, J. F. McAuliffe and Charles L. Finch. The case of Officer Kaht may be taken as an example in this class. He was a sergeant, but on June 16, 1910 was reduced to the rank of patrolman. A bill to permit the city authorities to rehear the charges against him was passed, but vetoed by the Governor. Kaht then brought certiorari proceedings which failed. He applied to Mayor Mitchel on April 14, 1915, for a rehearing, which was denied on July 14, 1916. After the special legislation attempted in 1918 failed, he applied to Mayor Hylan for a rehearing. On July 24, 1918, the Mayor referred his application to the Police Department. On March 21, 1919, the Police Commissioner approved the recommendation for such rehearing. The rehearing was held and Kaht was reinstated to the rank of sergeant on July 9, 1919. He was then retired on January 26, 1921. In this case also the Commissioner of Accounts, in his study in 1920, reported that "no action appears to have been taken on this application" although a copy of letter of July 14, 1916, was on file in the Mayor's office and had been delivered to the Commissioner of Accounts.

*Maher Case.*

The case of William F. Maier is remarkable because he was reinstated as a Lieutenant on March 5, 1918, while he was employed as supervisor of the Property Protection Bureau of the United Fruit Company, and was retired on March 27, 1918 on a pension, receiving a salary from both sources from the 5th of March to the 27th of March. He was thus reinstated merely that he might be retired. He discharged no police duty in this interim, but was rendering service to a private corporation.

## DEMORALIZATION OF THE QUARTERMASTER'S DIVISION.

The Committee's investigation of the Quartermaster's Division of the Police Department has disclosed that the business side of that department has been conducted wastefully and in flagrant violation of the law requiring that public work and supplies, costing in excess of \$1,000, be furnished by contract and after competitive bidding. Payroll costs have been increased. Members and officers of the uniformed force have been placed in charge of work for which civilians are better fitted. Purchases of more than \$1,000 have been split, for the purpose of avoiding competition and enabling awards to be made on open market order to favored concerns. Prices paid were often extravagant. Competition was simulated by alleged "telephone bids," and in some instances by forged bids. It was disclosed, in addition, that the private motor cars of favored individuals were maintained at public expense and that stolen automobiles, recovered by the police, were used for long periods, by persons other than their owners, at public expense for gasoline and oil.

The evidence is as follows:

The Bureau of Repairs and Supplies now called the Quartermaster Division of the Police Department had on January 1, 1914, a total of 32 employees on the administrative side at a total annual cost of \$50,500. Had the personnel of the Bureau remained the same until January 1, 1918, an increase for respective grades during that time would have made the total salary roll \$4,000 more or \$54,500. However, due mainly to a reorganization by which civilian employees were substituted for members of the uniform force, the personnel on January 1, 1918, was 33 employees at a total cost of only \$49,500 on the administrative side.

After 1918 due mainly to a reversion to the old custom of employing members of the uniformed force in this bureau the cost of operation steadily mounted each year. As of June 30, 1919, there were 38 employees at an annual cost of \$62,380. On January 1, 1920, there were 36 employees costing annually \$66,160. On June 30, 1920, there were 44 employees at a total annual payroll of \$83,190. On January 1, 1921, there were 37 incumbents at a total annual cost of \$85,983. Of the 37 employees on this

latter date twelve were civilians. There were one captain, two lieutenants, one sergeant and 21 patrolmen.

This increase in cost is to be contrasted with Commissioner Enright's promise to Mayor Hylan under date of March 27, 1918, when he stated, "unless I am mistaken I will be able to save one-half a million dollars from the budget of 1918 and I hope to ask a substantial reduction in the budget of next year." The budget for the Police Department for 1918 was \$19,394,613. The total expenditures for that year were \$19,914,879. The budget for 1919 instead of being lower as promised was \$20,662,219 showing an increase of \$1,300,000 over the budget of 1918.

On October 14, 1920, the Mayor's office wrote the Police Commissioner that on January 1, 1921, the purchase of equipment, materials and supplies for the Police Department would be made by the Board of Purchase and that therefore a list of names of employees who would no longer be needed in the Police Department and could be transferred to the Board of Purchase, should be prepared. As a matter of fact only one person was so transferred and he was a bookkeeper at a salary of \$1,800.

In 1918 there was a reversion to the previous system of having a member of the uniformed force at the head of the Quartermaster Division. The last member of the uniformed force to head this division had been Lieutenant Enright. He was succeeded by Purchasing Agent McDermott. By special order No. 71 in the latter part of 1918, Lieutenant William T. Davis, who was then Treasurer of the Lieutenants' Benevolent Association, of which Lieutenant Enright was president, was transferred to the Bureau of Repairs and Supplies. As no order had been issued countermanding Mr. McDermott's authority there was a dual control until the budget of 1919 took effect, in which the position of Purchasing Agent was left unprovided. Lieutenant Davis has since been superseded by the present head of the Quartermaster Division, Captain Charles A. Zanes. The duties of the head of this division are those of a business man. There is nothing in the examination for a position in the uniformed force which tests candidates' familiarity with such work as this. On the other hand, the civil service examination for purchasing agent is a test of a candidates' familiarity with supplies, methods of purchasing, storing and accounting for supplies, etc., which knowledge would be needed in administering such division.

The budget for 1918 had provided for a civilian staff to take care of auto repairing and auto machine work. Nevertheless, members of the uniformed force were withdrawn from their duties as policemen and assigned to this type of work and other work in the Bureau of Repairs and Supplies. In 1917 and 1918, only two lieutenants and one acting sergeant and five patrolmen had been assigned to this division, but there are now only 12 civilians, there being one captain, two lieutenants, one sergeant and 21 patrolmen. A method of cost and control records has been abolished. Civilian caretakers and stores foremen have been replaced by members of the uniformed force.

The custom of receiving sealed bids for open market orders has been done away with. Telephone bids are received on various items of work. Charter Section 419 is continuously violated in that requisitions for supplies in excess of \$1,000 are split up so as to be purchased on open market orders instead of by contract as the law provides. Examples of the violation of this charter provision, of the improper use of telephone bids and of the purchase of supplies from favorite bidders without proper competition, are described below.

For example, telephone bids were employed in the purchase of flags for the Police Parade in 1919. Belts, sockets and shoulder straps were needed with the flags, but in order to purchase the goods on an open market order instead of a contract, two requisitions were issued, one at a cost of \$836.25 and the other \$453.75, making a total of \$1,290. Both orders were awarded to the Eagle Regalia Company. Although the parade was held on May 17th the order was not approved by the Deputy Commissioner until May 23rd.

Similar violations were discovered in the ordering of printing for the Police Department, Oberly & Newell, being in this case the favorite bidder. For example, bids were requested for the binding of copies of departmental regulations. Oberly & Newell was by far the lowest bidder, but shortly after the order was issued to them it was cancelled, an entry being made on the Police Department records by Captain Davis to the effect that Oberly & Newell had notified him that they would be unable to fill the order at the price quoted. Thereafter bids were again solicited for the same work. This time instead of bidding \$398.50 as formerly, Oberly & Newell bid \$926.70. They were still the low bidder but this time none of the former bidders, except Oberly & Newell,

was asked to bid. Later evidence showed that the other bids were not submitted in good faith and that they were not from companies who are equipped to do this work.

The salesman for Oberly & Newell and the salesman for the Warren Press, one of the apparent bidders in competition with Oberly & Newell are brothers. The Warren Press never did a job for the Police Department and could not do a large binding job if they got it and would have to send it out to some other concern. The Borland Printing Company which appears as an apparent competitor with Oberly & Newell for this work could not have done this type of work if they had received it and would not under any circumstances bid against Oberly & Newell for this work. The alleged bid was fictitious and unauthorized nor was it made over the telephone. On several bids the name of S. Weinstein of the Borland Printing Company appears. Weinstein testified that in no such instance was his alleged signature genuine. He and his partner had a conference in reference to the advisability of bidding for work for the Police Department and had decided definitely that they could not do this as they would be competing with Oberly & Newell from whom they received much work.

In printing programs for the dedication of the John F. Hylan Police Boat, the Warren Press is reported as having given a telephone bid, although their representative testified that this was not their custom and they could not have done this type of work had they received it. Again the charter was violated by splitting a requisition to avoid a contract and both times the awards were made to Oberly & Newell.

A study of the prices when there was real competition as against the prices charged the Police Department by Oberly & Newell when there was only fictitious competition shows that in the latter case the prices were very much higher. For example, an order of letterheads, where there was real competition cost at the rate of \$4.36, whereas when Oberly & Newell secured the order under fictitious competition for a similar order of letterheads the rate was \$8.97. In another instance involving the purchase of stationery the unit price when there was real competition was \$6.50 per thousand, whereas the price for the purchase of similar supplies when awarded to Oberly & Newell without genuine competition was \$15.75, an increase of 125 per cent.

The same situation was shown to exist in all branches of the work of the Quartermaster Division, i. e., frequent violation of Charter Section 419 by purchasing on open market orders when the law required a contract, using telephone bids and awarding orders to favorite bidders at an exorbitant price without real competition. Examples which show how general this practice was throughout all branches of the work of the division are the purchase of cork floors for the Trial Room at Police Headquarters, purchase of ornamental iron partitions to be installed at Police Headquarters, purchase of horses, repairs to police station houses, plumbing and steam heating.

These violations in connection with the purchase of auto supplies were so glaring as to require special mention. In the first place it was shown that the motor equipment of the Police Department was increased tremendously from 1918 to 1921. In the semi-annual report of the Police Commissioner for the first half of the year 1918 he represented to the Mayor that drastic reductions in the department's motor equipment had been and would be made. Under the heading of "Automobiles Discontinued" appears this statement: "Seventeen automobiles were dispensed with, a decrease of 38 per cent. The upkeep of these machines would amount to \$6,375. In the first six months, a decrease of 38 per cent;" and then under the heading, "Bicycles and Motorcycles Discontinued" appears a further statement, "On January 1, 1918, there were on hand 283 motorcycles and on June 30th, 277, a decrease of 6 per cent." How untrue was this report and these promises is indicated by the following summary of motor equipment purchased for the period 1918 to 1921, inclusive, by the Police Department:

40 Passenger automobiles at a cost of.....	\$48,075.57
276 Motorcycles at a cost of.....	120,718.20
21 Patrol wagons at a cost of.....	21,937.68
6 Motor trucks at a cost of.....	20,708.00

or a total expenditure for motor equipment during this period of \$211,439.45.

Of course, it took a vast amount of equipment, supplies, automobile tires, oil, gasoline, etc., to maintain such a fleet of automobiles and similar vehicles. During the administration of the purchasing agent these supplies, wherever possible were purchased on contract by public letting. Tires were bought that way with very few exceptions. The practice of purchasing such supplies

on contract was deliberately discontinued during 1918 and 1919. In 1918, Mr. McDermott, who was then purchasing agent, prepared a schedule showing the number of automobile tires that would be required to operate the motor vehicles for the balance of 1918 and submitted this schedule to Lieut. William T. Davis, who was then jointly in charge of the division with Mr. McDermott. With this schedule the purchasing agent submitted a form of bid to be sent to a list of automobile supply concerns. After several days this schedule was returned with a slip attached to it bearing the entry, "Canceled, W. T. D." This slip canceled a proposal for 185 tires of miscellaneous size and a quantity of inner tubes which the Purchasing Agent proposed to buy on contract, as required by the Charter and according to the previous custom. Lieutenant Davis said that he was simply carrying out the orders of the Commissioner, who did not wish to enter into any contract for these supplies, but wanted to continue buying from time to time "in order that they might be friendly with the dealers." The concern from which most of these supplies were purchased during 1918 to 1921 was the Oriental Rubber and Supply Company in Brooklyn and another concern known as the Ready Auto Supply Company. As a result of this more expensive method of purchasing there was included in the budget of 1919 for the Police Department, \$40,000 for motor vehicle supplies and \$39,000 for motor vehicle equipment. For tires alone, this meant an appropriation of \$25,000.

It had been the custom under the administration of the purchasing agent to dispose of old equipment in part payment for new, as permitted under section 1553 of the Charter. This custom also was terminated under the administration of Lieutenant Davis.

The cars supplied with such equipment and maintenance on January 1, 1921, listed as official cars belonging to the Police Department or to the City of New York and maintained by the Police Department, included, according to the records subpoenaed from the department, 33 passenger automobiles. The former custom had been to purchase tires by contract according to standard specifications which provided for a mileage guarantee. A study made of purchases of tires from 1918 to 1921 indicated that while the orders frequently called for a guarantee of five or six thousand miles, there is nothing to show that the guarantees were observed. Only 89 tire tags could be produced by the depart-



ment for these years. These tags would show the car to which the tire was issued and the mileage secured from that tire. The officer in charge of the Quartermaster Division stated that they were unable to find any more of the tags and in 1920 and 1921 the tags had been destroyed "as they did not think they were of any further use." The purpose of keeping automobile tire tags is, of course, so that a contractor can be required to make good on the mileage that the tire has failed to give. Most of the orders for tires for the Oriental Rubber & Supply Company include a statement that the casings are to be guaranteed for 5,000 miles. There is no indication that any credit was ever allowed for casings that failed to give this mileage. In one instance an attempt was made to justify purchase of tires without requesting any bids whatever by stating on the requisition "the reason why bids are not had on these casings is as follows: The Oriental is the only company of its kind that gives an unconditional guarantee of 5,000 miles and this department never has any trouble with these casings as to service, etc." This was false as the Pennsylvania Rubber Company gives a 6,000 mile guarantee, the United States Rubber Company, the Sterling Tire Company and others give a 5,000 mile guarantee.

*Private Cars Maintained by Police Department.*

The Police Department was requested to furnish a list of automobiles not owned by the City of New York which it maintained at Police Department expense. There are a total of 28 privately owned automobiles maintained by the Police Department. The list is as follows:

Make	Police Number	Private Owner	
Oldsmobile	50	Sgt. Gegan, Det. Bureau	} Gas and Oils
Buick	49	Det. Riley	
Reo	51	70 Pre. Capt. Northrup	
Ford	52	Det. Kaufman 12 DD	
Cadillac	66	Chaplain Coogan	
Dodge	68	Chaplain Ivie	
Chandler	70	Chaplain Brocken	
Chevrolet	76	Det. Grobau 14 DD	
Overland	77	Det. Raeburn 14 DD	
Buick	79	Capt. Mullarkey 14 DD	
Ford	102	Det. Hayden	
Ford	103	Det. Truck Squad	
Buick	113	Inspector Belton	
Page	117	Spec. Dep. Com. Shaw	
Liberty	118	Spec. Dep. Com. Shaw	
Ford	119	Det. Meyer 47 Prec. DB	
Ford	61	Det. Caffrey 5 Prec. DB	
Ford	101	Patrolman Confrey, 2 Insp. Dist.	
Ford	120	Insp. 14th Dist.	

Make	Police Number		
Studebaker .....	67	Lieut. O'Brien	} Equipment and Maintenance
Packard .....	107	Underhill	
Packard .....	108	Enright	
Packard .....	109	Hylan — personal	
Oldsmobile .....	81	Deputy Faurot	
Dodge .....	114	Inspector Thor	
Ford .....	55	Lieut. Park	
Cadillac .....	78	Hylan-Sinnott, Private	

It will be noted that some of them received complete equipment and maintenance and others merely gasoline and oil as indicated. It was not possible for the year 1919 to secure complete data as to the cost of this maintenance, due to the fact that many of the records were not available. More complete records could be obtained for 1920 showing that for seven cars only out of the 28 their maintenance cost the city in 1920, \$11,954.01. All of them received full maintenance consisting of repairs, tires, gasoline and oil. Included in these private cars maintained at city expense were the Mayor's private car (this was later claimed to be an error made in the Police Department), and also two cars belonging to one of the special or honorary deputy commissioners of the Police Department. Commissioner Enright's private car, which was given to him by Deputy Commissioner Harriss was not only supplied at city expense with maintenance and equipment but with a winter top "demountable sedan, full doors at a cost of \$865," which bill was paid by the Police Department as was also a bill issued on an emergency order form in favor of Wanamakers for four linen dusters, four summer robes, three pair of goggles and one pair of field glasses at a cost of \$85, for the same automobile.

*Gasoline Issued for Stolen Cars.*

The receipts which must be signed by members of the force drawing gasoline and oil from departmental supply were subpoenaed and examined for the years 1919 and 1920. Only a portion of the receipts for these years could be found. In many instances the receipt indicated that the gasoline or oil had been issued to a stolen car which had been recovered by the department. These receipts for 1919 and 1920 were segregated and approximated 250 in number, these being only a portion of receipts issued for gasoline and oil for stolen cars during those years, as receipts for only a few months were available. For the year 1919 a tabulation of such receipts shows one Buick car receiving gasoline and oil during five months, a total of 1,829 gallons of gasoline and 216

quarts of oil signed for by a member of the force, stating that the car was a stolen one which had been recovered. There was also a Dodge car which received gasoline and oil in May, June, August and September 1919, amounting to 156 gallons of gasoline and 14 quarts of oil. A Packard car received gasoline and oil in May and September in that year totaling 58 gallons of gasoline and 9 quarts of oil. A similar record was made of the gasoline and oil issued to the following cars: Hupmobile, Oldsmobile, Cadillac, Ford, Hudson, Jordan, Chandler and Studebaker. The total distribution of gasoline and oil to stolen cars during those five months, May to September, being 4,060 gallons of gasoline and 516 quarts of oil. On the basis of 30 cents a gallon for gasoline and 14 cents per quart for oil the cost to the City of New York for maintaining these cars during these months was \$1,218, for gasoline and \$82.50 for oil. The department maintains depositories under the charge of the Property Clerk to which these cars should have been immediately taken. There is one in each borough and the gasoline to carry these cars to the point of recovery in the City of New York to the Department Depository would have been a very slight expense. The withdrawals of gasoline and oil were particularly heavy, generally speaking, on a Saturday or before a holiday.

## 1918 POLICE GAMES.

The 1918 police games were held August 24 and 31, 1918, for the purpose of raising funds to defray the cost of uniforming and equipping the volunteer police reserves organized to take the place of regular members of the force who had been or would be drafted for military service.

According to an official report, dated December 31, 1920, the receipts on account of the 1918 games amounted to \$384,615.04, of which \$374,012.04 was from the sale of tickets. According to the records submitted to the Committee, no uniforms were purchased until after the Armistice and as late as 1921 money was still being spent to equip women members of the Police Reserves.

Funds collected from the public for patriotic and charitable purposes, especially when collected by an official agency like the Police Department, should be safeguarded in every way. The Committee's investigation into the finances of the 1918 games discloses a condition reflecting great discredit upon those officials of the Police Department charged with the responsibility for the distribution and sale of tickets.

This work was performed by a committee consisting of Deputy Commissioner Frederick A. Wallis, Treasurer; Special Deputy Commissioner Allan A. Ryan, Vice-Chairman; Stephen A. Rudd, Secretary; Vincent E. Finn, Assistant Secretary; Lieutenant Charles A. Zanes, Assistant Secretary; Patrolmen Clay, Bosch and Crombholtz. The Committee's examination of these persons and others disclosed the facts

1. That the original records covering the printing and sale of tickets had been destroyed or lost.
2. That a proper audit of receipts and ticket sales had never been made.
3. That the loose manner in which cash was handled offered every opportunity for loss through carelessness or dishonesty.

Because of the destroyed or lost records, no exact information has been obtainable as to the number of admission tickets printed. It was stated that the Police Department files at one time contained a memorandum showing the number of tickets printed, but the memorandum was not produced. The nearest approach to an

official record on this subject is a statement by Deputy Commissioner Wallis, in a letter to Commissioner Enright, dated September 13, 1918, to the effect that 550,000 tickets had been donated. Had all these tickets been sold and the proceeds deposited to the credit of the fund, the sum of about \$500,000 would have been realized, instead of the \$374,000 reported on December 31, 1920.

No reliable information has been obtained moreover as to the number of tickets sold. It was learned that bunches of tickets were distributed to the precincts and issued for sale, and the statement was made that a memorandum was kept at Police Headquarters on either a yellow pad or in a book, showing the tickets thus distributed. Neither the yellow pad nor the book was produced for the Committee in response to its subpoena, nor has the Committee been given any information as to the present whereabouts of such alleged records.

So far as the Committee has been able to learn, no acceptable evidence from the accounting standpoint exists as to the number of tickets issued for sale or sold. In a statement which appears to have been made by Deputy Commissioner Wallis at a meeting in the Criterion Restaurant, on August 22, 1918, he is quoted as saying that 500,000 tickets had already been sold. If this statement was accurate, there is at least \$125,000 unaccounted for by the persons in charge of ticket sales, as in the last official report of these games the proceeds from the sale of tickets are said to be \$374,012.04. The use of yellow pad memoranda for the control of sales aggregating hundreds of thousands of dollars is inexcusable and invites fraud. The subsequent loss or destruction of such original records is even more reprehensible. As a result, the Committee has been unable to make a real audit of ticket sales.

The method of handling the money received from the sale of tickets appears to have been equally loose and unbusinesslike. For about two weeks these receipts were allowed to accumulate at Headquarters in the form of cash, and checks, being kept in an office safe for security. The first bank deposit made was on August 21, 1918, and amounted to \$105,367.40. An analysis of such records as the Committee has been able to secure shows that according to the daily Telegraph Bureau reports, the precincts had collected approximately \$105,000 before this deposit was made and that the actual receipts at Headquarters from the precincts prior to August 21st, aggregated more than \$105,000. If contributions were received at Headquarters from other sources than the pre-

cinets, prior to the date of the first deposit, there is no record to indicate what became of such contributions.

Prior to this initial deposit, however, one of the members of the Police Fund Committee deposited \$52,000 in cash in his personal bank account in Brooklyn, acting, it was stated, on authorization of Deputy Commissioner Wallis. The bank records indicate that this money was subsequently transferred to the Police Fund account, but the transaction was carried on in a most unbusiness-like way.

The general handling of the funds was equally casual. Witnesses testified that receipts were given to precincts for the funds turned in by them and that a cash book was kept showing such transactions in detail. The Police Department, however, has not produced such cash book in response to our subpoena, and from the testimony, it appears that this original record has been lost or destroyed. One witness has testified that the now missing cash book was in the possession of the Police Department as late as February or March, 1921, but no information can be obtained as to its present whereabouts.

The Committee has secured what is said to be a sort of copy of this cash book, made up by a private accountant employed by the Treasurer of the 1918 Fund. By the accountant's own admission, it is not an exact copy but he states it sets forth accurately the amount of receipts and expenditures as appeared in the original records submitted to him.

The Committee finds no good reason for the preparation of this copied record. It is a valueless document from the point of view of audit. The receipts entered therein balance with disbursements and cash on hand, only after a reconciling entry is made. Even then, there is not complete agreement with the figures as printed in the official report dated December 31, 1920. The book contains a good many erasures and alterations. Every item entered as a receipt is entered as the year 1919, while as a matter of fact practically every item was received in 1918. A comparison of such precinct records as the Committee has been able to secure shows discrepancies between the amounts entered in the cash book as received, and the amounts entered on the official receipts issued when the money was delivered at Headquarters. The Committee has also found an entry in the cash book showing the receipt of a contribution of \$500 from the American Sugar Refining Company, whereas the Committee has obtained from the American

Sugar Refining Company a cancelled check passed through the Clearing House and paid, dated August 28, 1918, payable to the order of Frederick A. Wallis, Deputy Police Commissioner, in the sum of \$1,000; thus demonstrating that in this instance at least the copied cash book does not state exactly the actual receipts by the Committee in charge of the 1918 games.

Page after page of items of cash receipts in the copied record just referred to are undated. The loss or destruction of the original cash book, the errors, alterations and insufficiency of the copied cash book makes an exact audit of receipts absolutely impossible.

This system, or lack of system of financial control, invites loss from carelessness or dishonesty. From the evidence given before the Committee, it appears that no adequate safeguards were established. The Committee, while it has not developed evidence proving the dishonesty of any person or persons, is satisfied that there was every opportunity for dishonesty and that the strange absence of original records of tickets sold and cash received casts grave suspicion on the Department.

It is also strange, and perhaps significant, that the Commissioner of Accounts, in spite of his varied activities, never made a real audit of the transactions arising out of the 1918 Police Games.

Such matters vitally concern the public. The present administration has encouraged the use of the uniformed police force in selling tickets for benefits. The police have raised about \$1,661,000 from the public since 1918. The Arch of Freedom Fund drew in over \$200,000. The reported receipts from the sale of tickets for the 1918 games were \$374,000. The 1919 games brought in \$318,000. In 1920, the receipts were \$419,000, and the 1921 games yielded about \$350,000.

The use of the police force to raise money is highly improper. The impropriety is enhanced when no adequate control is established over the cash obtained from the public and where the purpose for which the money is raised from the public is subject to change after the receipt of the public's contributions. If the local authorities cannot be trusted to adopt the necessary precautionary measures, public interest requires the enactment of legislation which will accomplish the desired end.

The Committee recommends the enactment of legislation prohibiting the use of the uniformed forces of the police, fire and street cleaning departments in soliciting funds for any purpose whatsoever.

## SPECULATION AND MONEY MAKING BY POLICE OFFICIALS.

The Committee inquired into the profits which accrued to present and former members of the Police Department, largely, if not wholly, because of their official positions. It found that such persons had benefited materially from investments, from business connections, from gifts and from real estate transactions. For example:

### *Richard E. Enright.*

On February 15, 1918, Commissioner Enright appointed Dr. John A. Harriss a Special Deputy Commissioner. On March 4, 1918, seventeen days later, Dr. Harriss purchased a Packard Twin-Six automobile from the Packard Motor Car Company, at a cost of \$4,622.40. The initials "R. E. E." were ordered placed on that car, and the car was put at the disposal of Richard E. Enright. Commissioner Enright testified that the car had not been given to him "yet," saying, "He would have given it to me if I wanted it. I told him I would discuss that with him after I got through with the office." In the meantime, the Commissioner uses it as his own and the expense of maintaining it (including the purchase of an eighty dollar pair of field glasses) is borne by the City of New York out of Police Department funds.

On April 15, 1918, Commissioner Enright appointed Allan A. Ryan a Special Deputy Commissioner and on April 16, 1918, a Stutz automobile was delivered to Commissioner Enright. This car was paid for on April 16th by a cheque of Allan A. Ryan's for \$2,641.50. Commissioner Enright testified that this was a gift to Mrs. Enright from Mr. Ryan, Mr. James H. Ward and, he thought, others. Commissioner Enright was not married, however, until November, 1918.

In April, 1919, Commissioner Enright received a cheque for \$12,083.29 from Allan A. Ryan & Co., representing "profits" on a transaction in Morton Petroleum stock. Commissioner Enright put up no money himself, did not know when the stock was purchased nor when it was sold. About four months after a conversation with Ryan about possible stock speculation, he received a report of the Morton Petroleum transaction and the cheque.



*Edward P. Hughes.*

Edward P. Hughes, a friend of Commissioner Enright's, retired as police inspector February 15, 1918, for "physical disability" and organized a private detective agency. He received contracts to police the piers of a number of steamship lines and the testimony taken before the Committee showed that his close relations with the Police Department were of material value to him in getting and keeping business.

An examination of his various bank accounts, business, personal and joint with his wife showed deposits between January 1, 1918, and September 15, 1921, totaling over one million dollars, as follows:

	1918	1919	1920	1921	
Detective service.....	\$97,678 82	\$255,090 05	\$267,945 77	\$130,631 00	Up to September 15.
E. P. Hughes.....		133,238 22	112,942 30	32,404 43	Up to September 15.
Joint account.....	<u>23,089 92</u>	<u>8,237 08</u>	<u>4,770 50</u>	<u>3,125 00</u>	Up to September 15.

In addition, Hughes had a speculative account with Allan A. Ryan & Co. This was opened in 1916, but showed dealings of only \$2,335.14 up to February 28, 1918. In 1918, however, the total was \$7,900, and in 1919 it was \$105,000.

*Dominick Henry.*

The financial transactions of Police Inspector Dominick Henry were not so spectacular. His salary was \$4,900 per annum and his bank accounts showed deposits as follows:

1918 .....	\$10,184 04
1919 .....	14,659 73
1920 .....	9,095 00
1921 to September 7.....	242 30

Henry's account with Billings, Olcott & Winsmore also showed the outright purchase of stocks as follows:

October, 1919 .....	\$10,552 95
November, 1919 .....	35,825 00
May, 1920 .....	21,615 69

The most significant fact established by the Committee with respect to Inspector Henry's personal fortunes was that the Navigazione Generale Italiana, a steamship line leasing two North River piers, donated \$1,000 to Henry, the Inspector in whose district the piers were located. The steamship company

had not been getting adequate protection, and in the course of a conference at police headquarters to discuss this matter, Henry suggested that an ex-police inspector named Cross be employed in place of the Vachris detective agency, to furnish watchmen on the piers. The change was made but the new arrangement cost the steamship company twice as much as the old, exclusive of the payments to Henry. These payments were explained by Francis Gilbert, the attorney who made them, as having been made because of sympathy for Henry who was under indictment at the time for neglect of duty and who was very hard up because of the expenses incident to his trial. The first "contribution" by the Italian line to relieve Henry's poverty amounted to \$500 and was entered on their ledger under date of May 21, 1920, as "Gratuity as per advice of Gilbert \$500." On the same day, namely, May 21, 1920, Henry paid \$18,615.69 to the firm of Billings, Olcott & Winsmore, which amount with the sum of \$3,000 paid the preceding day was the purchase price of stocks bought by him and costing \$21,615.69.

*John F. Dwyer.*

During the Committee's investigation of the financial operations of high officials in the Police Department, it learned of the purchase by Inspector John F. Dwyer of an apartment house, through the office of Warren Leslie, an attorney. The Committee accordingly made a careful inquiry into the facts and into the relations of Leslie and Dwyer, and found:

1. That in 1920, Leslie arranged for the purchase by Dwyer, at the price of \$152,000, of the apartment house at 403 West 115th street, through Leslie's father as a dummy, and for the subsequent transfer thereof to the Park Court Realty Company, a corporation formed for the purpose of holding the property, Dwyer's interests in these transactions being carefully concealed.

2. That in 1919, Leslie arranged for the sale by Inspector Dwyer of an interest which the latter owned in a hotel known as the Hotel Van Cortlandt, or more recently the Hotel DeFrance, located at 142 West 49th street, and notorious for years for its immoral character.

3. That Leslie had utilized the services of at least one police officer on Dwyer's staff, to secure evidence in a case of private litigation in which Leslie had been retained as

counsel, and that much of the evidence thus secured was obtained by tapping the telephone wires of the person concerning whom evidence was desired, in violation of section 1423 of the penal law.

*The Apartment House Transaction.*

Committee Exhibit No. 243 of October 4, 1921, is a contract for property executed in March, 1920, and covering the sale by the Simley Realty Corporation to Warren Leslie of the above mentioned property on West 115th street, for a consideration of \$152,000.

Dwyer was the actual purchaser of this property, but when conveyance was actually made the grantee named was one William Leslie, father of Warren Leslie. The property was subsequently transferred by the nominal grantee to the Park Court Realty Company, a corporation organized in Warren Leslie's office and whose directors were persons employed in Warren Leslie's office.

Annie L. Rogers, a tenant of this apartment house, identified (p. 2240) Inspector Dwyer as the man who introduced himself to her on a date subsequent to August 15, 1921, as the owner and superintendent of the apartment house.

Frank Wulf, a member of the police reserves, testified (p. 2542) that at Inspector Dwyer's request he did some work at 403 West 115th street, that Dwyer's son Ralph would, from time to time, call up Cortlandt 33 and ask for "Dad," for instructions about the work, and that sometimes Inspector Dwyer himself would come and give instructions about the work.

On August 31, 1921, John F. Dwyer made an affidavit in connection with litigation between a tenant and the Park Court Realty Company, to the effect that he was neither a director, officer, nor agent of the corporation, and was in no wise connected with the management or business affairs of said corporation. On September 16, 1921, he made a second affidavit in the same case to the effect that he was neither "an officer, director, nor stockholder of the defendant herein" (Park Court Realty Corporation), that he had "no financial interest in said company," and denying that he was "the owner of the premises referred to" herein, and denying that he had "any interest therein." The affidavit continues, "Deponent further says that since July, 1920, when the Park Court Realty Company, Inc., acquired the property, I have visited the premises on several occasions solely for

the purpose of seeing my two sons, James and Ralph, both of whom lived at the time in the premises."

Thirteen days later (September 29) Dwyer testified before the Committee under oath that he was the purchaser of this property, that on the advice of Leslie he had the property conveyed to William Leslie, but that (p. 2276) he was the "real party in interest," and that it was by his (Dwyer's) direction that the property was conveyed by William Leslie to the Park Court Realty Company. He stated to the Committee that (p. 2279) "between the seventh of June and probably the first of July" he assigned all of his shares in that company to his son and that his son (p. 2281) paid nothing for the stock so assigned. When asked as to his son's whereabouts, Dwyer replied (p. 2279) "He left here on the steamer 'Steelmaker' for Bombay, India, calling at several ports on the way. The boy got sick." Dwyer also stated at first that he had a general power of attorney from his son, but later denied it.

With respect to Dwyer's statement that his son was sick, Patrick F. Donnelly, marine superintendent, Isthmian Steamship Line, owners of the S. S. "Steelmaker," on which James L. Dwyer sailed, testified (p. 2497) that Dwyer introduced his son, James, by letter, saying "he is desirous of going to sea and I will appreciate anything you may be able to do for him," and that as a result the boy was shipped as an ordinary seaman with wages of \$52.50 a month. In reply to the question: "Was he in good health?", Donnelly said, "He appeared to be all right."

With respect to Dwyer's statement that he had assigned all his stock in the Park Court Realty Company to his son before the latter sailed, Gertrude M. Steinway, an employee in Leslie's office and secretary and treasurer of the Park Court Realty Company, produced the stock book of the company which showed the following distribution of stock as of October 4, 1921:

<i>Name</i>	<i>Date of Issue</i>	<i>Number of Shares</i>
John F. Driscoll.....	April 6, 1921.....	5
Cornelius F. Dwyer.....	April 6, 1921.....	29
John F. Dwyer.....	April 6, 1921.....	106
Gertrude M. Steinway....	April 11, 1921.....	1
James L. Dwyer.....	April 6, 1921.....	30

Her testimony on this point follows (p. 2499):

“Q. Has any transfer of 106 shares issued to John F. Dwyer to anybody else by him — have you any record of it?

A. No, I have not.

Q. Has your attention been called to it in any way? A. It has not.”

The evidence indicates that Inspector Dwyer, in spite of his affidavits and testimony remains the real party at interest with respect to the Park Court Realty Company property.

*The Hotel Van Cortlandt — Hotel De France.*

Dwyer admitted (p. 2528) that he had been a stockholder in the company which owned the Hotel De France, formerly the Hotel Van Cortlandt, on West 49th Street.

The Committee subpoenaed transcripts of the bank accounts of Leslie and Dwyer with the Empire Trust Company, and also Dwyer's deposit slips. These records showed that Dwyer deposited on January 22, 1920, a check on the Empire Trust Company for \$6,651.45, and that on the same day Leslie's account was charged with this item. Leslie voluntarily offered to exhibit his personal ledger and to explain to the Committee the circumstances surrounding all his payments to Dwyer, including this amount. He was given this opportunity informally and exhibited a ledger containing an account with Dwyer in connection with the Hotel De France property, thus establishing the fact that he had handled funds from the sale of Dwyer's interest in that hotel.

The unsavory character of that hotel in the past few years has been notorious, and as Dwyer for some time was the Police Inspector in command of the Fourth Inspection District in which this hotel was located, he must have known officially of its disorderly character, but he testified that the reputation of the hotel was good, that he never stationed policemen at the hotel to suppress a nuisance, and that he knew of no men being stationed there for that purpose.

The records of the Police Department with respect to these premises, however, contain a copy of a letter written by the Police Commissioner, September 26, 1918, to the receiver of the Hotel Van Cortlandt, reading in part as follows:

“For some time past the Hotel Van Cortlandt was run in a manner that compelled strict police surveillance. Its

reputation as a rendezvous for undesirable characters is so confirmed that the police of the district have felt it necessary to continue to give it, at least, casual supervision."

Police Commissioner Enright described this hotel in his testimony before the Committee, as follows: (p. 3672)

"It is one of many other such houses in this town we have to watch all the time. \* \* \* They have entertained single men and their wives, and single ladies and their husbands frequently. You would be surprised too, Senator, if you knew who some of them are."

The police records also show three arrests at the Hotel Van Cortlandt — Hotel De France for prostitution in 1918, and one in 1920, and that patrolmen were stationed at the hotel from April 24, 1918, to May 10, 1918; from June 25, 1918, to July 2, 1918; from November 23, 1918, to November 24, 1918, and from October 31, 1920, to November 2, 1920.

That a police inspector should be financially interested in such a resort needs no further comment.

#### *The Wire-tapping Case.*

Warren Leslie, Dwyer's attorney in these other two transactions, was engaged as counsel by Mrs. Allers in her litigation against her husband. He employed John W. Sutter, a policeman on Dwyer's staff, and Sutter's brother-in-law, James Shaw, to secure evidence against Dr. Allers. Sutter came almost daily to Leslie's office with detective reports and was known by at least one person in the office as "Shaw." The real Shaw rented a room in a house across the street from Dr. Allers' house and after the room was thus rented a wire was strung to it from the telephone post on the street. Shaw told his landlord that he was a detective. The landlord testified that the wire was fastened to a hook outside the window and that there was a little round attachment to the end of the wire. The landlord's wife identified Sutter as a frequent visitor to Shaw's room, but stated that he was known to her not as Sutter, but as Sullivan.

Persons employed in Leslie's office admitted that they knew of the wire tapping and that they had heard Leslie discuss the matter. A lawyer associated with Leslie in the case refused to use the evidence secured in this manner when he learned how it had

been secured and by whom. He testified that Shaw admitted under pressure that Dr. Allers' wires had been tapped and that reports purporting to be reports of "shadowing" were in fact written up from listening in to telephone conversations.

Mrs. Anna F. Wamsley of Olmstedville, N. Y., identified Sutter as a man who came to her home in November, 1919, to make inquiry about Dr. Allers.

Leslie denied knowledge of the wire-tapping and explained Sutter's frequent visits to his office by saying, "What Sutter came to my office with were charges preferred against members of the police reserve, which I looked over and passed upon before they were filed. That was his business in my office." The records of police reserve court-martials, however, show a total of only 51 cases from July 20, 1918, to October 1, 1921, only 11 of which bear Leslie's name. The latest of these 11 is dated April 4, 1919, and was concluded May 2, 1919, several months before the detective work described above. Sutter's "very frequent visits" to Leslie's office after May 2, 1919, must therefore be explained in some more plausible way if he is to be cleared of the charge against him.

It appears from the evidence that Sutter, Shaw and Leslie perjured themselves before the Committee and that Sutter and Shaw violated the penal code by tapping the telephone wires of Dr. Allers.

## DIVISION OF LICENSED VEHICLES OF DEPARTMENT OF LICENSES.

The Department of Licenses was created by Chapter 475 of the Laws of 1914 as a consolidation of most, but not all, of the previously existing licensing agencies of the City government. It has control of the licensing, among other things, of hacks, cabs and taxicabs and of drivers or chauffeurs of hacks, cabs and taxicabs. That part of its jurisdiction is exercised through the Division of Licensed Vehicles.

The City ordinances (Chapter 14) provide, with reference to the vehicles (§ 84) that they shall not be licensed until they have been "thoroughly and carefully inspected \* \* \* and found to be in thoroughly safe condition \* \* \*, clean, fit, of good appearance and well painted and varnished." Taximeters must be examined for accuracy. With reference to taxicab chauffeurs the ordinances, while not expressly so providing, contain provision doubtless intended to prohibit the licensing of any but persons of good character. They require the production of affidavits of good character from two reputable citizens, a "testimonial" from the last employer and the filling out of a sworn statement showing, among other things, whether the applicant "has ever been convicted of a felony or a misdemeanor" and "whether he has ever been summoned to court."

Prior to this administration, the discharge of this branch of the License Department's functions had been largely committed to the Chief of the Division of Licensed Vehicles. Cabs were kept clean and safe; taximeters were reasonably accurate; and taxicab chauffeurs were kept under strict supervision. The public was well served, but the drivers complained of the rigid control to which they were subjected.

With the advent of the present administration, this control was considerably relaxed. The Chief of the Division of Licensed Vehicles was shorn of power. An official subordinate was made his actual superior in charge of the issue of licenses and one of the Deputy Commissioners, James F. Geraghty, a district leader in the Bronx, was placed in direct charge of the Division. From time to time the complicity of taxicab chauffeurs in crimes of violence, often committed in broad daylight, roused public concern. While this branch of the inquiry was under way, Geraghty's resignation was invited and submitted.



The Committee's investigation disclosed that the administration of the Division of Licensed Vehicles of the License Department under Deputy Commissioner Geraghty not only made it a hot bed of petty graft, but that the safety of the public has been seriously menaced by the large number of licenses, as taxicab drivers, issued to ex-convicts. All of such cases were not located by the Committee. That was prevented by the obstructive tactics of certain members of the division's force and by lack of time available for this phase of the investigation. The Committee did, however, find that taxi-drivers' licenses had been issued within a year to 153 convicted felons and 226 persons convicted of serious misdemeanors. These 379 licensees were either actively plying their trade with the approval of the department or were the holders of licenses enabling them so to do, which the department made no serious effort to cancel. In many of these instances the criminal records of the applicants were known before the licenses were issued and in all of them, it should have been known before such issue. Of the 153 convicted felons who were licensed taxi-drivers, sixty-seven had been convicted of grand larceny, thirty-five of burglary, five of robbery, fifteen of felonious assault, five of assault in the second degree, three of rape, three of abduction and twenty of miscellaneous felonies. In many instances licensees had been convicted of the same or of an assortment of felonies at various times prior to obtaining the license. They have been counted only once in the foregoing statement.

Of the convicted misdemeanants holding licenses, slightly more than half, 117, had been convicted of petty larceny. This is, however, more serious than it seems, because many of these were cases, in which petit larceny was the plea of guilty upon the charge of grand larceny, burglary or other graver crime. Intoxication, impairing the morals of a minor, unlawful entry, indecent exposure and having concealed weapons were among the other convictions against persons to whom licenses were granted. The explanation of such a condition may be in mere inefficiency. Certainly the haphazard confusion in which the records of the division were found was well calculated to increase its difficulty in locating its information about a given applicant. On the other hand, the evidence in relation to other activities of the division, difficult as it was to get from those who had been victimized and who naturally feared reprisal for any disclosures they might have made, would tend to indicate that convicts ob-

tained taxi-drivers' licenses either for a money payment or through the use of political influence.

The inspection of a taxi-cab submitted for license has been a prolific opportunity for petty graft. One inspector would examine the brakes; another the general appearance of the cab. The second began after the first finished and gave the applicant an O. K. slip. These "O. Ks" carried a well understood price. This condition had been brought to the attention of Geraghty by one of the hackmen and Geraghty promised to end it, but nothing was done.

Geraghty's tolerance is not difficult to understand in view of his own standards of conduct in public office. For instance, when his political club held an "outing" twenty-seven taxicabs were furnished him gratis by an association of taxi-drivers, which itself paid the men who owned the cabs. When his club gave an affair this same organization was requested to and did buy \$100 worth of tickets. When the bill for the transfer of jurisdiction over the licensing of cabs and drivers was pending, employees of the division professed to fear for their positions and raised a fund for expenses in working up opposition by the sale of raffle tickets among the persons licensed by the department. In a word the division has been completely demoralized.

#### *The Routine of a Taxi-Driver's Application.*

In relation to the issue of taxi-drivers' licenses, the claimed routine should be stated.

The applicant for a license to drive a hack or taxicab goes to 517 West 57th Street, the office of the Division of Licensed Vehicles and submits his application to John S. Egan, inspector of licensed vehicles. If he desires a license to drive a taxicab he is asked to give his state chauffeur's license number and must have one before a taxi-driver's license is issued to him. He is then given an application to fill out. This includes the usual questions as to name, residence, age, place of birth, etc., and in addition the following question: "10. Have you ever been arrested or summoned to court? Give particulars and disposition of every such case." The applicant is required to give the names and addresses of his employers and his occupation for the past five years. He must give a personal description of himself, supply two copies of his photograph, and submit an impression of his finger prints. He must have two witnesses who will vouch for his character and a statement from a reputable physician,

that he is physically fit to drive a taxicab and in addition he must have a certificate of his employer stating the reason for the termination of the employment. On the reverse side of the finger-print record is a space headed "Remarks." This is for the notation of the Police Department. The finger-print record is signed by the license inspector who takes the applicant's finger prints.

The original application and the finger-print record is sent from the License Bureau at 57th Street to the Investigation Squad of the Police Department at 30th Street between Sixth and Seventh Avenues.

The application and finger-print record are generally received the same day they are completed and are delivered to the Investigation Squad by a messenger from the License Department, but in favored cases where an applicant is particularly anxious to have immediate action the applicant himself is permitted to deliver the papers.

When the finger-print record and the application are received by the Investigation Squad an entry is made in a book known as a Register of Applicants and Record of Finger Prints. The application is given a serial number. The name and address of the applicant and the state license number are also noted. In this book is also placed the date on which the final report is sent by the Police Department to the Department of Licenses with a statement as to the number of felonies, misdemeanors and summonses on the record of the applicant. There is also a notation as to whether or not there is a finger-print record in the Police Department.

The following day the finger-print record and the application are separated. The finger-print record is then sent to the Police Department's Bureau of Criminal Identification for comparison and search. In three or four days it is returned to the Investigation Squad with notations under the caption "Remarks." These remarks give the criminal record of the applicant, stating the felonies and misdemeanors, together with the dates of the arrest. These notations are neither signed nor dated. In cases where the applicant's finger prints are not on record in the Police Department, the space is left blank, indicating that the man has no criminal record. Occasionally the examiner will write his name in the space under "Remarks" when there is no criminal record. After the notations above referred to have been entered in the Register of Applicants and Recording

Finger Prints, the finger-print record is returned to the License Department at 57th Street. A copy of the finger-print record is retained by the Investigation Squad.

After being separated from the finger-print record the application itself is sent to the Old Record Room of the Police Department at MacDougal Street for search of arrests of any kind. After the records at the Old Record Room have been searched the application is sent to the Bureau of Information for a search of the records of the last two years. The applications are returned to the Investigation Squad from the Bureau of Information very irregularly in lots. This process, from the time the application leaves the Investigation Squad until it is returned, takes about two weeks. When returned the applications are checked off on the Register of Applicants and Record of Finger Prints to see that all have been returned. No date is placed on the application. Then the application blank is turned over to an investigator of the Investigation Squad. The staff of the Investigation Squad consists of fifteen regular men, including Acting Captain Finn. The squad is known as the "Crippled Squad" because the staff is composed of men who have been injured or incapacitated in the performance of duty. The investigator who receives the application makes a personal investigation. He is supposed to interview the applicant and verify the statements on the application and other material details. He is supposed also to interview the vouching witnesses, the physician and the former employer of the applicant and he is supposed to make general inquiries among the applicant's business associates and those in the neighborhood of his residence, as to the applicant's character and general fitness to drive a taxicab. When the investigation is completed the investigator makes his report to the Investigation Squad.

The report of the investigator, together with all other data, including that originally noted on the finger-print record, comprises what is known as the Police Report. A typewritten copy of this is sent to the Department of Licenses with the application by messenger. A copy of the report is retained by the Investigation Squad.

Because of the detail of the investigation and the physical incapacity of the members of the squad it is quite usual for several months to elapse between the time the application is sent to the Police Department and the time it is returned therefrom to the License Department.

In the meantime the finger-print record having returned to the License Department, if it contains no notations in the "Remarks" space, it is assumed that the applicant has no criminal record, and the License Department immediately issues a license.

When the finger-print record is received from the Police Department with a notation under "Remarks" to the effect that the applicant has an important criminal record, the license is not issued. If the man has been convicted of a felony the application is marked "denied" and that is said to be the end of the case. If the police record shows an arrest the man is required to obtain from the court before whom he was arraigned the proper official documents, showing the disposition of his case.

If he was convicted of a misdemeanor his papers are sent to Deputy Commissioner Geraghty at the main office. Geraghty passes on the merits of the case and marks the application O. K. or denied. If Geraghty O. K.'s the application the license is issued.

In many cases, although the finger-print record is returned with nothing to indicate a criminal record, the subsequent police report some time later discloses the fact that one applicant has such a record. In such cases, the license having been already issued to him, his file is removed from the "active" file and placed in the "suspended" file. A letter is then sent out to the licensee to the following effect: "Please call at this office as soon as possible with your badge and book as it is necessary to make some correction in same as there are two men working on this same number." If the licensee fails to see through this strategy and reports, his badge and book are taken from him and the entire container is sent down to Commissioner Geraghty for a hearing on the case. If Geraghty so decides the license is revoked. If not, the badge and book will be returned to the man and he will be permitted once more to operate.

If the licensee does not call in response to the stupid "decoy" letter, neither the License Department inspectors nor the police are instructed to pick the man up. He continues to operate until he is disposed to call at the department either in response to a complaint for other misconduct or to get his license renewed. Perhaps at such time his license may be taken up because of his criminal record.

The vices of such a procedure are obvious. No license should be issued until all the available police information with reference to the applicant has been obtained. No applicant should be

permitted to act as messenger between the License Department and the Police Department. The police investigation should be made by able-bodied men and all reports should be signed and dated by the officer submitting them. The police should be required actively to co-operate in picking up the licenses of persons improperly holding them. The applicant's false statement as to his criminal record should automatically cancel his license. While licenses expire on April 1st, the department permits men to operate for as much as six months thereafter without renewal of their licenses. In short, for aught that the authorities do to prevent, a convict once licensed — and that does not appear to be difficult to achieve — may operate unmolested for eighteen months.

These conditions demand remedy. If the License Department is to retain jurisdiction, its administrative methods must be changed along the lines above mentioned. Doubtless too, much of the personnel in the Division of Licensed Vehicles should be changed. Upon that assumption the divided duty and responsibility between the Police and License Departments would persist. That may warrant the transfer of the jurisdiction to the Police Department, which alone has adequate force and equipment for investigation. That, however, would disrupt the centralization of licensing jurisdiction effected for good reason in 1914 and, moreover, the discharge of licensing functions by the Police Department has, in the past, and continues as to Steam Boiler inspection and licensing, to be unsatisfactory. Upon these matters the Committee submits no recommendation for legislation, for it assumes that in the revision of the City Charter there will be a separation of the structure of the City Government from the administrative code thereunder, the latter to be adopted by the local authorities, together with jurisdiction vested in them to abolish and combine or consolidate existing bureaus. The disposition, then, of the licensing function as to taxicab drivers would be for the local authorities to determine.

## THE ADMINISTRATION OF THE DEPARTMENT OF MARKETS.

The Committee's investigation of the Department of Markets leaves no doubt upon the fact that, under the administration of Commissioner Edwin J. O'Malley, that department, created as a public agency to combat and control the rising cost of food to the people of New York City, has been perverted into a vehicle for the levy of "graft" and the play of political favoritism, the cost of which must inevitably have been passed on to the public.

### *The Establishment of the Department.*

Prior to the enactment of the Farms and Markets Law by Chapter 802 of the Laws of 1917, public markets in the City of New York, such as the Washington Market, the West Washington Market and Jefferson Market, had for many years been under the jurisdiction of the respective Borough Presidents as to their physical maintenance and of the Department of Finance as to the fixation and collection of rentals for space therein. During all that period no breath of scandal attended the administration of the markets and that situation continued during the brief period in the closing days of the administration of Mayor Mitchel during which the markets were administered upon the plan authorized by the legislation of 1917.

That legislation (L. 1917, Ch. 802, Sect. 71) authorized the Board of Estimate and Apportionment, by resolution approved by the Board of Aldermen, to establish a Department of Markets, headed by a Commissioner, appointed and removable at pleasure by the Mayor. Such resolutions were duly adopted by the respective Boards in June and July 1917.

Sections 72 and 74 define the jurisdiction of the department, concentrating in it all the jurisdiction previously exercised by the Borough Presidents and by the Finance Department. The Commissioner was authorized to make rules governing the markets, subject to the approval of the Board of Estimate and it was provided (Section 81) that all stands and stalls in such market shall be rented on permits issued by the Commissioner or a subordinate designated by him.

*The Rules.*

In 1919 such rules were duly adopted by the local authorities. It has been the administration of them which has provided such a fruitful field of graft. They provided, among other things, that:

“A market stand may be occupied only under a revocable permit” (Rule 1 (a).)

“All permits are for a bi-weekly period and may be revoked or terminated by the Commissioner of Public Markets at the end of any such period, if, in his judgment, the public interest requires it, or at such times or sooner, for a violation of any of the rules and regulations of the department.” (Rule 1 (b).)

“Permits for markets stands are personal to the individual, corporation, association or partnership named therein and shall not be assigned or transferred without the written consent of the Department of Markets.” (Rule 4.)

“No market stand or any part thereof shall be sublet or assigned or used by or for the business of any person, corporation, association or partnership other than that designated in the permit . . . without the written consent of the Commissioner of Public Markets.” (Rule 5.)

*The Rules Administered.*

The provisions of these rules are not required by any statute. They constitute the exercise of a discretion granted by statute to the local authorities. It has been the apparently arbitrary power, which they give to the Commissioner to revoke permits and to approve transfers, which has facilitated the collection of graft and the attempts so to do. These have been perpetrated so frequently and so boldly through the active agency of one Charles A. Winter, General Inspector of the Department and an employee in the exempt class, that Commissioner O'Malley must have been incredibly stupid and incompetent, if he did not know and approve of them. A number of instances are detailed hereinafter, including one in which it was testified that O'Malley himself received \$1500, in cash after “inducing” a standholder in Washington Market, whose permit was revocable by the Commissioner under the rules, to sell a piece of property outside the market to the telephone company. The receipt of this money O'Malley denied, but at the outset of cross-examination upon this and other features of his administration, he declined to be questioned and fled from the witness stand.



Mr. O'Malley's predecessor as Commissioner had been Dr. Jonathan C. Day, who had been removed by the Mayor after charges of misconduct had been made against him and after he had made similar charges against O'Malley, who was a deputy under him and whose exit from the department he compelled. Shortly after leaving the Market Department O'Malley was appointed a Deputy Commissioner in the Department of Public Welfare and after Dr. Day's removal he was appointed as his successor by the Mayor.

Such evidence of corruption in the Market Department, as was developed by the Committee, was turned over to District Attorney Swann, in the expectation that he would make it the basis of further investigation and prosecution, but the District Attorney declined to proceed. While permittees of the department were testifying before the Committee to the extortions practiced or attempted upon them, O'Malley announced the revocation of their permits. This was obviously an attempt to terrorize other permittees and to prevent their testifying to the facts. The Committee publicly denounced such tactics and demanded O'Malley's removal by the Mayor. The Mayor declined to take such action, but the revocations were rescinded and Winter was dismissed from the department. O'Malley remained and was reappointed as Commissioner.

No change of state law is suggested by the grave maladministration of the Market Department, for it should not be necessary to provide by law that permits should not be made revocable at will. Indeed, the courts have held in litigations precipitated by the Commissioner's attempts to exceed his power, that his discretion to revoke must be reasonably exercised and may not be capricious or arbitrary. The Commissioner has, however, disregarded this limitation in other cases not before the Court. Clearly he should not have even *apparent* arbitrary power and the rules should be amended by the local authorities so that permits must be transferred except for cause and may not be *revoked* except for cause, such cause to include any attempt to monopolize the facilities of any of the public markets.

#### THE HASLOB CASE

##### *Negotiations With Whiting.*

Christian Haslob is a retail butcher in Washington Market for 20 years (Haslob 644 & 648). His firm does about \$250,000 worth of business a year (645). They have two stands and storage space

(644-647). They bought one stand from Stark (649) for \$2,000 five or six years ago and had no trouble in getting the transfer from the Collector of City Revenue (649) who then had jurisdiction. They agreed to buy the other stand from one Whiting for \$650 (651) and it was finally transferred in May, 1920 (650), but not until a money payment had been made therefor.

*First Visit to Markets Department, Refusal.*

Having arranged to buy Whiting's stand, Haslob went to the Markets Department to have the permit transferred from Whiting to himself (651). Mr. Bird, secretary of the Department, told him he could not have the transfer made, because he had filed no written application for the stand. About six months later Haslob talked to Winter about the matter (653).

*Negotiations With Winter.*

Haslob's testimony is: "I asked him if he couldn't do something for me, trying to get that stand. \* \* \* He said he could \* \* \* I said I was willing to pay a thousand dollars \* \* \* and didn't care who got it \* \* \*. He said he would come and see me the next day \* \* \*. He came back the next day and I agreed to pay him \$450 \* \* \* for \* \* \* getting my permit for that stand." (653 and 654). Haslob agreed to have the money ready the following Monday (656). On the Monday following, "I met Mr. Winter in Washington Market \* \* \* about 9 or 10 o'clock in the morning \* \* \* at my stand \* \* \* he asked me to go out with him." (656 and 657).

*Pays Winter \$450 Bribe.*

They left the market together and went to Barclay street and took the elevated down Ninth avenue. Haslob took the cash from his safe out of Saturday's receipts (656 and 657). This is corroborated by page 95 of this day book (Exhibit 42), the entry being: "Saturday, May 15th, 1920 Part Payment on stand — Expense \$450." (656, 657 and 658).

Haslob, as they were going south on the Ninth Avenue elevated took the \$450 from his pocket and gave it to Winter. They had no particular conversation. He didn't even say "Thank you." They separated at the Battery and Haslob took a train right back to the market. All this was on Monday morning, May 17th.

*Second Visit to Markets Department — Receives Permit.*

Monday morning Winter told Haslob that the permit would be ready for him. That afternoon Haslob and Whiting went to the Markets Department (660). They saw McGrath, who showed them in to O'Malley. Haslob asked for the permit and received it without delay. (661). *He had not yet made any written application for it.* (665).

## THE HEINEMAN CASE

*Negotiations With McGuinness.*

Joseph Heineman has been a retail butcher in Washington Market since March 1, 1920 (Heineman 668), and did about \$65,000 worth of business the first year. He bought the stand fixtures from Peter McGuinness for \$4,500 (669).

*Heineman and McGuinness Visit O'Malley.*

On February 3 (673) Heineman and McGuinness went to the Markets Department to have the permit transferred (671). McGrath ushered them into O'Malley who asked if the stand was for Heineman's father, who already had a stand in the market. Heineman said "No." O'Malley said "Nothing more than can be done for the present and I will have my inspector investigate" and asked Heineman to see Winter in the outer office (672).

*They Talk With Winter.*

They had to pass through Winter's office to get to the Commissioner's office (673). They left O'Malley and talked with Winter on the way out. He merely asked where the stand was located and where Heineman lived (674).

*Heineman Summoned to Winter's Office — Request for \$1,000.*

A few days later word was left with Heineman's father that Winter wanted to see Heineman at the Market Department. Heineman went and conversed with Winter at first in the latter's office and then Winter led him outside in the main hall near the elevators. Winter asked how much Heineman was paying for the stand. Heineman refused to tell. Winter said it was customary, in order to get a permit, to pay something in addition (674). "I said I am paying too high a price and I cannot afford to pay anything more." Winter said, "You will have to pay more" and I said "How much" and Winter said "a thousand dollars." I said "That is out of the question, I cannot pay that"

\* \* \* He said my father already had two stands down there and getting too many in the family \* \* \* he said 'you will have to get the money somehow or other because he won't accept anything less' \* \* \* speaking of somebody else." (675). "He was leaving the hall and he turned back and said, 'it is absolutely useless for you to call any of those cheap politicians in to plead for you'" (676). At this interview Winter brought Heineman downstairs to another department to locate his residence on the map to see if he lived in New York City (678).

*Summoned a Second Time; Request Reduced to \$500; O'Malley Comes In.*

About a week later Heineman received through his father another message to call and see Winter. Winter took him into an office adjoining the Commissioner's. "He sat me down and wanted to know if I had the money ready for him \* \* \* I said that I had no money for him and he said 'you will have to pay something' and I said that I could not afford any such amount. 'Well,' he said, 'Can you pay \$500, because *he* might accept that?' And I said "Who is *he*?" He said, 'We are not mentioning any names now.' I told him it was out of the question, that I could not pay him any \$500. While we were discussing this the door opened from the Commissioner's office and Commissioner O'Malley came into the office. He apologized, said he did not know it was occupied and he walked over and took a book out of a cabinet and went outside again \* \* \* into his own office." (677).

*Third Conference Alone with Winter.*

Either at the Markets Department or in Washington Market, Heineman had still another talk with Winter. "He wanted to know if I had any money ready for him, and I told him 'no'." He told Winter he could not pay him anything and that he was not going to pay him anything (679).

*Heineman Sees Minder; Gets Permit Without Bribe.*

In the meantime Heineman had asked some of his friends for their advice "in order to get the permit and avoid paying any money to the inspector" and "to see if they could not do something for me to hurry the matter along." He told them he had been asked to pay money (678). Mr. Minder, the President of the Merchants' Association at Washington Market, was one of

these friends. Thereafter Heineman received word both from his father and from Mr. Minder to call for the permit. He then went to Commissioner O'Malley (679) with Mr. McGuiness. O'Malley insisted on Heineman signing an agreement to employ McGuiness because the latter was an old man and could not find employment. He then received the permit (680). This was on February 28, 1920.

### THE WOOLSEY CASE

#### *Negotiations with Yonteff.*

Stephen Woolsey has been in the retail butter, cheese and egg business in Washington Market since November, 1913 (Woolsey 682-683). The annual volume of his business is \$200,000. He used to have five stands. He now has only two (683). He sold the other three to one Yonteff (684). They agreed on the price about the first of January, 1920. It was to be \$5,500.

#### *First Visit to O'Malley.*

Woolsey then went to O'Malley's office alone on January 2nd or 3rd (691), to get the stands transferred (685). No one else was present. Woolsey asked O'Malley to transfer the downstairs stands to Yonteff. He said he could not, but if he wished to surrender the stand the city would pay for the fixtures less depreciation (686). Woolsey refused, saying that he had worked eight years building up a business there and could not afford to sell it merely for the value of the fixtures. He was to receive more than the value of the fixtures from Yonteff. "I tried to persuade O'Malley to make the transfer and he said it couldn't be made and I left." O'Malley said he could surrender the stands, but he would not consent to making the transfer. (687).

#### *Attempt to get Someone to Intervene.*

Woolsey next visited a customer of his who runs a restaurant in Brooklyn where "some men went to have lunch that could be of assistance." Woolsey asked if he knew of any one that could assist in having the transfer made. He said he would see. In two or three days he replied that "he couldn't do anything for me."

#### *Second Visit to O'Malley.*

He then went again about one week later (690) to O'Malley alone (688). He again requested O'Malley "to transfer the permit to Mr. Yonteff." "He said that he couldn't do it, if I wanted

to surrender the stand I would be paid \* \* \* for the fixtures \* \* \* less depreciation \* \* \* I said, 'I don't see why it is that after working and building up a business for eight years that I will have to get rid of it for less than my fixtures cost me to start in business.'" (689).

*First Conference with the Stranger.*

About ten days after his second visit to O'Malley, Woolsey received a telephone call from someone who did not give his name, (690) but said "I understand you are having trouble getting your permit transferred \* \* \* if you will meet me on the corner of Barclay and Church Street, perhaps I can be of some service to you." Woolsey said "all right, I will meet you there in about half an hour" (691). He went there and saw a man who said he was the one who had telephoned him. He was of medium size with smooth face and refused to give his name (Woolsey 701). "He said \* \* \* he could help me out but his time and services would be worth something, and he felt he ought to be paid for it \* \* \* he said that it would cost \$1,000 \* \* \* eventually we reached a price of \$450 (692) \* \* \* and I told the man that I would let him know the next day." (693).

*Conference between Woolsey and Yonteff.*

The next day Woolsey told Yonteff "if you want to pay \$100 of this, I will pay the rest" and Yonteff said "All right" (Woolsey 693). Yonteff remembers only that Woolsey said "it would cost them something to get this permit." Yonteff volunteered (709) to contribute \$100 and so the price became \$5,600. (Yonteff 704 and 708).

*Second Conference with the Stranger.*

The next day Woolsey met the same man at the same place. Woolsey said he was trusting to his honesty to put the thing through. He had never seen him before and might not know him if he saw him again. He paid the man \$450 then and there, having cashed a check with one of his customers for \$250 and taken \$200 out of receipts of the business (Woolsey 694).

*Permit Issued.*

Two days later Yonteff received a telephone message to call at the department as the permit was ready for them (Woolsey 695).

In the morning of the same day or the day after, Yonteff and Woolsey went to the department, had a general conversation with O'Malley at which no reference was made to their previous conversations or the subject matter thereof. O'Malley gave instructions to have the permit issued to Yonteff and Woolsey surrendered his old permit. Yonteff paid the agreed price as later changed to \$5,600. (Woolsey 697 and 8 and Yonteff 703 and Ex. 48).

#### KAHN-KLOEBLEIN CASE

##### *Steers & Menke Negotiate with Kloeblein.*

Frederick E. Menke is treasurer of Steers & Menke, Inc., a corporation handling poultry, calfs, pigs and pork products (Menke 717) having been in this business since 1883 with its main place of business at West Washington Market. *They are commission merchants who receive shipments direct from producers.* Their customers are wholesalers and butchers. They have seven stands. (718). They have known Albert Kloeblein 13 years. Kloeblein, individually and representing his father's estate, had been in business in West Washington Market adjacent to Steers & Menke for 25 years. Kloeblein was not a "direct receiver." He bought beef from slaughter houses and resold it. His father died about four or five years ago (719). Steers & Menke negotiated with Kloeblein for his stands, culminating in a definite offer on March 31, 1921 (720 and Exh. 50). Kloeblein was to have receipted for \$100 as deposit on six stands, total price to be \$8,000, but did not sign because of their conference with O'Malley (721).

##### *Menke and the Kloebleins visit O'Malley.*

Menke, Albert Kloeblein and his brother James, went to O'Malley's office (Menke 721) on March 31. Albert Kloeblein said business was poor and he wanted to sell out. He said that Menke's father and his father had been doing business alongside each other for years and he felt Steers & Menke should have the preference in transferring the stands. O'Malley asked what terms they had agreed upon and they told him \$8,000. (Menke 722). On April 1st Menke dictated written application accordingly, signed it and directed that it be mailed. He received no reply. (Menke 723).

*Kahn Negotiates with Kloeblein.*

Adolf Kahn was in the butcher business for nine years at 723 Tenth Avenue. He buys from slaughter houses and resells to butchers. (Kahn 731). He says that for about a year he had been negotiating with Kloeblein for his stands and on March 25, 1921 reached an oral agreement with him to sell for \$8,000. Whereupon Kahn mailed a written application for the stands to the Commissioner of Markets (Kahn 732).

*Kahn Requests McManus' Help.*

Having made written application for the stands, Kahn went to see former Senator Thomas J. McManus. One of the market men had told him he should get some one of that sort to intercede for him. He (Kahn) had had business relations with McManus (Kahn 733) McManus said "he would do that for me." (Kahn 734.)

*Kahn, Kloeblein & Menke Visit O'Malley.*

On the Saturday after his first talk with McManus, Kahn saw Kloeblein and learned that Steers & Menke also wanted the stands. Thereupon he called up McManus and made an appointment to go to O'Malley's office at 11 o'clock on Monday and arranged for Kloeblein to be there also (Kahn 734). They met McManus downstairs (735) at about 11.30 (736 and 738). Before leaving his office he drew and cashed a check for \$3,000 being the first check he drew that day (733, 6 and Ex. 53). On the way down he stopped at his bank and cashed the check. Kahn claims that he met his brother-in-law at the bank by appointment and gave him the money, so that he claims he did not have the \$3,000 with him when he reached the Municipal building (737). Downstairs he met first McManus and then Kloeblein, both by appointment, and introduced them. (Kahn 738 and 739). They went upstairs and into Secretary McGrath's office (740). They were told the Commissioner was not in and that they should wait. McManus left Kloeblein and Kahn there (741) and came back in about two hours when all three and McGrath went into O'Malley's office (741). They remained about half an hour. McManus introduced Kahn saying, "This is a friend of mine, Mr. Kahn, which I spoke to you about." O'Malley paid no attention to Kahn, but said to Kloeblein, "Are you selling this stand?" He said, "No, I have to get rid of



them on account of my brother being sick." "From the way they talked, it appeared that they were acquainted before." (743.) O'Malley said, "You cannot sell these stands, you understand that? \* \* \* If I knew you were selling those stands, I will take this permit away from you." Kloeblein said, "All I am selling is the contents of my fixtures." Kloeblein surrendered the permit he had to the Commissioner and the latter told McGrath to make out a permit to Kahn. When this was done all three left together. It was about 4 o'clock. (748.)

Kloeblein, who could not be served with process in New York or compelled to testify in New Jersey, where he resides, did, however, make a statement to an examiner for the Committee. He stated that it was about 1 P. M. when they reached the Commissioner of Markets office (McDermott 819). They waited until 3 P. M. James Kloeblein was with them but was told to stay outside. When he entered O'Malley's office he saw there Kahn, O'Malley, McGrath and both McManuses, the former Senator, and his brother, Charles, an Alderman. (McDermott 820.) O'Malley said to Kloeblein, "Now, you are not selling these stands. Kloeblein hesitated and Senator McManus kicked his foot and he refrained from replying. (McDermott 822.)

*Kahn pays Kloeblein only \$6,250.*

On leaving O'Malley's office Kahn, Kloeblein and McManus rode up town in Kahn's machine, which had been waiting outside the Municipal Building (748 & 749). Kloeblein stated that Alderman McManus and Albert Kloeblein were also in the machine. Alderman McManus got out at 48th Street between 9th and 10th Avenues on the north side and entered a house. Senator McManus got out a little farther west (McDermott 822 & 823). McManus left the machine at 49th Street and 8th Avenue. Kloeblein and Kahn reached Kahn's office about 4:30 P. M. Kahn then gave Kloeblein a check (Exh. 55) for \$6,250 (749), although he had agreed to pay \$8,000. Kahn testifies: "I told him that the stands cost me a great deal more to fix up than I first expected they were to cost \* \* \* We battled for about a half hour and he couldn't get no more out of me than \$6,250." (750). There had been no written agreement, and Kahn now had the permit (753).

Kloeblein says he asked Kahn why the check was only for \$6,250. Kahn showed by his checkbook that he had drawn a check to cash for \$3,000, and said he had used the cash for trans-

ferring the stands. "Kahn said the \$1,750 that Kloeblein did not receive was one-half of what it cost him to get the stands, that he was standing one-half and Kloeblein would have to stand the other half." (McDermott 823).

*Kahn Draws a \$500 Check to McManus.*

On returning to his office from the Markets Department on April 11th Kahn also drew a check for \$500 to Thomas McManus. Kahn testifies: "I reconsidered and I wouldn't use that check \* \* \* I don't know if it was destroyed or not." It was replaced by another check taken from the back of the book (Kahn 753 & 756; Mass. 775 & 776) drawn to "Bearer" (Ex. 56) (Stub is Ex. 57). Kahn claims he gave his check to a bookmaker named Henry Jones to make a bet with sometime in April on the Dempsey-Carpentier fight. (754). Kloeblein says he asked Kahn what the check for \$500 was for and he replied "That is for the Alderman." Kahn then drew another check for \$125.15 to the Aeon Garage. This is run by the McManuses and Kahn keeps some of his trucks there (756).

Maas, Kahn's accountant, erased the words "Thomas McManus" on the check stub (Ex. 57) at Kahn's direction and wrote in the word "Bearer" (Maas 776). In the cash book (Ex. 58), under date of April 11th he originally entered "Thomas McManus." Later he applied ink eradicator and then entered "Bearer" (Maas 778 & 779; Osborne 796). In the cashbook he originally entered page 50 as the page of the ledger where this item of \$500 would be posted but eradicated page "50" and wrote in "8" (Maas 778 & 779; Osborne 796). He also eradicated all entries on page 50 of the ledger (Maas 780 & 781) on which he had entered "Investment Market Stands" "\$3,000" and other items, concededly relating to the cost of the market stands. (Osborne 798). Maas also made other eradications of entries which he had made in reference to the \$3,000 check to cash and \$500 to McManus (Maas 781 to 791 and Osborne 794 to 803).

*Menke Learns of Transfer to Kahn.*

On a Tuesday about two weeks after April 1st, having received no reply to his application of that date, Menke went to the Department but was told that the Commission was busy. His secretary, McGrath, told him that the stands had been transferred to Adolph Kahn the day after (Menke 724).

*Conference at Kahn's office before testifying.*

Kahn was served with a subpoena on Saturday, May 21, 1921, to appear before a sub-committee on Monday, May 23rd (Kahn 757). The next day, Sunday, May 22nd, Kahn was at his place of business. His bookkeeper, Maas, was there and so were two other men (758).

On Saturday after he was subpoenaed there were three telephone calls from his apartment to his brother-in-law, Isaac Goldberg, (Kahn 760; Jones 730 and Reardon 728 & 28, Ex. 51).

After leaving his office on Sunday, Kahn went to Goldberg's home and spent several hours there (Kahn 760, see above, Kahn's testimony that he gave the \$3,000 to Goldberg). On Sunday Kahn phoned both to Goldberg and his visiting accountant, Sol. Goodman (Kahn 761, 762 and Ex. 51).

On Monday morning before testifying Kahn talked with Alderman McManus in the 54th Street Court (Kahn 765 & 766).

*Phone calls by Kahn after testifying.*

Kahn finished testifying before the sub-committee at 8 o'clock, May 23rd. He had claimed that Sam Kern was one of the two men who was at his place of business on Sunday, May 22nd, but later admitted the falsity of that testimony. That evening he called up Mr. Kern in Tarrytown (762 and Ex. 51) and also the Thomas J. McManus Association and Sol. Goodman, his accountant. (Kahn 763 & 4; Ex. 51).

*Attempt to revoke Kahn's permit after testifying.*

After Kahn testified before the sub-committee on May 23rd, he was subpoenaed by the Commissioner of Accounts and testified there. This was repeated after he testified before the sub-committee on May 25th (Kahn 766). The second time he testified before the Commissioner of Accounts was on June 2nd. On the 4th of June he received a registered letter notifying him that his permit had been revoked. He brought an action to restrain such revocation and obtained a temporary injunction. The disposition of the case was, by agreement between the parties, delayed pending the hearings of the Committee and Kahn is now in possession of the stands.

## THE KATENKAMP CASE

*Receives Dispossess Notice.*

Mrs. Bertha Katenkamp had been conducting a fish stand in Washington Market under the permit of her husband for about a year after his death (Katenkamp 844; Minder 832). In August, 1920, she received a dispossess notice from the Commissioner of Markets saying that she had no permit to do business in Washington Market and must vacate on a specific date stated therein (Katenkamp 845; Minder 833; Eggers 855).

*Visit to O'Malley.*

As Minder was out of town she conferred with Eggers, the Vice-President of the Washington Market Merchants' Association (Katenkamp 845), who is also in the fish business. She had received three notices from O'Malley to see him about her permit but she had taken no notice of them (Eggers 856). He (Eggers) took her to O'Malley. Mr. Turner who also has a fish stand went with them to adjust his troubles also (Eggers 856; Katenkamp 846). O'Malley said the permit died with her husband (Katenkamp 846) and she would have to leave the stand. Mrs. Katenkamp and Turner then went into the outer office and waited for Eggers who remained behind with O'Malley. They waited about 20 minutes. Then he came out and all three left. (Katenkamp 847).

Eggers says O'Malley said Mrs. Katenkamp didn't live in New York City and many residents wanted to get permits, who ought to have precedence (Eggers 858). He absolutely refused to issue a permit to her.

*Eggers Talks with Winters and then with Mrs. Katenkamp.*

Eggers had known Winters for several months before he spoke to Winters about the Katenkamp case. Eggers said to Winters: "Mrs. Katenkamp is dependent upon the proceeds of this stand, I would not like to see her put out, isn't there no way of arranging these matters." Winters said, "No, I want her out \* \* \* We have someone else for the place" (Eggers 860 & 861). Eggers said, "What about Turner?" Winters said, "Well we can fix that up." Eggers said, "What do you want?" Winters said "\$500." (860). Winters had a "party that was going to give Mrs. Katenkamp an amount of money to get out \* \* \* nothing came out of that." (861).

Later on Eggers had other talks with Winters. The latter continued to insist he wanted the widow out. Finally he said he was going to Washington and "if we could fix it up for a thousand dollars" after he got back it would be all right (862). Eggers told this to Mrs. Katenkamp but she said she didn't have the money (Eggers 862 & Katenkamp 848). Meanwhile Winters was in sight waiting at Eggers' stand (Katenkamp 848 & 849), which can be seen clearly as it is obliquely across from Mrs. Katenkamp's (Katenkamp 848 & Eggers 855).

When Winters returned from Washington he asked Eggers "Well how did you make out." He said, "I can't do anything with Mrs. Katenkamp, she has not got the money", Winters said, "Well, let her get out." (9862).

Eggers said, "Why do you want to put this woman out, she is dependent upon this for a living." He said, "Well, I will tell you, we will make it \$500." (863).

Eggers told this to Mrs. Katenkamp but she said, "I haven't got it." Eggers said "Worse and worse, here is where I throw up my hands." Then Mr. Minder "came into the proposition and she didn't put up a nickel." (Eggers 863).

Eggers' various conversations with Mrs. Katenkamp took place "every day in the week for ten days." The talks always took place in Mrs. Katenkamp's stand and Winters was always in sight at Eggers' stand (Mrs. Katenkamp 849).

#### *Minder's Visits to O'Malley.*

Minder was out of town when the permit was revoked and during the week or ten days that Eggers was handling the matter for Mrs. Katenkamp (Minder 832 & 833). When he returned the matter was brought to his attention by various members of the market. Minder told Eggers to leave the case in his hands. He did not know Mrs. Katenkamp very well but had known her husband fairly well (Minder 833). Minder then went alone to see O'Malley and explained to him that he saw no reason why Mrs. Katenkamp should be put out of the market. "After going into it very thoroughly with the Commissioner, he said he would give it further consideration." (Minder 834.) There were two or more such visits, Minder always going alone. At first O'Malley said "she had to go". Minder pleaded her case (837). "I felt that I had succeeded, that he had been misled by people giving him reports that were not true." (Minder 838).

*Minder Confers with Mrs. Katenkamp and Egger.*

Egger reported to Minder his conversations with Winters. He stated that it was necessary to leave the matter in the hands of Winters. Minder said that he had already been to the Commissioner of Markets direct and saw no reason to go through Winters. Egger said the Katenkamp matter could be settled and the woman left alone if she would pay \$1,000. (Minder 835). She was to pay it to Egger, not for himself, but for Winters. Minder said, "Not while I was president of the association would anything go on like that \* \* \* I called Mr. Egger and Mrs. Katenkamp together to see if there was not some way of breaking down this attempt to get the widow to pay \$1,000 \* \* \* and Mrs. Katenkamp said that she would be willing to give \$500." (Minder 836; also Katenkamp 850). "I told her to bring the \$500 to my office \* \* \* she brought me the \$500 \* \* \* I had my bookkeeper take it, it was then in an envelope that had her name and the date on the back of it and put it in my safe for safe keeping and I told her that if anyone wanted it to come and ask me for it. No one came. Afterwards it was returned to Mrs. Katenkamp." (Minder 836; Katenkamp 850).

*Minder's Visit to O'Malley's Office, October 4, 1920.*

Minder and Mrs. Katenkamp were subpoenaed to appear before the Commissioner of Accounts on October 4, 1920 (Minder 838 and Katenkamp 850.) Just before appearing, they went to O'Malley's office (Minder 838). Mrs. Katenkamp waited outside of O'Malley's office for Minder, who went in and stayed there ten or fifteen minutes (Katenkamp 850 to 852). Minder told O'Malley that they were subpoenaed to the Commissioner of Accounts office. He said he knew it, that the entire matter was in Hirshfield's hand and we would leave it rest there, that people were talking about graft, giving newspaper stories out and he was going to get to the bottom of it. "I told him \* \* \* that all this stuff getting into the papers would do harm and would do harm to Mrs. Katenkamp \* \* \* and would embarrass me, himself and the administration and that while I had no definite proof that graft was asked for, except by word of mouth, I did not feel inclined to drag anybody into it \* \* \* he asked me whether it was a positive fact that I could say there was a graft request, I told him I could \* \* \* yet I could not prove it, that it was unfair to drag Mr. Winters' name into it when it

wasn't my party. I told him I was going to the Commissioner of Accounts office and tell the same thing and try to leave out Mr. Winters' name if I possibly could, because it was to my mind unfair \* \* \* unless I have some specific proof \* \* \* that I should defame his character \* \* \* he thought that was mighty nice and if that was the case he thanked me for doing it \* \* \* I asked him if I could assure Mrs. Katenkamp, who was in the outer hall waiting for me, of that fact, and would she get her permit and be able to continue her business if she would follow my instructions and testify and try to leave Mr. Winters' name out of it before Mr. Hirshfield \* \* \* he assured me that that would be the case." (Minder 839 & 840).

After testifying Minder returned to O'Malley's office. It was late in the afternoon. O'Malley was out. "I told him (McGrath) to tell the commissioner that we had testified before the Commissioner of Accounts and I felt that everything would be alright." (Minder 841). Minder did not tell O'Malley nor Hirshfield nor anybody in their office that he was holding the \$500. He held it about a week or ten days "inasmuch as Mrs. Katenkamp was frightened to death for fear she would give it, as she threatened to do, to have peace as she called it." It has now been returned to Mrs. Katenkamp. (Minder 842). Mrs. Katenkamp did not receive her permit until January 27, 1921.

#### *Commissioner of Accounts' Investigations.*

On October 1, 1920, O'Malley wrote Hirshfield a letter (Committee Exhi. No. 41) in reference to the Katenkamp case (864), requesting an investigation because of "ugly rumors that \* \* \* if she would pay money to some employee of this Department \* \* \* he would be able to fix the matter up" (866). On November 27, 1920, O'Malley wrote Hirshfield inquiring as to the result of the investigation (867). He again wrote on January 3, 1921, to the same effect, stating "it has been and still is my opinion that Mrs. Katenkamp should vacate this stand but have taken no action pending a reply from you." (868).

Minder's testimony before Hirshfield on October 4, 1920 (869) shows that he reluctantly mentioned Winter's name as the one as to whom there were such "ugly rumors" (871). Mrs. Katenkamp testified "I was not asked to pay. It is rumored around there that if you want to stay there you have to pay \* \* \*. They won't ask direct. A gentleman came to me and said if I wanted

to stay it would cost me money and I said I didn't have any money \* \* \* First a Mr. Turner came. He said he understood I would have to pay \* \* \*. He didn't mention any names" (879). Asked if anyone else told her anything about paying, she said "No" (880). Neither Turner nor Winter were examined. (882).

On January 22, 1921, Hirshfield submitted his report to the Mayor (882), suppressing the fact that Winter's name was mentioned in the testimony (883). He concluded "Nothing has been disclosed from the examination to sustain the assertion that moneys had been demanded or received by any employee of the Department" (884). He recommended that Mrs. Katenkamp be allowed to continue the occupancy of the stand (885). On January 26, 1921, O'Malley acknowledged receipt of a copy of this report and wrote "Your suggestion as to allowing Mrs. Katenkamp to remain in occupancy of this stand will be followed." (886).

#### THE TURNER CASE

##### *Egger and Turner Visit O'Malley.*

James R. Turner, as well as Mrs. Katenkamp, came to Egger "with his troubles." He had also received a notice to vacate. He had succeeded to his uncle's business. His uncle had had a permit for many years, but he had none. Egger is not sure whether Turner had received a notice to vacate or not (Egger 856 & 7). Turner and Mrs. Katenkamp both went with Egger at the same time to see O'Malley (Egger 898). (Turner 967). O'Malley refused to issue him a permit because he lived in Jersey City (Turner 968).

##### *Egger's Talk with Winters.*

Later when Egger was talking to Winter about Mrs. Katenkamp's case he said "What about Turner?" Winter said, "Well, we can fix that up." Egger said, "What do you want," Winter said "\$500." (Egger 860). Egger told Turner that if he wanted to stay in the market he would have to put up \$500. "So I took Winter over to Mr. Turner and said 'Jim meet Mr. Winter,' and he met him and that was all." (Egger 860-861).

##### *Turner's First Talk with Winters.*

This introduction took place about one week after Turner, Egger and Mrs. Katenkamp had been at O'Malley's office



(Turner 972). Egger had told Turner that Winter had said Turner would have to pay \$500. (Turner 974). Turner claims he told Winter as well as Egger that he would fight the matter in the courts (975).

#### *Turner Gets His Permit.*

Later he told Egger that it would probably cost him \$1,000 in the courts and that as long as his daughter was sick he would as soon pay \$500 to Winter to get his permit (976). Then Winter came and told Turner the permit was ready and he should go up and get it (977).

#### *Turner Pays \$500 to Winters.*

A couple of days after he got his permit Turner paid Winter \$500 in bills at Broadway in front of 176 Broadway (977-980). He took the money from his receipts (977). He made no book entry of this item (978). This was in August, 1920, about 1 o'clock. He made the appointment with Winters about an hour earlier at the market (979). Winters suggested the place (981). Turner said, "Here is a present for you for what you done for me" (981).

### THE CASE OF BARNET COHEN

Barnet Cohen was in the live poultry business at 39 and 41 Loew Avenue, West Washington Market, first in connection with Harry Baff, Inc. and then as a member of the firm of Cohen and Jacobs (Cohen 929). When that firm got into difficulties, Commissioner O'Malley sent for its members in March 1920. Cohen responded and O'Malley induced him to surrender the permit for the Loew Avenue stands, which were given to one Rothberg, on the promise that Cohen would receive a permit for certain other stands then held by a saloonkeeper (Cohen 930-32).

Cohen called repeatedly at the Commissioner's office to get the promised permit but without success. One Thursday O'Malley called Cohen at his home by phone and told Cohen to come to his office the next day, Friday. Cohen went and waited all day. (Cohen 933).

#### *O'Malley gives Cohen an Auto ride.*

After waiting all day O'Malley told Cohen he would give him a ride in the machine. (Cohen 933). Cohen took a machine ride with O'Malley. The machine was waiting at the Municipal

Building. They rode up to 48th Street and Broadway, O'Malley and Cohen in the car. (Cohen 934). Both left the car at 48th Street. (Cohen 935). During the ride to 48th Street O'Malley asked Cohen how much money he had to invest and was told Cohen could get \$10,000 from his brother-in-law. O'Malley said to see him next week. (Cohen 933).

*Hillman comes into the Case.*

The following Monday or Tuesday, Cohen called at the Department of Markets and spoke to McGrath, secretary to Commissioner O'Malley. McGrath told him that one Hillman, a member of a firm which held stands in the market, was with the Commissioner "too many times" and that the Commissioner had told McGrath, "I give it away to Hillman — them stands." (Cohen 935). The same day when McGrath told Cohen about Hillman's getting the stands (of the saloonkeeper), Cohen went to Commissioner O'Malley and asked about it. O'Malley told Cohen the stands were given to Hillman "because you (Cohen) wasn't such a good customer for me." (Cohen 936). O'Malley had suggested that Cohen and one Price (Cohen 937), Hillman's brother-in-law, should together occupy these stands (Cohen 938). O'Malley also told Cohen people offered him money for the stands. (Cohen 939).

*Cohen Tells Price about O'Malley's Suggestion.*

Cohen told Price that O'Malley suggested that Cohen and Price get the stands together and begged him to "Have a heart." Price told Cohen to go to Mr. Hillman, Price's brother-in-law and that whatever Hillman said Price would do. (Cohen 945).

*"For Money I got Honey."*

Cohen went to Hillman with his story and Hillman, referring to the stands obtained by him for Price said to Cohen, "For money I got honey." (Cohen 946).

O'Malley objected to Cohen because he said Cohen voted Republican, so Cohen was told by O'Malley and by others (Cohen 846). But Cohen is a member of the Thomas M. Farley Association and is a member of the regular Democratic organization (Cohen 947).

*Cohen's Vain Appeal to the Commissioner of Accounts.*

Cohen appealed to the Commissioner of Accounts and was referred to Mr. Klein. Klein told Cohen he could not do anything

for him (Cohen 949). Klein told him to see Commissioner Hirshfield. Cohen went to Commissioner Hirshfield and when Hirshfield saw him he would go through some door into another room, so Cohen could not see him. Cohen had been to the office a great number of times (Cohen 950). Finally he spoke to a man in the office of Hirshfield — he thinks Mr. McGinley, Chief of Staff, and Cohen was told to put his story on paper and it would be presented to Hirshfield, and a report made to the Mayor or to the Commissioner of Markets. Cohen came back a few days later and was told "Hirshfield did not want to sign the papers for you — we cannot do anything for you." Cohen wanted to see Hirshfield and Hirshfield told the officer to "Throw him out, that crook, from this building." (Cohen 950). Hirshfield had on a previous occasion found Cohen's testimony against Dr. Day credible and in still another investigation by Hirshfield's office one of his subordinates reported that O'Malley admitted that he had suggested that Cohen and Price should join in the occupancy of market stands.

#### THE LEWIS CASES

George H. Lewis & Son Inc. originally had seven stands in West Washington Market — 43, 45, 47, 49 Grace Avenue and 44, 46, 48 Thompson Avenue, for which the corporation received permits (Lewis 984). They acquired three more stands — 25, 27, 29 Lawton Avenue — from F. H. Fechtman & Co. Inc. These stands are about 100 feet removed from the other seven stands held by Lewis (Lewis 986).

When the stands were acquired from Fechtman an application was made by Lewis & Sons Inc. through its vice president, John L. Luger, to the Department of Markets for permits and permission to effect the transfer from the Fechtman Company to Lewis. Luger said he thought it would cost him \$300 to have the transfer made. (Lewis 990).

#### *Lewis pays Luger \$300.*

Lewis paid Luger \$300 on September 27, 1920 to have the transfer of the Fechtman stands effected (Lewis 990). Luger did not tell Lewis what the \$300 was for (Lewis 991). In four or five days, the permit desired was issued (Lewis 992).

#### *Inspector Winters in the Case.*

When Fechtman wanted to sell the stands Luger said some sort of investigation would be made. Lewis saw Inspector Winters

around the market and Fechtman told Lewis that Winters had called on him (Lewis 992).

Permit No. 416 was issued October 1, 1920 to G. H. Lewis & Sons Co. Inc., for stands No. 25, 27, 29 Lawton Avenue, West Washington Market at a rental of \$27.50 weekly. Receipt signed by G. H. Lewis, & Sons Inc., John L. Luger, vice president; witness — Charles A. Winter.

*Lewis sells a Stand to Benjamin.*

The sale of one stand by Lewis to Mr. Benjamin of West Washington Hotel Supply Company cost \$350 (paid by Lewis) for the transfer of the permit. Luger attended to the transfer (Lewis 993), receiving \$350 from Lewis to effect it.

*Luger tells Lewis of his Political Affiliations.*

Luger told Lewis he was a member of some political organization and through that he would be able to get the transfer put through. (Lewis 994). He did.

*A Third Transfer Effected by Luger.*

Luger told Lewis it would cost \$1,000 to get approval of a transfer of stands from Lewis to Dorato Cerutti Company. Lewis paid Luger the \$1,000 on April 13, 1921 in cash for this purpose and the transfer was effected the same day.

*Luger's Connections and Admissions.*

John L. Luger was vice president of George H. Lewis & Sons Inc. on a salary of \$75 a week (Luger 999).

Luger admits getting from Lewis \$300 and \$350 in connection, respectively, with Fechtman and Benjamin transfers (Luger 999). He also admits getting \$1,000 with reference to the third transfer (Luger 1,000). Luger knew Inspector Winter of Department of Markets for about 1 year (Luger 1,000).

Luger is a member of the Tammany Hall — General Committee and of the Peter J. Dooling Association (Luger 1,000). He had been a district captain for three or four years prior to working for Lewis & Sons (Luger 1,000) and a member of Dooling Club for five years.

*Luger sees O'Malley Re Fechtman Transfer.*

Luger called on O'Malley at the Department of Markets and asked for transfer of Fechtman stands to Lewis (Luger 1002).

O'Malley refused because Lewis already had seven stands. (Luger 1003). After O'Malley's refusal Luger went to the Peter J. Dooling Association and told his troubles to John Burke, secretary of the club, and Burke suggested that Luger and he call on O'Malley (Luger 1004).

Mr. Burke and Luger called on O'Malley and Burke told O'Malley that Luger was an active worker in the organization, and he, Burke, thought Luger was entitled to be favored with the transfer (Luger 1005). O'Malley still mentioned about the seven stands already held by Lewis and Burke and Luger left (Luger 1005).

#### *Permit Obtained next Morning.*

The next morning Mr. Burke went back to see O'Malley. He told Luger he had been there. Then Luger went to see O'Malley (Luger 1006). O'Malley told Luger he would get the transfer of the permit because he was an active worker for the organization and the permit was issued. Winter signed the permit as a witness (Luger 1006), having previously called at the market to investigate and spoken to Luger while there and having recommended the approval of the transfer in his report dated September 27th, the same day as Luger received the \$300 payment.

#### *Luger on the Benjamin Transfer.*

Luger originally applied to the Department of Markets for permission to have Benjamin store materials in one of Lewis' stands by letter dated November 13, 1920 (Luger 1010).

Winter made a report to O'Malley six days later suggesting that permission could be granted and the purpose effected by transfer of the stand from Lewis to Benjamin (Luger 1011). Luger waited for an answer to his letter and then called at the Department of Markets (Luger 1011). He spoke to O'Malley, telling him a personal friend of his (Luger's) wanted the stand and asked for the transfer (Luger 1012). He had two or three conversations with O'Malley on the subject and then finally obtained the permit for transfer to Benjamin (Luger 1013). In this connection he got \$350 from Lewis (Luger 1013).

#### *Luger also Handles the Third Transfer.*

In March Lewis wanted to sell four more stands and told Luger so (Luger 1013).

Luger went to the Department of Markets and spoke to O'Malley and "when he seen me he was fit to be tied." (Luger 1014).

*Luger again Appeals to his Political Club.*

Luger went to the Peter J. Dooling Association and arranged to meet Mr. Dooling, who was to go with him to the Department of Markets. They went the next day and both called on O'Malley (Luger 1015). O'Malley again refused to do anything for Luger (Luger 1015).

Luger appealed to Dooling to help all he could and then Dooling told Luger to go again to the Department of Markets with his old permit. When he saw O'Malley he was told by O'Malley that he had reconsidered the matter and the transfers were approved. (Luger 1016).

*Luger Secured the Permit about April 13, 1921.*

On April 13th, Lewis drew two checks — one for \$500 and the other for \$300, making a total of \$800, which were cashed and with an additional \$200, the three checks amounted to \$1,000, all of which was given to Luger (Luger 1019). The transfers were effected the same day and Luger says he contributed \$500 the next day to the Irish Fund, of which Mr. Burke, the club secretary, was treasurer for his district (1020). Records show that of a total of \$800 contributed to the club for this fund, Luger is credited with a contribution of \$500 (Luger 1022), the other contributions being in nearly all cases, one dollar each. When first examined before a sub-committee Luger had no receipt for his contribution, but afterwards obtained one dated April 14, 1921 (Luger 1021). This receipt was the last in the book from which it was drawn, the book bearing the name of a person other than Burke, who signed the receipt, and many receipt books, admitted to have been received from the central office of the Fund organization, being missing or destroyed.

THE MICHELS — TELEPHONE COMPANY CASE

B. Michels Sons Co. Inc., is the holder of a permit for stand 11-R-22-R in Washington Market, issued July 1, 1919. (H. F. Michels 1081). The corporation had been in business five or six years and prior to that the stands had for a great many years been held by a partnership composed of same people. (Michel 1081-82).

The Washington Markets stands were too small for the busi-

ness so that the corporation rented and later bought the building at 108 Vesey Street. The purpose of buying the building at 108 Vesey Street was not to resell it, but to use it as a storeroom, ice box, etc., for the business (Michel 1083).

The New York Telephone Company, through its agent, wanted to buy the Vesey Street building and Michel referred them to his real estate agent, Mr. Hibbard (Michel 1084).

Michel told Hibbard that he would rather keep the building than sell for \$60,000 as he needed it for business purposes. Also Michel told this to the representative of the telephone company (Michel 1084). This occurred about one month after Michel had bought the building (Michel 1085).

After Michel's refusal to sell he heard that O'Malley wanted him at his office, for an interview. Michel went to O'Malley's office and the Commissioner asked him why he had stands in the market and a store across the street (Michel 1085). Also what right did Michel have to a stand as he lived in New Jersey (Michel 1086).

Michel had read and knew about the revocation of permits for stands in the markets.

#### *Second Interview with O'Malley.*

The next day Michel took his agent, Hibbard, to O'Malley's office. At first O'Malley wanted to talk to Michel alone, but Michel insisted on Hibbard's presence and he was called in (Michel 1088). Michel told O'Malley, Hibbard represented him in all transactions for the building (Michel 1090). Michel had decided he must sell the building to stay in the market. His testimony is as follows:

“Q. Had you told Mr. Hibbard to negotiate for the sale of this building? A. Mr. Hibbard had my approval of that.

Q. Well, what made you change your mind about it. I thought you didn't want to sell it? A. If it had to be sold I had to get the best figure I could get for it.

Q. Why did it have to be sold? A. *Because I wanted to stay in the market.*

Q. Because you wanted to stay in West Washington Market? Yes.” (Michel 1089).

#### *Telephone Company had Done O'Malley "A Great Many Favors."*

At the second interview, November 17 or 18, 1920, O'Malley said to Michel and Hibbard, “The telephone company has done

me a great many favors and we want that building. We got to have that building." Michel then left and Hibbard remained along with O'Malley (Michel 1092).

The contract for the sale of the property by Michel to telephone company for \$45,000 was made January 7, 1921 (1093).

On January 7, 1921, Michel drew check for \$3,000 to Cash or J. B. Hibbard, cashed it at the bank, received six \$500 bills, which he gave to Hibbard as his commission. (Michel 1094). The deed to the telephone company was executed on January 31, 1921. (Michel 1095).

Hibbard on November 18th, accompanied Michel to O'Malley's office. First Michel went in alone; then Hibbard was called in. Hibbard told O'Malley that if he wanted to talk about the Vesey Street building he did not need Michel, that Hibbard was taking care of that for Michel (Hibbard 1101). Michel then went out and Hibbard and O'Malley remained alone. (Hibbard 1102). The testimony is:

"Q. What did you say to Commissioner O'Malley? A. I asked him — he told me that he was under obligations to the telephone company; they had done a great many favors for him and they had asked him to see if he could get possession of that property for them.

Q. At 108 Vesey Street? A. At 108 Vesey Street.

Q. Did he say who it was representing the telephone company? A. Yes.

Q. Who? A. McHarg.

Q. Did he say whether or not he had previously been acquainted with Mr. McHarg? A. I think he did — I think he said McHarg had done a number of favors for him." (Hibbard 1102).

*Hibbard Promises O'Malley Share of Commission.*

Hibbard asked O'Malley if he intended to "put the screws on Michel" about his market stand and O'Malley said "No," but he did want to do something for the telephone company; so Hibbard said, "We will make the telephone company pay a little more money, and I shall charge a little more commission and you will get your share of it." (Hibbard 1103). Michel's written offer to sell the property for \$45,000 was received by O'Malley.

On January 7th, after the contract for the sale was signed Hibbard went with Michel to the bank, where a check for \$3,000 was cashed and Hibbard received the six \$500 bills (Hibbard 1104).



*Hibbard Gives O'Malley \$1,500.*

After leaving the bank Hibbard walked to O'Malley's office. The testimony is:

"Q. Did you see Mr. O'Malley? A. I did.

Q. What took place in that conversation? A. I simply to'd him that we had signed the contracts and I received my commission and I thought he was entitled to three of the six bills I showed him.

Q. Did you give them to him? A. I did.

Q. Three \$500 bills? A. Yes, sir.

Q. Anything else said in the conversation? A. No, we had a general talk." (Hibbard 1104-1105).

*O'Malley's Testimony.*

Before fleeing from the witness stand, O'Malley answered some questions in relation to this transaction as follows:

"Q. Do you know John B. Hibbard? A. Yes, sir.

Q. Did you get \$1,500 from him? A. No, sir.

Q. Never received any money from him? A. I did not receive it. (O'Malley 1179).

Q. Did McHarg ask you to assist the telephone company in getting property at 108 Vesey Street? A. Yes, sir.

Q. Did you send for Michel? A. Yes, sir.

Q. Did you advise him to sell the property? A. I told him of the proposition.

Q. Did you get from Mr. Michel a written offer to sell the property for \$45,000? A. No, sir.

Q. Didn't you give it to McHarg? A. Yes, sir, I didn't get it from Michel.

Q. Did you get it from Hibbard? A. Yes, sir.

Q. You gave it to Mr. McHarg? A. Yes, sir, I called up Mr. McHarg and he came to my office and I gave it to him." (O'Malley 1180).

O'Malley further testified that McHarg told him he wanted O'Malley to talk to Michel about the building, because the telephone company had been unable to get a definite offer of sale from Michel and they needed the property to complete a square block for the telephone company (O'Malley 1182). O'Malley told McHarg "I will find out from him (Michel) if I can. I will send for him and ask him just what he means to do and let you

know if that will help you." (O'Malley 1183). O'Malley testified McHarg had done some favors for him and that he had known him possibly a year (O'Malley 1184). O'Malley admitted he sent for Michel to come to his office and then talked to him about the Vesey Street property. Michel told O'Malley the piece of property was in the hands of his agent (O'Malley 1186), and that Michel would have his agent see O'Malley about the matter (O'Malley 1187).

### MARKET SUPERVISORS

A curious sort of institution established by the market administration was that of "Market Supervisors." To reduce the cost of food to the people, the Board of Aldermen was induced to establish a number of open air markets for pushcart and wagon peddlers in the streets of the city. The object in legally establishing the markets, many of which had previously existed on sufferance, was to end the opportunity for petty graft alleged to have been levied by policemen and others upon the pretext that the hucksters were blocking traffic or littering the streets. The opportunity of the legal markets was, however, seized upon to create also a new and officially sanctioned kind of graft.

The "Market Supervisors" are not city officials or employees, being in no class of the civil service and being without place upon the payroll. They have been appointed by the Market Department usually on the nomination of a Tammany district leader. Their jurisdiction is to approve the application of peddlers who desire places in the markets and to see that they are kept clean. For that purpose they have assistants nominated in the same way. Their compensation comes from the fee of \$1 per week or 50 cents per day, which they in person collect from each peddler in the market and keep as their own, except for disbursements to helpers. The attendance in the various markets varies from 31 to 375 peddlers per day. The alleged expenses of the supervisors are subject to doubt, but in any event, their admitted receipts are substantial.

The vice of such a system is obvious. The admitted graft is bad enough. The opportunity for additional levy is clear and the absence of official responsibility invites the exploitation of such opportunity.

Clearly, if such markets need supervisors, they should be regular city officials or employees and the fee paid by the peddlers should go to the city.

## SALE OF ARMY AND NAVY FOOD SUPPLIES

While O'Malley was deputy commissioner of Public Markets under Dr. Day, he had an active part beginning in July, 1919, in the distribution in New York City of surplus food supplies remaining in the possession of the War and Navy Departments after the Armistice. The purpose of the Federal Government in enabling these foodstuffs to be distributed by municipal agents was to place the same within the reach of the general public, especially the poor, at just enough over the low prices charged by the government, to pay the cost of distribution. However, under the scheme of distribution in New York, in which O'Malley had a very important part, not only were large quantities of choice foodstuffs made available to high priced hotels instead of to the public generally or the poor, but the margin of profit was fixed so high that on the handling of goods costing \$2,831,183.26 there was a gross profit of \$796,199.94.

That enormous gross profit has never been fully accounted for and \$38,257.36 has been totally unaccounted for. Of the balance, certain items of expenditure are conspicuous. Commissioner Day and Deputy Commissioners O'Malley, Smith and Mulry paid themselves compensation out of this fund at the rate of \$20 a day, to the total sum of \$7,340, in addition to their regular city salaries. Hosts of city employees, policemen, clerks and others, received extra compensation from the fund though working on city time and receiving their regular city pay. Trucking charges amounted to \$144,480.15, large portions of which went to a political friend of the administration and to a neighbor of O'Malley's without competition and at rates that allowed them a profit on trucks hired by them, which the administration could have hired at the same rates as the favored contractors. The latter's profits ranged as high as \$6 per day per truck. Three hundred thousand dollars of the surplus was turned over to a Special Committee for charitable purposes, but \$50,000 of that amount was later paid to persons, whom the administration had loudly proclaimed to be volunteer workers during the distribution and whom the Commissioner of Accounts had, after investigating, savagely denounced, as seeking pay to which they were not entitled. Altogether, here, as in the routine administration of the Market Department, the touch of its officials was attended by the taint of incompetence, waste, favoritism and corruption.

DEPARTMENT OF PUBLIC WELFARE—KINGS  
COUNTY HOSPITAL JOB

An illuminating example of the futility of law and ordinance to compel an honest and efficient administration of government is disclosed by the Committee's investigation of the conspiracy to defraud the city in connection with the proposed installation of an oil burning heating and power plant in the Kings County Hospital under the jurisdiction of the Department of Public Welfare (formerly the Department of Public Charities). There is every reason to believe that the conspiracy would have been successful but for the committee's exposure of the facts. Alderman Charles A. McManus and his brother, former Senator Thomas J. McManus, were the persons with "influence," for which they were to be paid, sufficient to circumvent the law as to competition for public work. A "shoe string" company was to get the contract at a profit of over 100 per cent and "competition" was to be "encouraged" by the official use of plans and specifications formulated by the insiders. Even then if competition became dangerous, the insiders were to be pre-advised of the bid which must be met.

The testimony upon the subject shows the following: In May, 1921, Irving Cohn, Dr. Gustave New and Edward A. Pierce started in the oil burning installation business under the name of "Terminal Engineering Company." Pierce and Cohn had no previous experience in oil burning installations. Kings County Hospital was the first public building in which the new concern became interested.

During the war, Dr. New, who is an engineer, had charge of inspecting steel mills all over the United States and installing oil burning systems in furnaces. He became acquainted with Pierce in January, 1921, and rented desk room in his suite of offices, from which he endeavored to secure contracts to install oil burning heat and power plants. Pierce proposed that they go into business together, taking a third man, Cohn, in with them.

Pierce took up the question of getting an introduction to Commissioner Coler with Senator McManus. McManus became associated with Pierce in the business. He became financially interested in the matter by an agreement dated July 29, 1921, among Pierce, Alexander, Cohn and McManus. They agreed to form a corporation which was to be called the "Oil Burning Installation

Company." McManus was to get 24½ per cent of the stock without paying anything for it. He was to use his influence to introduce them to men who would consider burning oil, particularly in public buildings.

Pierce and Cohn had called upon Coler concerning installing a plant in the Kings County Hospital. Senator McManus also went to see Coler about it.

Early in 1918 the Department of Public Welfare had looked into oil burning and had decided it was too expensive. The McManus group brought the Singer Building plant to Mr. Coler's attention. He inspected it with them and concluded that it embodied the best means for any hospital to get rid of dust and dirt. Having written his decision as to policy he then turned the matter over to his engineers to estimate the cost. A verbal report was submitted by Chief Engineer Herrick.

The Terminal Engineering Company was permitted to study the feasibility of installing such a plant in the Kings County Hospital. Senator McManus at Pierce's request took up with Mr. Coler the matter of having Dr. New examine the Hospital plant, with a view to making an oil installation.

On May 19, 1921, the Terminal Engineering Company wrote that it would install a plant in the Kings County Hospital for \$47,500.

New had suggested \$35,000 or \$38,000 as the price. Pierce and Cohn said that was too low, because they would have to take care of the "people who were going to help us bring the job off."

The company again wrote Mr. Coler on June 2nd, and June 6, 1921.

Coler testifies that he did not know that Buxton, the engineer who had shown him the Singer Building plant, was interested in the Terminal Engineering Company. As a matter of fact he was to receive 5 per cent of the profits. Buxton made a favorable report to Mr. Coler concerning the Kings County Hospital plan which report was enclosed with the letter of June 2nd from the Terminal Co. A blue print, showing the proposed layout, was submitted with the letter of June 6th.

The department took the blue prints furnished by the Terminal Engineering Company and filed these identical blue prints with the Fire Department. The specifications were partly drawn in the office of the Terminal Engineering Company. All the specifications for the Kings County Hospital job were typewritten in

the office of the Terminal Engineering Company and Chief Engineer Herrick's name was placed on the first page.

The company again wrote the Department on June 23rd, this time addressing Deputy Commissioner McStay and offering this time to install the system for \$62,500. A skilled engineer examining the blue print of the proposed lay-out, sent with the letter of June 6th, would have known that the price of \$62,500 was about \$25,000 too much. For this amount Mr. Coler applied to the Board of Aldermen for Special Revenue Bonds. He could not explain why the amount was raised from \$47,500 but said he took his engineer's judgment on that.

Pierce calculated that the installation at the Kings County Hospital would cost the Terminal Engineering Company about \$40,000. Dr. New figured it at \$30,000. One of the "prospects" listed to be turned over by the Terminal Engineering Company to the Oil Burning Installation Company upon its organization was the Kings County Hospital plant. The memorandum read "approximate contract price \$62,500; approximate cost \$26,000; approximate profit \$36,500."

Deputy Commissioner McStay testified that the first estimate was based on tanks for 36,000 gallons and that then it was found that it required another tank in order to have a surplus. However, there was no explanation of this in any of the correspondence. Pierce endeavored to explain the matter in another way. He testified that after the \$47,500 bid the tanks as planned were enlarged to 12 ft. by 44 ft. though not increasing the number. But Dr. New testified that what really happened was this:

The day before New wrote the letter of June 23rd and while getting ready to dictate to ex-Senator McManus, Cohn, Pierce and Staley were in Pierce's inner office. Pierce and Cohn told New to make the price higher than \$47,500. New objected. Cohn said to put in \$62,500. Pierce showed New a piece of paper which New had just before seen in McManus' hands. Pierce said, "You see here is a list of what we have to give for graft." On the paper was written:

Mc 2 .....	\$10,000
B .....	3,000
T. S. & E. Co. ....	3,000
K .....	200 (or \$1200).
Murph .....	300
St .....	1,500

Pierce said "Mc 2" stood for the two McManuses and that "B" was some Tammany Hall man. The slip was passed around the table and came to New and he retained it.

On June 29, 1921 Coler wrote the Board of Aldermen requesting authorization of \$62,500 of Special Revenue Bonds for installing an oil fuel system under the boilers in the powerhouse of Kings County Hospital. He wished to extend this service to the various institutions of the department, particularly those on Randall's Island. The letter was dictated by Herrick, who is Chief Engineer of the department. The enumeration of advantages therein was substantially the same as those set forth in Mr. Buxton's report attached to the letter of June 2nd, 1921 from Terminal Engineering Company to Coler.

The City Record of July 14th shows that Alderman McManus offered a resolution, which was made a special order for the day, to the effect that the request previously received from Commissioner Coler, dated June 28, 1921, be granted. The resolution was unanimously passed. At this meeting, beside Alderman McManus, ex-Senator McManus, McStay, Coler, Buxton, New and Pierce were present.

Alderman McManus had previously helped with the name of the new company. Pierce had met the Alderman shortly after he met the Senator. The Alderman was in Albany when the incorporation papers were to be submitted to the Secretary of State. Pierce talked with him over the phone and also wrote him about submitting a list of alternative names to the Secretary of State. The letter ended, "Hop to it old kid and let us have some action." After the vote of the Aldermen, Pierce wired his brother-in-law "Contract closed satisfactorily."

The next day, after the Aldermanic vote, Amos T. Smith, an engineer in the office of Secretary of the Board of Estimate, called Dr. New up and said he wanted to see him. He said, "How did you arrive at \$62,500"? At that point Mr. Pierce took up the conversation. A few days later New, Pierce, Staley and Buxton all went to see Smith by appointment. Buxton and Smith went over the whole matter. New tried to speak but Pierce signalled to him to keep quiet and himself got into an argument with Smith and Smith said, "You are talking a lot of bull." New later heard them ask who Smith was and what could be done to make him keep quiet.

The request for Special Revenue bonds had been referred to

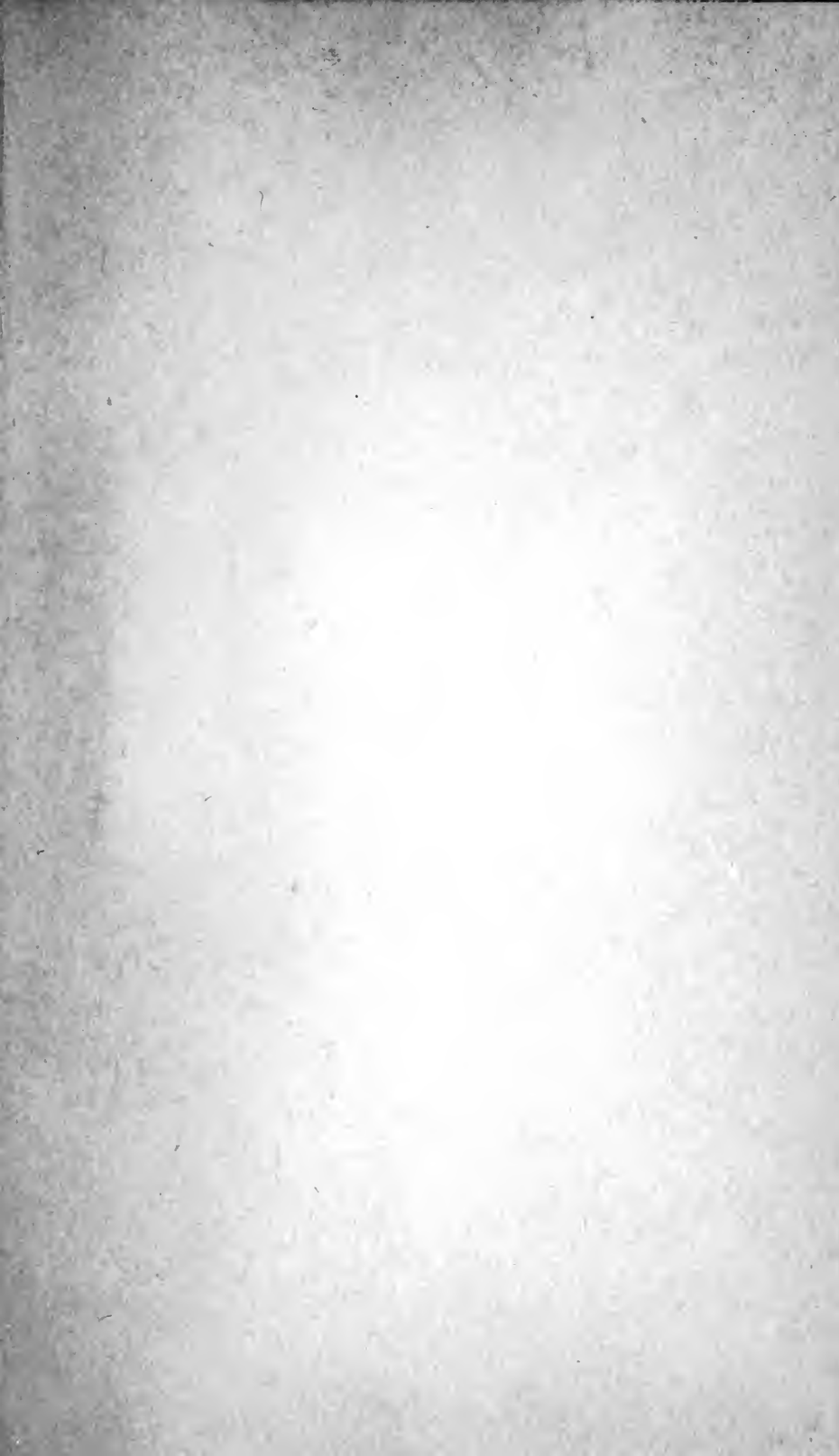
Smith for advice to the Board of Estimate, while he was away on vacation. On his return he took the matter up, but he never made a report on it. Nevertheless the Board of Estimate took final action approving the application even though the Committee on Finance and Budget, to which the matter had been referred, had submitted no report.

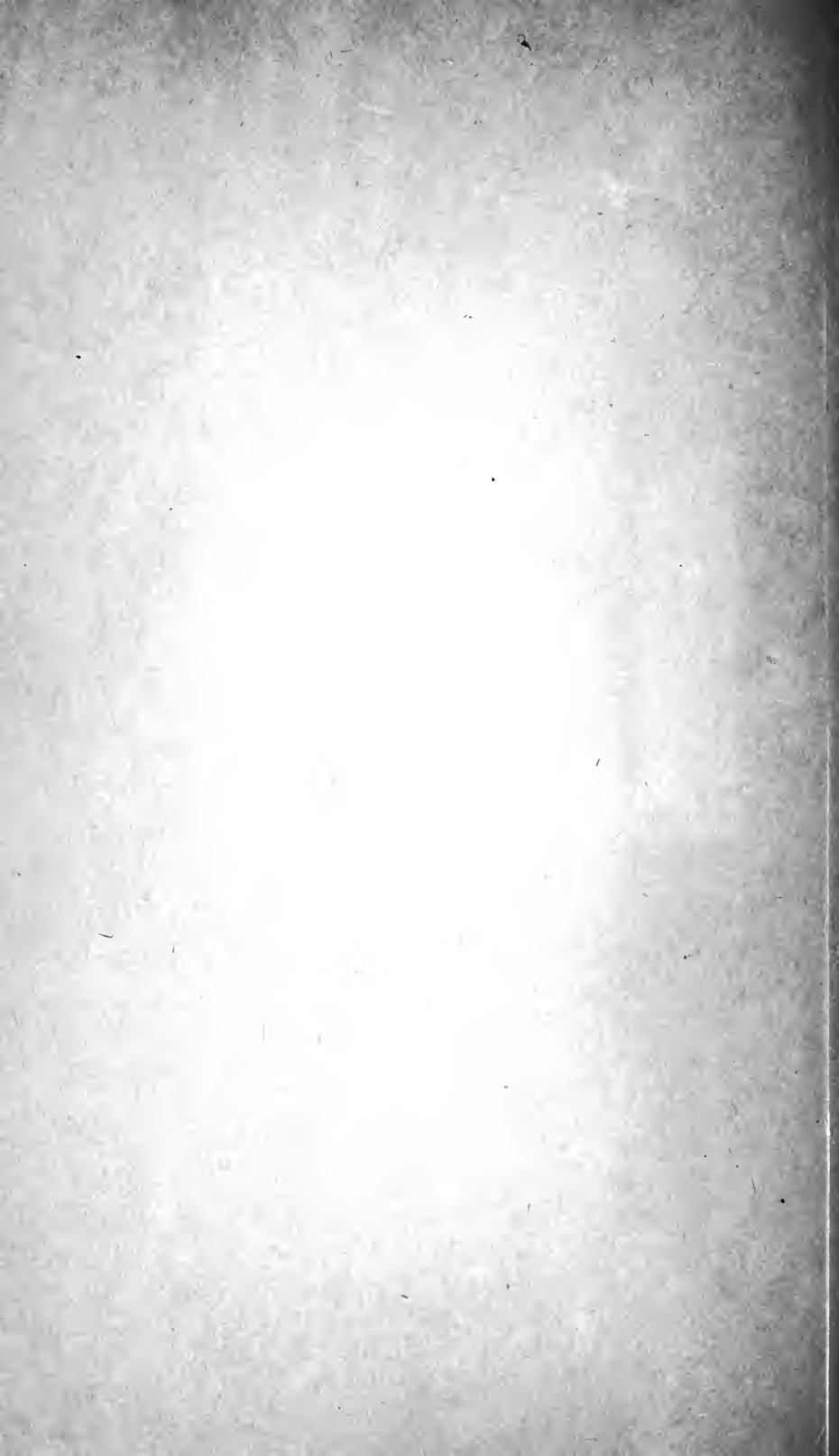
Pierce wrote New on August 6th, "I am preparing all of the specifications and blue prints for the city job and they are in turn going to establish my specifications and drawings which are the tracings themselves as their own, or in other words as though they had originated them and not us."

Pierce attempted to tear up the following letter of August 5th when it was subpoenaed. It was addressed to his brother-in-law and read in part: "We applied for a closed letting but were not successful \* \* \* therefore, it is necessary that specifications and blue prints be drawn in order that all \* \* \* can figure on the job \* \* \*. Regardless of what their figure is, our price will be the lowest as we will be pre-advised."

On August 26th, 1921 Coler submitted specifications for the Kings County Hospital oil burning plant to the Bureau of Buildings for their approval. On September 9th he wrote to them, "It is my wish to have this installation begun as quickly as possible." This letter (and presumably the previous one) was sent to the Manhattan Bureau instead of the Brooklyn one. On September 19th the Acting First Deputy Commissioner of his department wrote the Brooklyn Bureau forwarding to them duplicate specifications for the Kings County Hospital installation. There was some delay due to somebody losing the duplicate plans. On September 30th a letter was again sent to the Brooklyn Bureau saying "Commissioner Coler is very anxious that this installation be begun before the end of the year." Again on October 4th the First Deputy Commissioner wrote calling attention to the fact that the appropriation would lapse unless the matter was expedited, as it still had to go to the Bureau of Fire Prevention, the Mayor and the Board of Estimate. Finally on October 4th the department was notified that the plans had been approved. At this point the Committee's interest in the matter terminated it. Pierce and his Oil Burning Installation Company have disappeared.







YC 36270



