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From L.A. Craco

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M E M O R A N D U M

TO: Mr. Louis A. Craco

FROM: Kenneth L. Beauprand

AS TO: Triborough Bridge & Tunnel Authority Chairman

DATED: December 14, 1965

Q U E S T I O N

May the Chairman of the TBTA be removed by the

Mayor?

A N S W E R

It is not without doubt but it seems that he

may be removed.

D I S C U S S I O N

§552 of the Public Authority Law provides that

"all chairmen of such board succeeding the chairman named

herein shall be appointed by the mayor". No chairman is

named in this section or in the Title relating to the TBTA.

The New York State Legislative Annual, 1946, sheds some light

on this subject. In the message accompanying the bill, Senator

Couderc wrote

"I am enclosing a memorandum by Commissioner Robert Moses, Chairman of the Triborough Bridge Authority, dated January 23, 1946, in support

* Mr. Moses' memorandum, interestingly enough, then favored the joinder of the prosperous TBA with the NYC Tunnel Authority, which had been unable to pay the interest or amortization on its bonds. His reasons for joinder were that the consolidated authority would have the benefit of the successful experience of the TBA and would enjoy the administrative savings of consolidation.

The argument that he is frozen in is based on the fact that there are no provisions setting a term as chairman or for the removal of a chairman, so that, once appointed, he serves until he no longer is a member of the TBTA.

member?

Frozen in, at a minimum, for his current six year term as a member because no term is set? Or, is he legislation was enacted; is he frozen in as chairman as long as he remains a member because no term is set? Or, is he statute as appointing Robert Moses, the incumbent when this If the words are not a nullity, and we accept the

such board shall be appointed by the Mayor." Thus it is arguable that the sentence reads "All chairman of not refer to anyone they are meaningless and become a nullity. Since the words "succeeding the chairman herein named" do names of the commissioners but not all references to them. Thus, it seems that the legislators expunged the

of the bill. Except for the reference to the appointment of the members of the new board by name, which has been deleted from the bill in its present form, I concur in his recommendations."*

The contra argument is likewise a question of legislative intent and interpretation. The legislature created a new authority consisting of three members. It specified that the members were to be appointed by the Mayor. It specified the terms of the original appointments. Then it specified the terms of the successors to these members. Then it specified how and for what cause a member might be removed. It listed these procedures in detail. Then it spoke of a chairman, apparently to be appointed from one of the members. Rules of statutory construction require that when, as here, a legislature carefully sets forth language and rules referring to the terms and removal of members, but includes no provisions which refer to the term or removal of a chairman, the words relative to the chairman must be self explanatory or, if not, that general rules of law are to be applied to clarify their meaning. Thus the fact that no term is set must mean that the chairman serves only until another chairman is appointed.

Section 552 provides for the appointment of a chairman by the Mayor. It does not define or delineate the mayor's powers re appointment or removal. Thus general rules are to be applied. The mayor's powers of appointment and removal are defined in Chapter 1, § 6 of the N.Y. City Charter which provides in relevant part:

only authority not defining, in any way, the term of its
Finally, it should be noted that the TBTA is the

death, resignation or removal (emphasis supplied).

finite time and is deemed to continue in office until his
partment of Housing and Buildings was appointed for an inde-
the mayor." The court stated that the Commissioner of the De-

sioner of housing and buildings who shall be appointed by
housing and buildings the head of which shall be the commis-
the Charter provided that "there shall be a department of
2d 400 (1942) discussed these provisions. Section 641 of
In re Jennings (Wilson), 179 Misc. 358, 40 N.Y.S.

moved.

the public interest, the Chairman of the TBTA could be re-
moval, the City Charter should control. Thus, if it is in
Since no statutory provision is made, as to term or re-

b. The mayor, whenever in his judgment
the public interest shall so require,
may remove from office any public officer
holding office by appointment by a mayor
of the city, except officers for whose
removal other provision is made by law.
No public officer shall hold his office
for any specific term, except as other-
wise provided by law.

"...the mayor shall appoint...all
commissioners...except as otherwise
provided by law.

* Adirondack Mountain Authority Chairman serves at pleasure of Governor. N. Y. State Thruway Authority provides for a member to be designated as chairman to serve until his term as member expires. Westchester County Parkway Authority has a president appointed to serve at the pleasure of the County Executive. East Hudson Parkway Authority provides for a member to be designated as chairman to serve until his term as member expires and the appointment and qualification of a successor. The New York State Bridge Authority only provides for the terms of its members and that the board shall choose from its members a chairman. The Thousand Islands Bridge Authority provides that the chairman shall be elected annually. The Nassau County Bridge Authority provides for the appointment of a chairman and two members for specific terms. The Ogdensburg Bridge Authority provides that the members shall elect a chairman annually. The Lower Hudson Regional Market Authority, The Central N. Y. Regional Market Authority, The Genesee Valley Regional Market Authority do not have analogous provisions. The Power Authority of the State of New York provides for the appointment of a chairman for a number of years. The Albany Light and Heat Authority provides that the five appointed members may choose a president from among there members. The Erie County Water Authority appoints a chairman by name for one year. Subsequent chairmen are to be elected annually by members of the Authority. The Suffolk County Water Authority provides that the first chairman shall be designated by the board of supervisors. The Monroe County Water Authority term. Subsequent chairmen are to be appointed by the county board of supervisors. The Onondaga County Water Authority provides that the first chairman shall be designated by the board of supervisors but that subsequent chairmen shall be elected annually by the members. The Buffalo Sewer Authority provides for the annual election of a chairman. The New York City Transit Authority provides for the appointment of a chairman for six years. The Great Neck Water Authority provides that the first chairman is to be designated by the town board and that subsequent chairmen are to be elected annually by members. The Metropolitan Commuter Transportation Authority provides for appointment of chairman for eight years. The Niagara Frontier Port Authority provides that the members shall annually elect a chairman. The Rochester-Monroe

* Chairman.

Port Authority provides that the members shall elect a chairman. The Port of Oswego Authority and Ogdensburg Port Authority are to the same effect.

The Amsterdam Parking Authority provides for the appointment of a chairman for a specific term. The White Plains Parking Authority, Elmira Parking Authority, Syracuse Parking Authority, Peekskill Parking Authority, Fulton Park- ing Authority, Tuckahoe Parking Authority, Endicott Parking Authority, The Port Jervis Parking Authority, The Oswego Parking Authority, the City of Yonkers Parking Authority, The City of New Rochelle Parking Authority and the City of Poughkeepsie Parking Authority all contain similar provisions. Miscellaneous Authorities - Saratoga Springs Authority provides for appointment of president by the Governor. The American Museum Authority provides that the president shall be the President of the American Museum of Natural History. The Industrial Exhibit Authority makes no provision for a chairman. The Dormitory Authority provides for the annual election of a chairman by the members. The Brooklyn Sports Center Authority appoints a chairman for six years. The Liberty Airport Authority provides for the first chairman to be appointed and subsequent chairmen to be elected annually by members. The Salamanca Hospital District Authority makes no provision for a chairman. The New York Job Development Authority provides that the commissioner of commerce shall serve as chairman. The New York State Atomic Research and Development Authority provides that the chairman serves at the pleasure of the Governor.

Kenneth L. Beaugrand

Respectfully submitted,

interest.

I think that since all of the other authorities make specific provision for the tenure and/or removal of their chairmen, it can fairly be said that the legislature deliberately made no provisions as to the TBTA. Thus the language of the statute and the general powers of the mayor, as set forth in the City Charter, control and it is possible to remove the Chairman of the TBTA if it is in the public

C O N C L U S I O N