

West Side Improvement Plan

According to the common law of this country, the seashore, between high and low water marks, belongs to the State unless it has been conveyed away by special grant, and the public has the right to the unhindered use of all tidewater land for purposes of bathing, fishing, and navigation. The decision just referred to expressly confirms that right, except as to a small portion of the shore line of Coney Island granted by the State to Joseph Huber in 1897.

WEST SIDE IMPROVEMENT PLAN

A Controversy Which Has Become Historic

During the past year, the plan for the relocation and improvement of the New York Central Railroad Co.'s tracks on the west side of Manhattan Island in the City of New York, to which we had alluded in previous Reports under the headings of the New York Central Railroad Tracks, Fort Washington Park, Riverside Park, the West Side Parks, etc., (see our Annual Reports for 1913, pp. 174-176; 1914, pp. 172-174; 1916, pp. 161-167) has been designated popularly as the West Side improvement plan, and the problem involved has come to be called the West Side problem. During this past twelve-month, no civic question in New York City has been so constantly in the public mind or so earnestly discussed as this. So greatly has public sentiment upon the subject been stirred that civic bodies have held public meetings either to advocate or to oppose various provisions of the plan. The gatherings of the opponents have taken on the nature of "indignation meetings." At the public hearings before the Board of Estimate, at mass meetings held by popular call, and in the columns of the newspapers, it has been charged on the one hand that the proposed plan presents such a preponderance of advantage to the railroad company as to do the City a great injustice, while on the other hand these charges have been emphatically denied by the advocates of the plan. The allegations of partiality on the part of the proponents of the plan made by the opponents have been characterized at times by acerbity and pointed personality, and the rejoinders by its defenders have been equally frank and direct. The controversy has become so prominent that the newspapers have published cartoons on the subject.

A cartoon in an evening paper of January 31, 1917, represented a New York Central locomotive, equipped with an enormous plough-front, ploughing through Riverside Park, being driven by a prominent city official as engineer. On February 2, appeared a cartoon depicting the shadow of a locomotive engine falling upon children at play in Riverside Park. It was accompanied by this title: "This is Ground Hog Day; and there's the shadow of a real 'ground hog' over Riverside Park." The situation, therefore, has been and still is highly charged with frictional electricity.

A review of the causes leading to this state of affairs shows that partly on account of admitted inadvertencies in giving out official information concerning the plan, partly on account of the inherent complexity of the problem, and partly on account of the natural diversity of view-points, a strong feeling began to develop in the minds of many citizens that a deliberate attempt was being made to victimize the city in the interest of the railroad company,—a feeling which the Board of Estimate has tried to dissipate by making public statements of denial, by holding a long series of public meetings at which the opponents as well as the advocates could be heard, by taking representatives of the press and of one of the most active societies of antagonists over the ground and explaining it to them, and by inviting half a dozen leading civic bodies interested in park development to advise with them in the treatment to Riverside Park.

If the problem involved had not touched the people of New York City on a particularly sensitive spot, namely their public parks, it is highly probable that it would not have reached such an aggravated stage. Two of the greatest railroad terminals in the world, those of the New York Central and the Pennsylvania Railroads, in New York City, were built without any public agitation about their plans or locations. They were the purely private enterprises of those great corporations, carried out at their own expense, on their own property and it is to be said to their credit that both are wonderfully impressive buildings and have conduced greatly to the public convenience.

But the West Side plan involved public property and public interests in three distinct ways: North of 72d street it involved

West Side Improvement Plan

the integrity of public parks, of which the people of New York are justly very jealous; below 72d street it bore upon the fundamental question as to whether the city could and should provide for a unified and comprehensive plan of water-front facilities, for handling the commerce of the port, instead of carrying out the plan of a single railroad company; and both above and below 72d street, it involved the granting to the railroad of lands and easements in exchange for concessions on the part of the railroad, concerning the value of which there was a wide divergence of opinion.

It was in the first of these three aspects that the public was most conspicuously disturbed. The strictly commercial phases and the exchanges of lands and franchises might have been adjusted, not without opposition, perhaps, but probably without arousing deep popular feeling; but when it became apparent that Riverside Park, in particular, was to be affected, an entirely new realm of public sentiment was touched, and made itself manifest. Mr. Ira A. Place, Vice President of the New York Central Railroad, said very truly at the hearing before the Board of Estimate and Apportionment on March 1, 1917, that "probably there is more difference of opinion as to the manner of treating Riverside Park than any other feature of the plans."

The controversy is at its height at the present writing. However it may terminate, it has already become one of the most notable of its kind in the history of the city.

The West Side Problem Stated

The problem involved may briefly be stated as follows:

The New York Central Railroad comes down to New York from Albany along the left or east bank of the Hudson river. When it reaches Spuyten Duyvil creek, which, with the Harlem Ship Canal and Harlem river, separates Manhattan Island from the mainland, the tracks divide. One set of tracks turns eastward to the Harlem river, runs down the east side of that river, crosses it at 135th street, and goes down Park avenue to the Grand Central Station at 42d street. The other set of tracks, which is of present concern, crosses the mouth of Spuyten Duyvil creek on a low draw-bridge, runs down along the shore of the Hudson river, cuts through Fort Washington Park, and continuing along the

shore parallel with Riverside Drive, passes through Riverside Park for a distance of nearly three miles from 130th street to 72d street. Between 72d street and 60th street, the tracks spread out fan-wise in a large freight yard. From 60th street the tracks continue down 11th avenue to 33d street, thence to 10th avenue at 30th street, down 10th avenue to the river front on West street at 12th street, thence down West street to Canal street, through Canal street to Hudson street, and down the latter to the freight house which stands on the site of old St. John's Park in the block bounded by Varick, Hudson, Laight and Beach streets.

For many years, the removal of the tracks from 11th avenue has been a subject of agitation on account of the number of accidents to citizens which gave to that thoroughfare the nickname of Death avenue. In 1906, the Legislature passed a bill introduced by Senator Martin Saxe which gave the railroad company a year in which to negotiate a settlement with the old Board of Rapid Transit Commissioners, in default of which the city was to begin condemnation proceedings; but nothing came of it. Later, the city brought proceedings against the company, with the result that in 1910 the Court of Appeals rendered a decision holding that the city had no right to interfere with the company, but that, as it had succeeded in showing that the presence of the New York Central in 11th avenue was a danger to the citizens and a detriment to the neighborhood, the State could, under its general police power, take steps to force the company to find a new site for its tracks at its own expense. Thereupon the Legislature of 1911, by chapter 777, directed the company to file before October 1 of that year plans to show how it would remove its tracks, and authorized the Board of Estimate and Apportionment to enter into negotiations with the railroad to effect this. It is under this law that the Board of Estimate and Apportionment is now acting.

The situation then, in short, is this: The City is trying to get the railroad out of its public streets; and the railroad company is trying to improve its freight terminal facilities. The question is, how can these two ends be attained and the interests of each conserved in fairness to those of the other.

In order to work out a solution of this complex problem, the Board of Estimate and Apportionment appointed a committee called the Committee on Port and Terminal Facilities.

The Revised Plan

On March 27, 1913, the Port and Terminals Committee presented to the Board of Estimate its first report, based on the plans which the railroad company had filed on September 28, 1911. A number of public hearings were held thereon, at which the plans were strongly criticised. They were therefore referred back to the committee for further consideration. With the organization of the present Board of Estimate and Apportionment, the plans were referred to the present Port and Terminals Committee, consisting of Hon. William Prendergast, Comptroller of the city, who is Chairman of the committee; Hon. Marcus M. Marks, President of the Borough of Manhattan; Hon. Lewis H. Pounds, President of the Borough of Brooklyn; and Hon. R. A. C. Smith, Commissioner of Docks and Ferries.

Section 2 of chapter 777 of the laws of 1911 provides that at any time after the filing of the original plans of the railroad, the Board of Estimate and Apportionment "may make and submit to said railroad company plans and profiles showing such changes as said Board may see fit to propose in the railroad or railroad structures, yards, stations, or terminal facilities of said railroad."

On April 7, 1916, therefore, a new set of plans, dated April 6, 1916, was filed with the Board of Estimate and Apportionment. The title of these plans, in part, is as follows: "The New York Central Railroad Company, successor, by consolidation, to the New York Central & Hudson River Railroad Company.— Plans and Profiles showing the things required to be shown on plans and profiles which the New York Central & Hudson River Railroad Company was directed by chapter 777 of the laws of 1911 to submit, in duplicate, on or before the first day of October, 1911 (and which were so submitted on the 28th day of September, 1911) to the Board of Estimate and Apportionment of the City of New York, as amended and modified in accordance with amendments and modifications which have been agreed to by the said New York Central Railroad Company and approved by the Board of Estimate and Apportionment of the City of New York, consisting of 43 sheets, numbered from No. 2 to No. 44, both inclusive, each sheet being dated the 6th day of April, 1916," etc.

On April 22, 1916, the Port and Terminals Committee submitted to the Board of Estimate a report based upon the revised plans.

An examination of the plans shows the following general layout:

At Spuyten Duyvil creek it is proposed to shift the bridge 125 or 150 feet to the eastward, widen it so as to carry four tracks, and build the tracks in a tunnel through Inwood Hill. It is generally conceded that this relocation is a great improvement over the present location of the tracks along the Hudson river shore, and better than the 1913 plan which proposed to elevate the tracks along the present right of way upon an embankment and viaduct and leave them entirely uncovered. In connection with this part of the plan, the Port and Terminals Committee echoes sentiments long expressed by the American Scenic and Historic Preservation Society concerning Inwood Hill. It says:

"Inwood Hill possesses natural beauties unsurpassed in Manhattan Island. It has a heavily wooded western slope which remains almost entirely unspoiled by artificial improvements. It is the natural continuation of Riverside Park and if properly treated should prove one of the most attractive water front parks in the City. . . . The Committee recommends that proceedings be initiated as soon as possible for the acquisition of the necessary land for a new park at Inwood Hill. The park has already been placed upon the City map*"

At Dyckman street, the tracks emerge from the hill at an elevation sufficient to carry them across Dyckman street on an overhead structure. The railroad yard south of Dyckman street, proposed in the plan of 1913, is omitted in the plan of 1916. Passing Dyckman street, the tracks come back to their present location which they follow uncovered to Fort Washington Park.

At Fort Washington Park, the plan of 1913 to shift the tracks to the eastward and tunnel through the hill is abandoned. Instead the present railroad cut is to be widened so as to accommodate four tracks, and the tracks are to be roofed so that they can be covered with earth and the surface of the park made continuous. Emerging from this cut, the tracks increase to six in number and

* See reference to purchase of land for Inwood Hill Park elsewhere in this Report.

continue uncovered until they reach 151st street, the City reserving the right to cover them if it wishes to do so. One Hundred and Fifty-eighth street is carried over the tracks and down to the shore by a ramp on the west side of the tracks. Other street ends are variously treated.

Between 153d street and 130th street there is one of the largest expansions of the whole plan. The tracks continue as at present along the river front, but by the time they reach 145th street, they are increased to eight in number, and between 145th and 133d streets the right of way is expanded into the river to a width of about 500 feet, permitting about 30 tracks to be run out diagonally for a great freight terminal on the water-front. "The major part of the main-line tracks are to be completely covered from 151st to 135th street," says the report of the Port and Terminals Committee, and it is planned "to extend Riverside Park to the westerly edge of the roof."

The number of tracks having returned to six, they cross the Manhattan street valley at 130th street overhead, just west of the present Riverside Drive viaduct, and impinge upon the slope of Claremont hill in Riverside Park in such a way that they cut into the side of the hill. From this point southward to 72d street lies one of the principal battle-grounds of the contest over the whole project. In this section, comprising Riverside Park, it is proposed to widen the right of way but cutting into the hillside, and to roof the tracks so that the roof can be covered with more or less soil. The plans show an embankment of earth on the west side of the roof sloping down to the river from 130th to 99th streets and from 92d to 85th streets. From 85th street southward there is no outward slope apparent in the plans we have examined. On April 22, 1916, the newspapers published a statement which they said they received from official sources, to the effect that "as a part of the settlement the railroad company agrees to pay a sum sufficient to restore the park to the edge of the water." This statement was afterwards admitted to be erroneous; and the plans show that only a part of the outshore side of the railroad tracks is to be embanked to the roof.

At 82d street the tracks begin to multiply again until they are 20 in number at 72d street.

On account of the critical nature of the Riverside Park part of the plan, we quote herewith in full the report of the Port and Terminals Committee on that section:

“ Chapter 777 of the Laws of 1911 provided that the plans to be filed by the railroad company should show a

covering or roof or typical sections of a covering or roof to be used as a part of the park system of said City, with the necessary abutments and supports over the tracks now or hereafter constructed by said railroad company along the Riverside Park south of 122d street.

“ The plan reported by the former Committee on March 27, 1913, complied with the provisions of the statute and provided for the complete covering of all tracks along the park from 122nd street to the south line of 72nd street and for the extension of the park area over this roof to the extreme westerly boundary of the railroad right of way. At the public hearings a very vigorous opposition developed to the plan as presented. Apparently the basis of this opposition was two-fold: First, it was contended that the plan as presented opened the way for the commercialization of the waterfront along Riverside Park for its entire length. Second, it was objected that the plan distorted the natural topography of the park in such a way as to destroy much of its beauty and that by interposing a barrier between the upland and the waterfront it made it impossible to develop the park as a real waterfront playground which it was designed to be.

“ The Committee yields to no one in its regard for the preservation of the Riverside Drive waterfront against impairment and destruction, either through railroad or general commercial development. Much of the fear apparently existing in the public mind concerning the commercialization of this territory arose from a report presented to Mayor Gaynor on December 27, 1910, by the then Commissioner of Docks, the Hon. Calvin Tomkins, and by the Commissioner of Parks for Manhattan and Richmond, the Hon. Charles B. Stover. It was proposed in the report that the strip of land between 81st street and 129th street be reclaimed by outshore filling and that waterfront development be made of the type found in certain foreign ports providing for a combination esplanade and commercial wharf. So much of this report as provided for land reclamation was approved and has been in process of carrying out for a number of years. The fact that filling has been under way has apparently misled certain citizen bodies into the belief that the first step was begun for carrying into effect the remaining recommendations of the joint report referred to. As a matter of fact the Board of Estimate and Apportionment has

West Side Improvement Plan

repeatedly specifically repudiated the suggestion that it would be proper to provide for further commercial development outshore of Riverside Park. The present administration of the Department of Docks is thoroughly in sympathy with this view and has consistently taken steps to reduce the present use authorized by existing statutes. One of the first acts of the present Commissioner of Docks was officially to withdraw the application which had been made to the Secretary of War for an extension of pierhead and bulkhead lines outshore of the commercial areas at 79th street and 96th street, indicating a definite policy not to extend the present commercial areas. As the second step in the carrying out of this policy, the Commissioners of the Sinking Fund changed the waterfront plan for the commercial area at 79th street so as to eliminate three unbuilt piers which were projected and which were included on the official plan. In order to make this positive gain more secure against future attack, the Secretary of War was requested to change the established lines and it is now an accomplished fact. It is the hope of the Committee that ultimately one of the existing piers in the 79th street reservation can be removed, leaving but one pier, which will be necessary to take care of local river traffic.

"The Commissioner of Docks reports that notwithstanding the lease, he has every reason to believe that the present unsightly coal pocket at West 69th street will be materially modified and possibly completely removed in the near future.

"With these facts before it the Committee decided that no half-way measures were adequate for the treatment of the Riverside Park waterfront and that it was essential that a plan should be secured which not only would not impair the park but which would add to its beauty and effectiveness and provide a physical barrier between the railroad tracks and the waterfront. The present plan was therefore worked out, which, in the Committee's opinion, provides an ideal solution of this very perplexing problem. The railroad company contended long and earnestly against the adoption of a tunnel under the Riverside Park and Drive, claiming that aside from its cost it would mean great injury to the Park, Drive and property owners. The Committee insisted that the railroad company assume the added financial burdens of the present plan, which possesses all of the advantages of a complete tunnel plan without its disadvantages. The present plan is a combination of tunnel and roofed subway carefully adjusted to fit in with the topography of the park slopes and so designed that it will allow effective parking along the entire right of way. As part of the settlement the railroad company agrees to pay the sum of \$300,000 to restore the park, which is to be expended under the direction of the Department of Parks for the simultaneous carrying into effect of the park

restoration with the completion of the relocated railroad line. The settlement now proposed will entirely eliminate the railroad nuisance from the Riverside Park waterfront. The present plan provides for solid park slopes outshore of the railroad structure at all points except along the two present commercial areas at 79th street and 96th street. It will not only place the tracks entirely out of sight, but will do so in a manner which will enhance the value of the Park and which should be reflected in the added comfort of those living along Riverside Park or using the Park and the Drive for pleasure purposes. It will provide a waterfront which can be treated in a manner which will make it unsurpassed among the waterfront parks of the world and will provide the nucleus of a city plan for this section of which the entire community may well be proud. A substantial area will be added to the park.

"Between a point in the vicinity of 82nd street and the south line of 72nd street conditions are such that it is necessary to provide a roofed subway. All of the reasonable objections raised to the structure suggested in the report of 1913 have been eliminated by the provision of park slopes outshore. It is proposed to permit the company gradually to fan out its tracks south of 81st street for leads into the 60th street yard. These lead tracks are absolutely necessary for efficient operation, and will enable the railroad to move its trains promptly from the main tracks into the 60th street yard, and thus remedy present evils.

"It should be borne in mind in connection with the consideration of the entire line, and particularly with reference to the Riverside Park tracks, that operation under the new plan will be entirely by electricity, which in itself will mean a very great gain for the City, greatly reducing the noise, dirt and odors of operation.

"The Committee approves the suggestion that the refuse disposal and coal plants on Riverside Drive be relocated so far as possible at a point south of 72nd street.

"The railroad company has consented reluctantly to a plan for the carrying across its tracks of a viaduct in the line of West 70th street leading to a new refuse disposal plant on the waterfront. This is an important gain which should not be underestimated.

"To enable the City to carry out its plan the company has agreed to cede to the City approximately five hundred feet of waterfront and land under water directly south of West 72d street as part of the general land adjustment.

"When the new facilities are completed it will be possible either to remove the present covered street cleaning structure from West 79th street to the new location or, with slight changes, to convert it into a much needed shelter for the use of officers and men of

visiting naval fleets. This is a matter which can receive further study and attention in the light of future conditions."

Between 72d and 60th streets the railroad already has a large track development. This it is proposed to rearrange so as to provide some 75 tracks and increased facilities to 59th street.

From 72d street southward the main tracks are carried up to an elevated structure and when they pass 58th street they are thus above the street level. At the latter point they are reduced to four in number. Dotted lines on the west side of these four tracks show two lines of tracks marked "future municipal tracks."

Between 39th and 30th streets between 11th and 12th avenues, and between 33d and 30th streets, 10th and 11th avenues, an extensive two-level development is proposed, more than doubling the capacity of the present layout in the same area.

From 30th street southward, the tracks now run through 10th avenue to West street at Little West 12th street, thence through West street, Canal street and Hudson street to the freight station occupying the site of old St. John's Park. The new location takes the tracks out of the streets, runs them through private property, and terminates them at Canal street. There are to be only two tracks south of 30th street with a ten track development between Washington, West, Houston and Canal streets. The terminal at "St. John's Park," as the present freight terminal is called with unconscious irony, is to be abandoned and the company's franchises south of Canal street are to be surrendered to the City.

Status of the Railroad Company's Franchise

To carry out the foregoing relocation plans, it is proposed to effect an exchange of certain lands and easements between the City and the railroad company; and in order to estimate the relative values of the considerations exchanged, the City found it necessary to examine into the railroad's title to the lands upon which it operated. This question was the subject of much popular discussion. Some people contended that the railroad company had no ownership rights at all in the land upon which its tracks are laid, but that the City owned the entire right-of-way and could compel the company to remove its tracks without compensation.

To clear up this question, the Hon. Laman Hardy, Corporation Counsel, gave an opinion on April 18, 1916. There is no question of title to the route below 59th street, he says, because there the railroad is operated upon public streets, title to which is unquestionably vested in the City subject to use by the railroad company. The question of title, therefore, is confined to the section between 59th street and Spuyten Duyvil. Before going into the details of this question, the Corporation Counsel inquired into the company's right to operate upon its present or any other right-of-way in the City. From this inquiry, the following facts appear:

The railroad company was organized pursuant to chapter 216 of the laws of 1846. It was then known as the Hudson River Railroad Company. That law granted the company a franchise to operate a railroad between Albany and New York, provided that within the city limits, the assent of the municipal authorities should be obtained. In 1847, the Common Council granted the railroad permission to construct a double track with suitable turn-outs along the line of the Hudson river from Spuyten Duyvil creek to near 68th street, occupying so much of Twelfth avenue as lies along the shore, thence widening from the shore so as to intersect Eleventh avenue at or near 60th street. This permission was given by an ordinance approved by the Mayor May 6, 1847. In compliance with this ordinance, the railroad company filed a map, showing the location, intended grade, etc., of the tracks, and having fulfilled all jurisdictional requirements, the road was built, partly on public streets, and partly on lands and water-grants acquired by the railroad company.

By its act of incorporation, the corporate existence of the Hudson River Railroad Co. was fixed at 50 years. By chapter 917 of the laws of 1869, the merger and consolidation of various existing corporations was authorized, with a corporate existence of 500 years. Under the provisions of this act, the Hudson River Railroad Co. and other corporations were merged into the New York Central & Hudson River Railroad Co. In 1909 the question was raised as to whether the corporate life of the Hudson River Railroad Co. was extended by this consolidation from 50 to 500 years. To test this question, the Board of Estimate and Apportionment, on May 28, 1909, adopted a resolution requiring the company to remove its tracks from the streets between Spuyten Duyvil creek

and St. John's "Park", on the ground that the company's franchise to operate thereon had ceased in 1896. The railroad company replied with a suit to restrain the City from removing the tracks and won in a decision by the Court of Appeals, 202 N. Y. 212.

The question, therefore, of the general right of the present railroad company to operate within the city limits appears to be settled in the affirmative.

Coming to a more detailed examination of the ownership of title to the right-of-way occupied by the railroad between 60th street and Spuyten Duyvil, the Corporation Counsel is led to the following conclusions, for which he states his reasons:

Between 60th and 63d streets and between 64th and 65th streets, the railroad company is seized of the title in the blocks out to the Central Park Commissioners' bulkhead line and, in front of these blocks, the City is seized of the title to the lands under water, subject to an easement of access to the bulkhead and piers vested in the railroad company.

Between 63d and 64th streets and between 65th and 72d streets the railroad company is seized of the title in the blocks out to 13th avenue and, in front of these blocks, the City is seized of the title to the lands under water subject to an easement of access to the bulkhead and piers vested in the railroad company.

The City of New York is seized of the title to the beds of all the streets and 12th avenue between 60th street and the south side of 72d street subject to the right of occupation vested in the railroad company by virtue of leases.

The City of New York is seized of the title to the bed of 72d street and the railroad company is wrongfully in possession of the same.

Between 60th street and 141st street, the railroad right-of-way is partly over the line of 12th avenue which was opened after the railroad was built. Between 60th street and the city line, it is partly over upland and water grants to which the railroad has acquired title by 144 deeds, one condemnation proceeding and adverse possession. With respect to the railroad's title to its right-of-way between 60th street and Spuyten Duyvil, the Corporation Counsel gives the following opinions:

“ Wherever such right of way occupies and is constructed upon lands under water, not granted to private individuals by the City, the title to such lands under water is vested in the City of New York subject to the right of the railroad company to use and occupy the same for railroad purposes. If a change of right of way is made the title of the City becomes freed from the right of user in the railroad company.

“ Wherever such right of way passes over and the railroad is constructed upon premises, whether uplands formerly owned by private individuals or lands formerly under water granted by the City to private individuals, and which the railroad has acquired under the deeds hereinbefore referred to conveying such premises for railroad purposes, the company can convey good title to the City.

“ Wherever such right of way passes over and the railroad is constructed upon premises whether uplands owned by private individuals or land formerly under water granted by the City to private individuals, title to which was acquired by the railroad company in a condemnation proceeding, the company can convey good title to such premises to the City.

“ Wherever such right of way passes over and the railroad is constructed upon premises whether upland owned by private individuals or lands under water granted by the City to private individuals, to which the search has disclosed that the railroad company has no record title, the company has acquired a title by adverse possession and it can convey good title to the City.

“ Wherever such right of way passes over and the railroad is constructed upon premises whether uplands formerly owned by private individuals or lands formerly under water, granted by the City to private individuals, and which the railroad company has acquired under the deeds hereinbefore referred to, conveying such premises without restriction, the fee title is vested in the railroad company and it can convey good title to the City.

“ In the district between 60th and 141st streets wherever any portion of the right of way falls, passes over or the railroad is constructed upon premises within the lines of 12th avenue, the title to such premises whether acquired by the railroad company by deed, by adverse possession or by condemnation proceedings, became vested in the City by the opening of the avenue subject

to the use by the railroad company. If a change of right of way is made, the City's title to premises within the lines of 12th avenue becomes freed from the railroad's right of user.

"The railroad company has acquired title in fee to premises at certain localities east and west of the right of way."

Exchange of Lands and Easements

Assuming that the conclusions of the Corporation Counsel with respect to the railroad company's legal rights of franchise and title are correct, the next step is the extremely difficult one of calculating the values of the lands and easements to be exchanged by the City and the railroad company in the proposed relocation.

The report of the Committee on Port and Terminal Facilities dated April 22, 1916, contains a list of appraisals which may be summarized as follows:

Lands and easements sold by the City to the railroad company..	\$10,594,381
For a release of the City's record title to premises over which the railroad company has a perpetual right of user.....	500,000
Total credit in favor of the City	\$11,094,381
Lands and easements sold by the railroad company to the City.	4,984,482
Balance in favor of the City	\$6,109,899

Concerning the accuracy of these appraisals there has been a wide difference of opinion, as will appear later. Furthermore, the foregoing statement, contained in the report of the Port and Terminals Committee, does not mean that the City is going to get that balance of \$6,109,899. It means that the value of the lands and easements which the City proposes to contribute to the relocation plan are appraised at \$6,109,899 more than the lands and easements which the railroad company proposes to give to the City. It is claimed, however, that this net contribution of \$6,109,899 by the City is more than offset by contributions to be made by the railroad company and not mentioned in the report of the Port and Terminals Committee. In the newspapers of January 18, 1917, the following statement by Mr. Ira A. Place, Vice President of the railroad company, was quoted:

"For this balance of \$6,109,899 the company agrees to do construction work for purposes which are wholly municipal and in

excess of the cost required for railroad purposes, of items as follows:

Inwood Hill tunnel	\$1,492,000
Fort Washington Park	440,000
Riverside Park	10,282,000
Cash to be paid by New York Central for topsoil and planting..	300,000
Manhattan main tracks	2,114,000
Part of construction of municipal tracks on marginal way below Sixtieth street	80,000
Total excess cost for municipal benefit only.....	<u>\$14,708,000</u>

"Of this amount the City contributes in lands and easements \$6,109,899, while the railroad company contributes \$8,598,101."

Mr. Place explained that the cash for topsoil and planting was proposed to enable the city to make this part of the improvement at Riverside Park, instead of having the work done by the railway, it being the impression that the City could better carry out the special park features in this way.

Arguments Against the Plan

We will now endeavor to recapitulate the principal arguments for and against the West Side plan, and then recount some of the leading occurrences of the past year. Following the practice of committee hearings, we will state the adverse arguments first.

With respect to the relocation plan as a whole, it is claimed that it gives the New York Central railroad a monopoly of the water-front facilities in the west side of the island, and prevents a more comprehensive development which would give all the railroads facilities for developing freight distribution centers. Borough President Marcus M. Marks, who is a member of the Port and Terminals Committee but dissents from many of its recommendations, seriously questions whether this partial development will not interfere with the greater development of the port and terminal facilities of New York, by giving a quasi monopoly to the New York Central road. It is charged that this proposed agreement will, for all time, restrict other development and thus create such monopoly. As an instance of this, Mr. Marks calls attention to the fact that from 38th to 42nd streets only 28 feet are left between the proposed New York Central tracks and the bulkhead

line, for all the Jersey or City-owned lines of the future. Twenty-eight feet means only two tracks altogether. Mr. Marks says that this condition was brought about by a recent action of the Sinking Fund Commission, (in order to give space for longer piers,) which action was taken without enough publicity to attract the attention of a single private citizen.

Former Commissioner of Docks and Ferries Calvin S. Tomkins holds as a fundamental objection to the plan that it shifts the alignment of the terminal railway from the marginal street as originally proposed by the railroad company and the Dock Department to a private right of way through the blocks south of Thirtieth street. He says:

"This change will ruin the value for terminal use of every block along the line, by dividing the elevated level of the terminal zone into two unrelated parts. It will adversely affect the Central's own use of terminals below Thirtieth street. It will destroy the future availability of this section for the New Jersey roads, and will indefinitely delay improved communications between our island City and the mainland."

Mr. Tomkins points out that New York is the only great seaport in the world where a very large volume of freight is lightered between continental rail terminals on the one side of the harbor and ships and factories on the other side. New York, he says, must physically, and not merely legally, overcome these insular disabilities if it shall hope to retain its primacy. He also refers to the lighterage question, and says:

"Back of New Jersey the shippers of the United States are paying this lighterage tribute to that part of the port located in New York, and the Port and Terminals Committee's plan will tend to make this condition permanent by excluding the New Jersey roads from access to modern land terminals along the west side of Manhattan. In contradistinction the City's policy should be to keep open every opportunity for the New Jersey roads to bring their cars into modern land terminals on the east side of West street, either over bridges or through tunnels, or by improved car-float service. This is the crux of the port problem at New York. Its solution will put an end to the floating car yard barricade, both in New York and New Jersey. Following the Pennsylvania precedent, the Hudson River tunnel tracks will subsequently be continued across Manhattan to Long Island, and it will then be

possible to articulate the entire railway system of the port and to create an administrative terminal unit at New York in conformity with the practice of such well organized ports as New Orleans, San Francisco, and Montreal."

The foregoing arguments apply mainly to the commercial aspects of the plan south of 72d street. Above 72d street, the proposed treatment of Riverside Park raises another set of objections. In the stretch from 72d street to Claremont, it is pointed out, a strip of park 100 feet or more wide will be excavated. This excavation, it is claimed, will make the park look like a quarry or gigantic excavation for a period of from six to ten years, during which the residents along Riverside Drive will be deprived of the pleasure of the beautiful park landscape which is an element of value to their property. This, it is claimed, will greatly depreciate real estate values in the neighborhood. This depreciation, it is held, will continue after the work is finished, because the park can never be restored to its present beauty. Actual count shows that 1,857 trees will be destroyed between 72d and 129th streets, 951 of which are more than six inches in diameter. It will be impossible to replace these, because it is proposed to cover the railroad tracks with soil of a thickness varying from two or three feet down to six inches, which, as has been shown in the covering of the subway in Broadway north of 59th street, is inadequate to support tree growth. The removal of the handsome trees which adorned the then called Boulevard before the building of the subway is still remembered with keen regret. No provision is made in the contract requiring either the City or the railroad company to plant trees, shrubs or grass on the slope and made ground on the west side of the tracks after the work is finished; and those who have observed the difficulty which the Park Department now has to secure funds with which to repair crumbling walls and sidewalks and cover barren spots in the park have little faith that the scars and nakedness of the park after railroad "improvement" will be repaired unless provision therefore is made compulsory in advance.

Another objection raised to the plan of park treatment is, that to cover the tracks at the southern end of the park, it will be necessary to build an embankment 35 feet high above the present contour. This embankment, which has been characterized as a

dike or mole, will cut the view of the river and the New Jersey Shore off from people walking on the east side of the obstruction.

Objection is also made to depriving the public of the use of this popular park during the period of construction, which is estimated to last from six to ten years. It is estimated that at 6 per cent. interest on the assessed valuation of the park, the use of the south end is worth more than \$1,000,000 a year, and the use of the whole park more than \$2,500,000 a year. This interest, it is argued, is given to the New York Central.

It is also alleged that the plans conceal an ultimate purpose on the part of the railroad to get the use of the river front west of the Riverside Park tracks and eventually there will be warehouses west of the tracks, which will be very unsightly. The filling in of the water front already begun is viewed by some as having a relation to that ultimate purpose.

It is urged that the solution of the Riverside Park problem lies in the construction of a thoroughly subterranean tunnel under Riverside Drive, in which the tracks and trains will be entirely out of sight. It argued that even if this is more expensive to the railroad than the cut-and-cover plan, the railroad company is getting enough advantage out of the whole transaction to enable it to afford the extra expense.

North of Manhattan street, there is strong opposition to the proposed development providing for from 27 to 30 tracks, it being held that these uncovered tracks, with a wall 40 feet high extending along several blocks, will be a blemish on the landscape.

With respect to the exchanges between the City and the railroad proposed to be made, it is claimed that the City is giving away vast values for which it receives no compensation. The appraisal of the lands and easements to be surrendered and acquired is declared to be uncertain, unreliable, and underestimated. It is believed by many that water-front rights which the City should never part with will be granted in fee to the railroad. One of the opponents of the plan has declared publicly that by the proposed contract the City is giving the railroad company franchise rights worth \$50,000,000 for which the railroad would not pay a cent.

Another aspect of the question appears in the objection that the proposed contract grants in perpetuity to the railroad company easements and property rights which would free the company

from paying a special franchise tax in return for its right to enter the City by that route and thus deprive the City of \$100,000 a year which it now receives.

Some of the opponents object to the features of the plan which provide for transferring to the railroad in fee Twelfth avenue which was laid out before the railroad was built; closing twelve cross streets and deeding them to the railroad; and for three and a half miles cutting off access to the river except at 70th, 79th and 96th streets.

The report of the Port and Terminals Committee has been criticised on the ground that it did not fully explain the details of the plan, as, for instance, in regard to the large stock-yard established by the plans along the 59th street pier. And there was a very considerable feeling that the public was not only kept in the dark about certain important bearings of the plan, but also that it was purposely being misinformed. This latter feeling was due first to the handsome model placed on exhibition at the Grand Central Terminal, showing finished details for which it could not be learned that provision had been made in the proposed contract. Then a picture was printed in one of the leading daily papers, showing a pleasing, undulating landscape in Riverside Park as a result of its reconstruction, with a promenade outside of the covered tracks, whereas the official plans show merely an unfinished sloping off from the tracks without any landscaping or surfacing west of the tracks whatever. And to cap the climax, the following erroneous statement, obtained from official sources, was published in the New York Times of April 22, 1916:

“As a part of the settlement the railroad company agrees to pay a sum sufficient to restore the park to the edge of the water.”

Arguments in Favor of the Plan

Coming now to the arguments in favor of the plan and the replies to the criticisms which have been offered: It is to be noted, with respect to the statement that the plan gives the New York Central Railroad Co. a monopoly of the waterfront facilities on the west side of the island, that rival railroad companies have expressed no jealousy of the plan or made efforts to be included in it. This, in itself, does not refute the allegation of monopoly

but it indicates at least that the other railroads apparently have no objection to the plan. The Port and Terminals Committee, however, in its supplementary report of May 15, 1916, gives a direct answer to this charge. It says that the contract will contain a specific clause giving the City the right to cross in the lines of streets either above, below, or at the grade of the railroad's elevated tracks. The committee does not see the justice of the compulsory admission of other roads to the facilities which the New York Central is to provide at enormous cost. It is declared, nevertheless, that there is nothing in the plan to prevent the future development of the City's freight facilities. And in his statement before the Board of Estimate and Apportionment March 1, 1917, Mr. Ira Place, Vice President of the New York Central railroad, emphatically denied that other railroads would be prevented from entering the City.

On the same occasion, Mr. Place denied that new franchises would be granted to the railroad under the new agreement or that the railroad had won unfair concessions in land transactions from the Port and Terminals Committee. Reviewing the facts leading up to the present situation, Mr. Place said:

"Agitation, starting many years ago, has continued for the discontinuance of the use of the streets and avenues at grade in interest of safety to person and property. The railroad company has recognized the desirability of these changes, and has been willing at any time during the last ten years to accomplish such changes in any reasonable manner. Such changes necessarily affect municipal conditions all along the line.

"In perfecting the plans and in formulating the proposed agreement to carry them out the railroad has had to recognize that no one of the proposed changes could be made without consent of the City, and the City has had to recognize that the proposed new railroad structures and additions must be suitable to the purpose and meet the necessities both of the railroad company and of the shippers using the railroad. As in all successful negotiations, this has made it necessary that each party give consideration to the position and the necessities of the other. The object kept in view all through the negotiations has been to reach that result which is best not only for the City and its business interests, but for the railroad company, under the theory and upon the belief that that which is best for any of these interests is best for all.

"The present congested condition of all railroads, and particularly of the railroads having their terminals in and about the Port

of New York, and the consequent delay of handling freight, has further demonstrated the desirability of making these improvements."

Mr. Place pointed out the four principal objects to be attained by the agreement as follows:

(1) Discontinuance of the surface use of the streets and avenues and the elimination of street crossings at grade;

(2) Discontinuance of steam operation and the substitution of electricity;

(3) Enlargement, improvement, modernization, and development of the railroad terminal and facilities;

(4) Improvement to such an extent as is practicable and possible of all municipal conditions with respect to streets, avenues, and public parks and places.

With respect to these four desiderata, Mr. Place said:

"The plans now under consideration fully accomplish the first and second of these objects, and both are municipal improvements, and both are accomplished wholly at the expense of the railroad company. It is so provided by the act. The plans accomplish to a reasonable extent the third object. While the terminal facilities of the company under these plans are not enlarged to such an extent as the railroad company believes desirable in the interest of the business of the City, it has yielded to the views of the Committee on Port and Terminal Facilities in restricting them to the extent shown on the plans and profiles. With respect to the fourth object — that of improving, to such an extent as is practicable and possible, municipal conditions — there seems to be some difference of opinion. That such conditions will be largely improved is questioned by no one. It is only as to certain details that any criticism has been made.

Mr. Place contended that among the benefits to be derived by the city were:

(1) The covering of railroad tracks through Riverside Park;

(2) The addition of twenty-two acres to Riverside Park and two acres to Fort Washington Park;

(3) The removal of railroad tracks from the waterfront between Spuyten Duyvil and Dyckman street;

(4) The increase of the amount of city-owned waterfront and the contraction of the waterfront ownership by the railroad company at the Sixtieth street yard and at Manhattanville;

(5) The increase of the taxable value of the property of the railroad company itself through the large expenditures which will be made for betterments and improvements, and the undoubted increase in the assessed value of adjoining property.

Concerning the alleged disparity between the lands and easements given by the City to the railroad and those given by the railroad to the City, Mr. G. A. Harwood, one of the New York Central railroad civil engineers, was quoted in the Evening Sun of June 22, 1916, as follows:

“The City gives to the railroad company lands and rights of the value of \$11,094,381, the appraisals being those of the City, not the railroad company. The railroad company gives to the City lands and rights of the value of \$4,984,492, leaving a balance in favor of the City of \$6,109,899. By reason of the City's desire to make improvements at Inwood Hill, so that a new park can be laid out there, its wish to cover the present cut through Fort Washington Park and also to cover over the main tracks between 135th street and 152d street, the improvement of the situation through Riverside Park, which includes not only the covering of the present and proposed tracks but the relocation of the tracks so as to make the covering better fit the existing topography, and the preservation of the right of the City to provide a municipal railroad on Twelfth avenues south of Sixtieth street and the difficulty of the City in providing money for all these extensive improvements, the railroad company has agreed to do them at its own expense at an estimated cost of \$14,708,000, which results in a contribution on the part of the railroad company over and above the net value of lands exchanged of \$8,598,101. Surely it cannot be claimed that the City is not faring equitably at least in this part of the transaction.”

With respect to the transaction as a whole, Comptroller Prendergast, in a statement published January 22, 1917, said:

“In all the \$100,000,000 of expenditure for the improvement, the only money which the City is called upon to spend by this agreement, is for maintaining the beauty of the park system, for supplying top-soil fill in addition to the \$300,000 which the railroad will spend for this purpose, and possibly for strengthening the roof structures where deeper fill may prove to be necessary.”

And at a hearing on the Ottinger-Ellenbogen bill at Albany, February 6, 1917, Dock Commissioner R. A. C. Smith declared that the New York Central was not receiving any material waterfront or franchise rights that it did not already possess.

Concerning Riverside Park, in particular, Comptroller Prendergast, in his statement published January 22, 1917, said:

"The proposition to tunnel under the Drive was fully considered. It was laid aside because of the great cost and also the possibility of serious damage that would occur to the foundations of some of the very elaborate structures that are along the Drive. It was pointed out to us when this idea was being considered that it would be probably necessary to support these structures in very many places, imposing a very considerable expense, and one which, if possible, should be avoided. Furthermore, may I say that the tunnel under the Drive would also have required an invasion of the park area at Ninety-sixth street, and from Eighty-second street to Seventy-second street."

In the same statement, the Comptroller denied that the waterfront is to be encroached upon and the usefulness of the park as a breathing place impaired. He continued:

"The fact is that the plan we have in mind means a reclamation of the waterfront of the City, for the parks and for its people. The commercial structures and business at Ninety-sixth street will be removed to below Seventy-second street, if this plan goes through. The Street Cleaning plant at Seventy-ninth street will also be removed to below Seventy-second street. The Riverside Park waterfront will be cleared, and is to be kept clear for everything except pleasure craft, and possibly a naval landing, which, I believe, is among the plans that the Commissioner of Docks has in hand.

"All the way from Seventy-second street to Spuyten Duyvil the New York Central is debarred from using the outshore of the Hudson river. That means that the railroad will not be permitted to build any wharves or piers, nor will it have access to wharves or piers. At the Manhattanville Yard the railroad will have the right to use the bulkhead for loading and unloading only, and if it were not for the purpose of meeting the demand for distribution of supplies for the great Harlem district, even this use would not be made of that small section of the river front."

The Comptroller declared that the statement that the dike or mole covering the tracks at the southern end of Riverside Park

would cut off the view of the river was outrageously untrue; and with respect to surface conditions generally, Mr. Harwood, the engineer before quoted, said in his statement published June 22, 1916:

"There are 6,217,000 square feet of ground in Riverside Park. Of this 1,418,000, or 22.8 per cent. will be disturbed. There will be added to the present territory, by roofing and changes of what is now a train barrier to an unobstructed access to the bulkhead, 4,872,000 square feet."

The Port and Terminals Committee in its supplementary report, replied to the suggestion that the park will be ruined by saying that the cut-and-cover plan was indorsed only after consultation with the Park Department and upon assurances that the natural topography of the Riverside Park section would not be destroyed. As to the extension of the park outside of the railroad tracks, the Port and Terminals Committee says that that is something with which the railroad company is not concerned, and adds: "With the completion of the railroad improvement there will be a very proper demand from the public generally for the completion of the extended Riverside Park, and the Board of Estimate should undoubtedly be prepared to meet this demand when it comes."

Concerning the Manhattanville freight yard, it is said that the number of tracks at 135th street has been reduced to a minimum in view of the expected large development of the Harlem section of the City. It is pointed out that there is no park now between 135th and 155th streets, and no provision is made for parking that area because that is purely a city matter, not a railroad matter.

Chronology of Events

For convenience of reference in the future, we give herewith the dates of some of the more conspicuous events in the West Side controversy during the past year.

April 7, 1916, the revised plans for the West Side improvement were filed with the Board of Estimate and Apportionment. Two sets were placed on public view, one at the City Hall and one at Grand Central Terminal.

April 22, 1916. The Port and Terminals Committee submitted to the Board of Estimate and Apportionment its report on the revised plan.

April 22, 1916. An illustrated article, based on information obtained from official sources, appeared in New York Times, stating that "As a part of the settlement the railroad company agrees to pay a sum sufficient to restore the park to the edge of the water." Subsequently admitted to be erroneous.

May 1, 1916. The Board of Estimate and Apportionment began public hearings on the revised plans. Further hearings were held on May 2, 8 and 9.

May 15, 1916. The Port and Terminals Committee submitted to the Board of Estimate and Apportionment a supplementary report not signed by President Marks answering criticisms made at the public hearings.

May 16, 1916. The Women's League for the Protection of Riverside Drive was organized.

May 16, 1916. Many letters appeared in the newspapers about this time and later, criticising the plan.

May 17, 1916. Hon. Marcus M. Marks, President of the Borough of Manhattan and member of the Port and Terminals Committee, submitted to the Board of Estimate and Apportionment a minority report, giving reasons for not signing the supplementary report of the committee, and advising "a few more weeks of patient effort toward the improvement of the plans before their final adoption."

May 19, 1916. A mass meeting was held at Hotel Ansonia to protest against the plan.

May 19, 1916. The West Side plan was on the calendar of the Board of Estimate and Apportionment for adoption, but was postponed.

May 25, 1916. An article by Frederick Law Olmsted, landscape architect, appeared in New York Times criticising the plan, and favoring the reopening of the hearings.

June 6, 1916. Another article by Frederick Law Olmsted appeared in the Times expressing the opinion that an open cut through Riverside Park would be less objectionable than the mole mound. Public officials disagree with him on that point.

July 12, 1916. A large relief model was placed on exhibition at the Grand Central Terminal bearing the following certificate, signed by Morgan Bros., Inc.: "This is to certify that the model

showing Riverside Park and Drive from 72d street to 153d street after the completion of the improvements of the west side tracks of the New York Central Railroad Company was made by us from the official plans filed by the Port and Terminals Committee of the Board of Estimate and Apportionment with the Board of Estimate and Apportionment on April 16, 1916. The model is on a scale of one inch to twenty feet and conforms with the official plans in all particulars."

July 25, 1916. The League for Municipal Ownership and Operation in New York City appointed a committee to ask the Board of Estimate and Apportionment for further information and to postpone action on the proposed contract until after the election in November.

August 15, 1916. Hon. R. A. C. Smith published a book of 85 pages entitled "The West Side Improvement and Its Relation to all of the Commerce of the Port of New York," defending the plan. It was addressed to the Chamber of Commerce of the State of New York, Merchants Association of New York, Maritime Association of the Port of New York, New York Board of Trade and Transportation, City Club, Bronx Board of Trade, Harlem Board of Commerce, Central Mercantile Association, Queens Borough Chamber of Commerce, Fifth Avenue Association, Gansevoort Market Business Men's Association, Jamaica Bay Association, South Brooklyn Board of Trade, Brooklyn Committee on City Plan, and Erie Basin Board of Trade.

August 2, 1916. The Sinking Fund Commission ordered condemnation proceedings to acquire land for the new street for the "Twelfth avenue deflection" over which it is proposed to give the railroad an overhead right of way.

October 31, 1916. A meeting was held in the Manhattan Congregational Church to protest against the plan.

November 28, 1916. A mass meeting was held in Leslie Hall, 83d street and Broadway, to protest against the plan. President Marks, Hon. Frank Moss, Hon. Calvin Tomkins, Congressman Walter M. Chandler, and others were among speakers. Mr. Moss, who was counsel for the Legislative Investigation Committee of which Senator George F. Thompson was Chairman, stated that when the plan was on the eve of adoption in June, Senator Thomp-

son began an investigation, and the facts developed showed that if the plan were carried through Riverside Park would be destroyed. He intimated that the transfer of jurisdiction of the question from the Board of Estimate and Apportionment to the Public Service Commission would be proposed in the ensuing Legislature.

December 27, 1916. Senator Thompson was quoted as declaring the plan to be "the second largest steal in the history of New York."

January, 1917. Many civic societies discussed the plan at their meetings about this time.

January 2, 1917. Jens Jenson, a prominent landscape architect of Chicago, engaged by opponents of the plan to give his opinion, declared that it would result "in a conglomeration of vulgarity insulting to the finer feelings of America."

January 3, 1917. A bill was introduced in the Legislature by Senator Albert Ottinger of New York and Assemblyman Abram Ellenbogen of New York, proposing to transfer jurisdiction of the question from the Board of Estimate and Apportionment to the Public Service Commission.

January 9, 1917. A resolution was introduced in the Board of Aldermen endorsing the Ottinger-Ellenbogen bill.

January 10, 1917. The Committee of Conference of Civic Organizations, (Rev. John P. Peters, D.D., President,) appealed to Mayor Mitchel for more light on the proposed contract.

January 15, 1917. Hon. William M. Bennett, President of the Society for the Prevention of Municipal Waste, secured a temporary injunction restraining the Board of Estimate and Apportionment from granting waterfront, lands under water, piers or street-ends to railroads.

January 17, 1917. The publication of the proposed contract elicited fresh criticisms from Charles L. Craig, attorney for the West End Association.

January 21, 1917. The announcement was made that public hearings would be reopened on February 14.

January 23, 1917. About this date the Port and Terminals Committee took a party of newspaper men over the line of proposed improvement and explained details.

West Side Improvement Plan

January 26, 1917. President Marks offered a resolution in the Board of Estimate and Apportionment inviting the Public Service Commission to submit its views on the West Side plan. The resolution was defeated after acrimonious discussion.

January 28, 1917. Hon. Charles E. Hughes, ex-Justice of the United States Supreme Court and late presidential candidate, retained by the City, gave an opinion that the Board of Estimate and Apportionment's plan was legal. The opinion was quoted extensively in the daily press.

January 29, 1917. The City refused to contest the suit brought by William M. Bennett before Justice Cropsey in the Supreme Court for a temporary injunction. The City's default was noted and Justice Cropsey reserved his decision.

January 30, 1917. The Port and Terminals Committee, with Mayor Mitchel and engineers of the railroad company, took twenty women opponents over the line of proposed improvements and explained details.

January 31, 1917. Charles Downing Lay, landscape architect, criticised plan because Park Department was not made a party to the agreement and no provision was made for the restoration of Riverside Park.

February 6, 1917. A joint hearing was held in Albany by the Senate Committee on Affairs of New York City and the Assembly Committee on Cities, on the Ottinger-Ellenbogen bill.

February 8, 1917. William A. de Ford, counsel for the Randolph Realty Co., wrote to Governor Whitman protesting against the proposed contract.

February 10, 1917. Governor Whitman requested the Public Service Commission of the First District to give him estimates of the value of the lands and rights proposed to be exchanged by the City and the railroad company.

February 14, 1917. A new series of public hearings was begun by the Board of Estimate and Apportionment, continuing two weeks.

February 19, 1917. Senator Robert F. Wagner of New York and Assemblyman Joseph M. Callahan of New York introduced in the Legislature a bill providing for a referendum of the West Side plan to the people.

February 23, 1917. Hon. Charles E. Hughes, as special counsel for the City, gave an opinion holding that the Ottinger-Ellenbogen bill if passed would legally transfer jurisdiction in the case to the Public Service Commission.

February 23, 1917. Announcement was made that the City had engaged Olmsted Brothers, landscape architects, to re-study the Riverside Park plans.

February 26, 1917. The State Tax Commission reported to the Senate that the railroad company under the proposed contract would be practically immune from the special franchise tax on its West Side lines.

February 28, 1917. The opponents to the plan having been heard at sessions of the Board of Estimate and Apportionment during the past two weeks, the first of several hearings was given to the supporters of the plan. E. H. Outerbridge, President of the Chamber of Commerce and Irving T. Bush, Chairman of the Chamber's Harbor and Terminals Committee, were the leading speakers.

February 28, 1917. Mayor Mitchel invited the American Scenic and Historic Preservation Society, New York Historical Society, National Academy of Design, National Sculpture Society, New York Chapter of American Society of Landscape Architects, American Institute of Architects and the Parks and Playgrounds Association, each to appoint two representatives "to hear and consider suggestions and cooperate with the Park Department in the preparation of a satisfactory final plan for Riverside Park. The President appointed Col. Henry W. Sackett and Hon. J. Adams Brown to represent this Society.

March 2, 1917. Justice Cropsey issued an order requiring twelve city officials and employes, headed by Mayor Mitchel, to appear before him on March 10 and submit to examination concerning the plan. The application for the order was made by Hon. William M. Bennett on behalf of five citizens under section 1534 of the city charter.

March 6, 1917. Assemblyman Ellenbogen introduced in the Legislature a bill to amend the Greater New York Charter giving the Board of Estimate and Apportionment power, with the approval of the Public Service Commission after public hearing,

West Side Improvement Plan

to compel a railroad company, at the company's expense, to relocate tracks dangerous to human life.

March 6, 1917. Senator George F. Thompson, Chairman of the Joint Legislative Committee originally appointed to investigate the Public Service Commission, made public a special report on the West Side plan assailing the proposed contract. The report recommended that chapter 777 of the laws of 1911 be repealed, and that new legislation be enacted giving local authorities power to eliminate dangerous grade operations of railroads, and placing certain restrictions on their transactions.

March 6, 1917. The committee appointed by the Public Service Commission to examine the value of lands proposed to be exchanged by the City and the railroad company, held its first conference with the Port and Terminals Committee.

March 8, 1917. The Appellate Division of the Supreme Court granted an alternative writ of prohibition staying temporarily the investigation of the West Side project which was to have been conducted by Justice Cropsey in the Supreme Court March 10. The writ was obtained on behalf of Mayor Mitchel and other city officials.

March 10, 1917. Sigfried Cederstrom, real estate expert of the Public Service Commission, who had made a preliminary report on the West Side plan and who believed the plan should have a public airing, resigned under the apprehension that he was being prevented from pursuing the investigation.

March 10, 1917. Two large paintings were displayed in Grand Central Terminal, showing the present appearance of Riverside Park and its appearance after the proposed changes. They were "loaned and exhibited at the request of R. A. C. Smith."

March 11, 1917. Hon. Travis H. Whitney, Chairman of the committee of the Public Service Commission appointed to confer with the Port and Terminals Committee of the Board of Estimate, issued a statement of 21 typewritten pages, most of which was a criticism of the West Side plan, but which also denied that there was any attempt to "gag" Mr. Cederstrom.

March, 1917. Senator Burlingame introduced in the Legislature a bill providing for a Legislative investigation of the West Side plan.

March 13, 1917. The National Sculpture Society held a meeting to discuss West Side plan.

March 13, 1917. The members of the Port and Terminals Committee and the sub-committee of the Public Service Commission held a long conference in the Comptroller's office concerning the values of the lands and easements to be exchanged. Certain suggestions for modifications of the proposed contract, said to look to the rental of land to the railroad at rates periodically readjustable, instead of conveying land in fee, were forwarded to Mr. Ira A. Place, Vice-President of the railroad company.

March 14, 1917. Hon. Charles E. Hughes argued before the Appellate Division of the Supreme Court in Brooklyn in behalf of Mayor Mitchel and other city officials for a permanent stay of the proposed special court investigation of the West Side plan. Justice James C. Cropsey and four other justices heard the arguments and reserved their decision.

March 15, 1917. Mr. Place replied to the suggestions made under date of March 13, rejecting them as impracticable. Public Service Commissioner Hervey had a conference with Governor Whitman at Albany.

March 18, 1917. A long conference was held between Mayor Mitchel, Comptroller Prendergast, Corporation Counsel Hardy, and Mr. Place, at which the latter agreed to some modifications of the proposed contract.

March 20, 1917. The Public Service Commission made a report to Gov. Whitman, recommending

"That Chapter 777 of the Laws of 1911 should promptly be repealed and a law enacted to take its place drawn upon the following lines:

"First. Providing for changing the grade of the New York Central Railroad as at present established upon streets and highways and abolishing the use of steam as a motive power.

"Second. Requiring the company, within a specified time, at the company's expense, to construct its road to conform to the newly established grade and to operate the same by electricity.

"Third. A declaration that the present operation upon streets at grade with steam power constitutes a public nuisance.

"Fourth. Requiring the company, within a fixed period, to abate such nuisance by removing its tracks from the grade of streets and operating its road by electricity.

West Side Improvement Plan

"Fifth. Authorizing the City and the Company, within a certain time, shorter than that above specified, to agree upon and carry out an alternative plan as to the new grade and location of its tracks, upon terms and conditions, including provision for additional facilities, as set forth in the act or in accordance with provisions of existing general laws; and

"Sixth. Providing that if, within the period specified, the company does not construct its road to conform to the newly established grade, the proper local authorities shall remove the present tracks."

March 21, 1917. Senator George F. Thompson introduced in the Legislature a bill to repeal chapter 777 of the laws of 1911, etc. City officials telegraphed to Gov. Whitman asking him to defer action on the Public Service Commission report.

March 22, 1917. The Port and Terminals Committee sent a long letter to Gov. Whitman, outlining ten concessions which the railroad company is willing to make. They relate to spurs and sidings to private property, the crossing of the New York Central line by the lines of other railroads, the connection of other railroads with the New York Central structure between 59th and 30th streets, a separate franchise for electric service ducts outside of the easement area, the height of the roof of the Manhattanville yard with reference to its being covered by the City at the City's expense, the relocation of columns in 10th and 11th avenues in the region of the 30th street yard, the clarification of the language of the contract with respect to the surrender of franchise rights by the railroad south of Canal street, and the insertion of a clause to provide for liquidated damages.

April 3, 1917. The Appellate Division of the Supreme Court, Second Department, ruled that Mayor Mitchel and other city officials and Vice President Ira A. Place of the New York Central Railroad would not have to appear in court for examination as to the proposed plans. All five Justices concurring, the court vacated the order signed March 2 by Justice Cropsey of Brooklyn on petition of J. Bleecker Miller as counsel for a committee of five citizens, requiring Mayor Mitchel to explain in court details of the plans.

April 16, 1917. The suit of the Society for the Prevention of Municipal Waste for a permanent injunction to prevent Mayor Mitchel and the Board of Estimate from entering into the proposed

contract with the New York Central Railroad Company began before Justice Manning of the Supreme Court in Brooklyn.

April 18, 1917. Justice Manning dismissed the above-mentioned application for a permanent injunction to restrain the Mayor et al from entering into the proposed contract. He added that he would vacate any injunctions which may have been granted in connection with the case.

May 1, 1917. Ottinger bill passed the Senate.

May 2, 1917. Ottinger bill passed the Assembly.*

LIVINGSTON MANSION AT DOBBS FERRY

The announcement in the newspapers of August 27, 1916, that Mr. Messmore Kendall of New York City had bought the old Livingston mansion in Dobbs Ferry, N. Y., with a view to its preservation as an historic monument gave much pleasure to those who were concerned about the existence of this interesting landmark. (See plate 49.)

On June 14, 1894, the Empire State Society of the Sons of the American Revolution dedicated a monument on the grounds in front of this house bearing the following inscription:

WASHINGTON'S HEADQUARTERS.

Here, July 6, 1781, the French Allies under Rochambeau joined the American Army.

Here, August 14, 1781, Washington planned the Yorktown campaign which brought to a triumphant end the War for American Independence.

Here, May 6, 1783, Washington and Sir Guy Carleton arranged for the evacuation of American soil by the British.

And opposite this point, May 8, 1783, a British sloop-of-war fired 17 guns in honor of the American Commander-in-Chief, the first salute by Great Britain to the United States of America.

WASHINGTON

ROCHAMBEAU

Erected

June 14, 1894

by the

New York State Society

Sons of the

American Revolution

* On May 7 Mayor Mitchel formally disapproved the bill but it became a law by the Governor's signature June 3, 1917.