

Commissioners may deem for the public interest, and may direct, and for that purpose, and in and about such regulating, grading and improvements the Commissioners of the Central Park shall have, possess and enjoy all the powers now or heretofore possessed, enjoyed or exercised by the Mayor, Aldermen and Commonalty of the City of New York as to other streets and roads, and by such Commissioners in respect to the Central Park in said city.

The Commissioners of the Central Park, under the laws in relation to the improvement of said Park, were then empowered to procure the work necessary for the improvement thereof, by days work, or by contract, as they deemed proper.

By this act, said Commissioners are invested with the same power, in relation to the improvement of the streets laid out by them under the act, and opened pursuant thereto.

If, therefore, Tenth avenue, north of One Hundred and Fifty-fifth street, has been laid out by the Commissioners of the Central Park under and pursuant to the statute, Chapter 586, Laws of 1865; and title thereto acquired pursuant to section 4 of the act, the said Commissioners had the power to procure said work without contract, or in any manner they deemed the public interest to require.

Tenth avenue was first laid down on the map made by the Commissioners under the act of 1807, extending northward in a straight line from One Hundred and Fifty-fifth street to the Harlem River.

The Commissioners of the Central Park, in laying out the city, north of One Hundred and Fifty-fifth street, under Chapter 565, of the Laws of 1865, also laid out Tenth avenue, coinciding with Tenth avenue as laid out on the map of 1807, in part, discontinuing a portion near Fort George, and prescribing a new location and direction for that portion, and discontinuing entirely, a considerable portion thereof nearest to the Harlem River.

The power conferred upon the Commissioners of the Central Park to lay out the streets, etc., north of 155th street, was "exclusive," the maps made by them showing the streets, etc., laid out were made final and conclusive as to the location, width and grades of the streets, etc., exhibited on them.

It, therefore, seems to me that the Central Park Commissioners, were empowered to supercede the Tenth avenue, laid down on the map of 1807, and lay down the same, partly on a new plan and in part co-incident with the avenue, so laid out on the map of 1807, as they have done, and that the said avenue as now laid down on the map of the city is an avenue laid out by the Park Commissioners under the act of 1865, and which when opened the said Commissioners had power to regulate, and improve by days work or by contract as they deemed proper.

This power has been transferred to the Department of Public Works by the statute cited (chapter 872 Laws of 1872).

I am, therefore, unable to discover any reason to doubt that the assessment directed to be laid in section 8 of chapter 565, laws of 1865, may be laid for the expense incurred in the performance of said work by days work, provided the avenue has been opened by legal proceedings, and title acquired thereto, pursuant to the act of 1865.

I have made inquiry as to the fact whether Tenth avenue, about One hundred and fifty-fifth street has ever been opened by legal proceedings, and have not been able to ascertain that such legal proceedings have ever been had, or that the city has in any way acquired title to the avenue.

If it is the fact, that no title thereto has been acquired by the city, it is extremely doubtful whether the Department of Parks had authority to prosecute the improvement either by days work, contract or in any other way, and probably no assessment can be laid.

Yours respectfully,
E. DELAFIELD SMITH,
Counsel to the Corporation.

BOOTHS AND STANDS AROUND WASHINGTON MARKET, AND AUTHORITY TO REMOVE THE SAME.

LAW DEPARTMENT,
OFFICE OF COUNSEL TO THE CORPORATION,
July 22d, 1873.

The Hon. George M. Van Nort, Commissioner of Public Works.

SIR:—Your letter of the 18th inst., and its enclosures have received my consideration. I advise you:

First—The Board of Health having declared that the stalls and stands around and in the vicinity of Washington Market are nuisances, endangering the health of our citizens, it is my unhesitating judgment that full power and authority are vested in the Board to at once remove them.

Second—It is, in my opinion, the duty of the Commissioner of Public Works to effect or to aid in such removal, at the request of the Board of Health.

Third—The views which I have above expressed, of the power and duty of the Board of Health, to itself act in the premises, and to receive, upon its own requisition, the assistance of other departments of the City Government, render unnecessary a consideration of the more difficult question as to the power of the Commissioner of Public Works to remove such booths and stands, upon the ground that they encumber and obstruct the street and sidewalks.

Fourth—The order of injunction referred to in the papers accompanying your letter, is not in force as a prohibition against the action which the Board of Health and the other Departments of the City Government are bound to take, upon a question involving the protection of our citizens against the threatened ravages of disease and pestilence.

Fifth—There is no doubt as to the power of the Commissioner of Public Works, as a general rule,

to remove booths and stands, encumbering the streets and sidewalks in the city of New York, including those which cluster around the sites of the public markets. There may, however, be cases specially protected by some law ordinance or usage; if so, such special cases must stand upon their own merits.

I am, sir, very respectfully,
your obedient servant,
E. DELAFIELD SMITH,
Counsel to the Corporation.

PROFESSIONAL SERVICES FOR SEARCHING TITLE OF PIERS AND BULKHEADS—CITY MUST BE CHARGED AT SAME RATE AS AN INDIVIDUAL.

LAW DEPARTMENT,
OFFICE OF COUNSEL TO THE CORPORATION,
July 24th, 1873.

Eugene T. Lynch, Esq., Secretary Department of Docks.

SIR—I duly received your letter, with the accompanying bill of Mr. Nelson Merrill and abstracts of title, and asking my opinion as to the correctness of Mr. Merrill's charges.

I have examined Mr. Merrill's detailed statement of the services rendered by him, and the abstracts. The titles seem to have been carefully and thoroughly searched, and the abstracts are very complete. One bill is for \$850, and the other for \$750 (not including disbursements), making a total of \$1,600.

It seems to me that Mr. Merrill's charges are too large. In private practice the charge for searching the title of ordinary real estate, of equal value, and for preparing similar abstracts, would probably be between \$200 and \$300.

I am aware that the examination of the title of piers and bulkheads is more difficult and laborious, and occupies more time than the examination of the title of other real property.

But, after making due allowance for such difference, it seems to me that \$1,000 would be a very liberal compensation for the work done by Mr. Merrill.

If he receives this sum he will be paid at a proportionably much higher rate than that received by other legal gentlemen rendering services to the city and county of New York.

I am extremely loath to criticize the bills of an attorney like Mr. Merrill, or to suggest that they ought to be reduced; but as my opinion is asked, I can not do otherwise than state my convictions on the subject.

The papers transmitted by you are herewith returned. I am,

Yours respectfully,
E. DELAFIELD SMITH,
Counsel to the Corporation.

POWERS OF CENTRAL PARK COMMISSIONERS NOT RESTRICTED BY RECENT LEGISLATION.

LAW DEPARTMENT,
OFFICE OF COUNSEL TO THE CORPORATION,
July 25th, 1873.

Hon. Henry G. Stebbins, President Department of Public Parks.

SIR:—I have considered the question asked of me in your letter dated the 12th inst., and am of the opinion that the Department of Public Parks can fix the terms of new leases of the buildings on the lands and places within the jurisdiction of that department without advertising the same for proposals.

By section 7 of the act for the regulation and government of the Central Park, passed April 17, 1857, it was made lawful for the Commissioners of the Park to let from year to year any buildings and the grounds attached thereto, belonging to the city of New York, then being within said Park, until the same should be required for the laying out and regulation of the Park.

Subsequent acts confirmed in the then Commissioners and their successors all the powers conferred on the Commissioners of the Central Park by the act of April 17th, 1857, and extended all those powers over all the lands and places by those laws committed to the care of such Commissioners.

By the Charter of 1870, Article 12, Sections 94, 95, and 96, and section 16, of chapter 383 (the tax levy) of the laws of the same year, a Department of Public Parks was created, and on that department was devolved all the duties and powers theretofore possessed by the Commissioners of the Central Park, in all their extent, unimpaired. And by sections 83 and 118 of the Charter of 1873, the new Department of Parks is invested with all the powers and duties theretofore belonging to the Department or Commissioners of Parks and not inconsistent with the provisions of that act.

The Department of Public Parks, therefore, possesses all the powers conferred by the above-mentioned section 7, of the act of April 17, 1857, unless in the charter of 1873, or in some law subsequent to the charter of 1870, there is something inconsistent with the exercise of those powers.

The only law I have found which may conflict with such power is contained in section 102 of the charter of 1873, which is almost identical with section 116 of the charter of 1870 as amended by section 9 of the act of April 18, 1871. This section provides that the Board of Commissioners of the Sinking Fund shall have power to sell or lease, at the highest market price, at auction or by sealed bid, any city property. Taken in their literal sense, the words of this section would confer on the Commissioners of the Sinking Fund the power to lease buildings on lands under the control of your department. But I cannot think that any such thing was intended. For, taken in such literal sense, the words authorize those Commissioners to lease the buildings in the Central Park—to lease, and even sell the park itself—to lease for

a term of five years any lands opened for a public park, but not yet improved, and thereby delay for that time the work of your department—to even sell these lands; in short, to entirely nullify all laws creating your department, and directing it to lay out public parks and places, streets and avenues.

Certainly no interpretation should be given to said section 102 which will carry such consequences with it. I think, therefore, that all property opened as a public park or place, street or avenue, must be excepted from the property which the Commissioners of the Sinking Fund are authorized to lease or sell.

There is, I am confident, no act which deprives your department of the right to lease buildings situated on lands under its control, given by the act of April 17, 1857, and none which requires your department to advertise for bids or proposals for such leases.

I am sir, very respectfully yours,
E. DELAFIELD SMITH,
Counsel to the Corporation.

THE CITY RECORD.

The following compilation of the requirements of the Charter with reference to matter to be published and advertised in THE CITY RECORD has been prepared for the convenience of Heads of Departments of the City government.

A. DISBECKER,
Supervisor of the City Record.

MATTER TO BE PUBLISHED AND ADVERTISED IN THE CITY RECORD IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 335 OF THE LAWS OF 1873.

SEC. 16. Immediately after the adjournment of each meeting of either board, it shall be the duty of the clerk of such board to prepare a brief abstract, omitting all technical and formal details, of all resolutions and ordinances introduced or passed, and of all recommendations of committees, and of all final proceedings, as well as full copies of all messages from the Mayor and all reports of departments or officers. He shall at once transmit the same to the person appointed to supervise the publication of THE CITY RECORD.

In all cases the yeas and nays upon the final passage of the resolution or ordinance shall be published.

§ 17. ¶ 26. The ordinances of the Common Council hall, as far as practicable, be reduced to a code, and be published as such in THE CITY RECORD.

§ 24. The Mayor shall render to the Board of Aldermen every three months, an account of the expenses and receipts of his office, and therein shall state, in detail, the amounts paid and agreed to be paid by him for salaries to his clerks and subordinates respectively, and the general nature of their duties which shall be published in THE CITY RECORD.

§ 27. The Departments of the City government shall, once in three months, and at such other times as the Mayor may direct, make to him in such form and under such rules as he may prescribe, reports of the operations and action of the same and each of them, which reports shall be published in THE CITY RECORD.

§ 32. The Comptroller of the City of New York shall appoint and at pleasure remove for cause to be stated in writing and published in THE CITY RECORD, a Deputy Comptroller.

§ 38. The sworn statement of the Corporation Attorney and Public Administrator, with a detailed list of costs, commissions, fines and penalties collected shall be published in THE CITY RECORD monthly, as furnished.

§ 44. The name, residence and occupation of each applicant for appointment to any position in the Police Department; as well as the name, residence and occupation of each person appointed to any position, shall be published, and such publication shall, in every instance, be made on the Saturday next succeeding such application or appointment in THE CITY RECORD.

§ 64. All property transmitted to the property clerk of the Police Department shall be advertised in THE CITY RECORD for the benefit of all persons interested, and for the information of the public as to the amount and disposition of the property.

§ 65. All property and money that shall remain in the custody of the property clerk for the period of six months without any lawful claimant thereto, shall be sold at public auction, after having been advertised in THE CITY RECORD for a period of ten days.

§ 75. Real or personal property belonging to the city, or city and county shall be duly advertised previous to the sale thereof at public auction.

§ 82. The Health Department is authorized and empowered to add to the "Sanitary Code" from time to time, and shall publish additional revisions for the security of life and health in the City of New York, and therein to distribute appropriate powers and duties to the members and employes of the Board of Health, which shall be published in THE CITY RECORD.

§ 91. All contracts shall be entered into by the appropriate heads of departments, and shall, except as otherwise provided, be founded on sealed bids or proposals, made in compliance with public notice duly advertised in THE CITY RECORD, said notice to be published at least ten days.

§ 92. All property sold shall be sold at auction, after previous public notice.

§ 105. The "Board of Street Opening and

Improvement" is authorized and empowered, after laying its proposed action before the Board of Aldermen, and publishing full notice of the same for ten days in THE CITY RECORD, to alter the map or plan of New York City so as to lay out new streets, &c., &c. &c.

§ 106. It shall be the duty of the Commissioners of Accounts, once in three months, and oftener if they deem it proper, to examine all vouchers and accounts in the offices of the comptroller and chamberlain, and to make and publish in THE CITY RECORD a detailed statement of the financial condition of the city, showing the amount of its funded and floating debt, the amount received and expended since the last preceding report, with a classification of the sources of revenue and expenditure, and such other information as they shall deem proper.

§ 108. It shall be the duty of the Comptroller to publish in THE CITY RECORD, two months before the election of charter officers, a full and detailed statement of the receipts and expenditures of the corporation during the year ending on the first day of the month in which such publication is made, and the cash balance or surplus; and in every such statement the different sources of city revenue, and the amount received from each the several appropriations made, the objects for which the same were made, and the amount of moneys expended under each, the moneys borrowed on the credit of the Corporation, the authority under which each loan was made, and the terms on which the same was obtained, shall be clearly and particularly specified.

§ 110. In every Department or Board there shall be kept a record of all its transactions, which shall be accessible to the public, and once a week a brief abstract, omitting formal language, shall be made of all transactions, and all contracts awarded and entered into for work and material of every description, which abstract shall contain the name or names, and residences by street and number, of the party or parties to the contract, and of their sureties, if any. A copy of such abstract shall be promptly transmitted to the person designated to prepare THE CITY RECORD, and shall be published therein. Notice of all appointments and removals from office, and all changes of salaries, shall, in like manner, within one week after they are made, be transmitted to and published in THE CITY RECORD.

§ 111. There shall be inserted in THE CITY RECORD nothing aside from such official matters as are in this act (Chap. 335 Laws of 1873,) expressly authorized.

All advertising required to be done for the city, and all notices required by law or ordinance to be published in corporation papers, shall be inserted, at the public expense, only in THE CITY RECORD, and a publication therein shall be a sufficient compliance with any law or ordinance requiring publication of such matter or notices.

There shall be published in THE CITY RECORD, within the month of January in each year, a list of all subordinates employed in any Department (except laborers), with their salaries, and residences by street numbers, and all changes in such subordinates or salaries shall be so published within one week after they are made.

It shall be the duty of all Heads of Departments to furnish to the person appointed to supervise the publication of THE CITY RECORD, everything required to be inserted therein. The said person shall have power to make requisitions in writing upon the Heads of Departments, to furnish the information necessary to make up such list, according to rules prescribed by him and approved by the Comptroller; and such information must be supplied by the department within ten days after such requisition. He shall have power to require such information in the same manner, every three months, and all other information in the control of said Heads of Departments necessary to perform his duties under this section. He shall include in his list the number of laborers, designating the department in which they are employed, and, if practicable, the numbers employed in the prosecution of specific work, and the amounts paid to them. He shall also cause to be printed in each issue of said CITY RECORD a separate statement of the hours during which all public offices in the city are open for business, and at which each court regularly opens and adjourns, as well as of the places where such offices are kept, and such courts are held.

The detailed canvass of votes at every election shall be published at the expense of the city only in THE CITY RECORD.

The Mayor may order the insertion of any official matter or report in THE CITY RECORD.

§ 112. After the provisional estimate is made by the Board of Apportionment, it shall be submitted by said board, with their reasons for it in detail, within ten days, to the Board of Aldermen, whereupon a special meeting of said Board shall be called to consider such estimate, and the same shall simultaneously be published in THE CITY RECORD.

Should the said Board of Apportionment overrule objections or suggestions made by the Board of Aldermen the reasons for such action shall be published in THE CITY RECORD.

THE CITY RECORD.

The Board of CITY RECORD, &c., met in the Mayor's office July 24th, 1873.

Present—The Mayor, Commissioner of Public Works, and Corporation Counsel.

The reading of the minutes of last meeting was dispensed with.

The salary of William R. Wasson, bookkeeper to the Supervisor of THE CITY RECORD, was

