

File No. 22200 Continued.

In the cases which went to the Court of Appeals with regard to minor privileges, the Court decided in substance that when encroachments over the building line were already in existence and there was no evidence or the evidence was lots as to the permit for constructing those encroachments originally, the Court would presume that they were rightfully constructed under proper authority from the City, and, therefore, the Board of Estimates could not compel the owners of the encroachments to pay a minor privilege tax; that in order for the Board of Estimates to put a minor privilege charge on the existing encroachments, it would be necessary for the City to show that they were put there under a permit which reserved the right to revoke. This was the only point decided against the City in those cases, the other points being decided in favor of the City. But the question you ask me is an entirely different one.

The power of the City to compel the removal of an obstruction when this removal is reasonably needed for purposes of public travel is very different from the power of the City to compel the payment of a minor privilege charge for the continuance of that encroachment. The imposition of a minor privilege charge assumes that the existence of the encroachment does not interfere with the use of the street for a public highway, whereas the question you put to me is as to the power of the City, when the street is narrow and the encroachment does really form an obstruction, not to put a charge on the continuance of the obstruction but to compel its removal. As above stated, I have no doubt that the City has that power. In fact, it was a concession in the minor privilege cases that if any of these encroachments amounted to a reasonable obstruction to public travel, the City could compel them to be removed. It seems to me apparent, with the congestion of travel and development of Charles and Saratoga streets as shopping streets, that the public convenience does require that every inch of Saratoga street should be used for public travel, and should not be occupied with encroachments from this old Y. M. C. A. Building and that it would greatly facilitate public travel if the encroachments were taken away from the building line and the sidewalk narrowed to that extent, thus providing additional