

the westerly city limits, and it will be noted that Livernois avenue by name was fixed as the beginning of the grant, and consequently the westerly terminal of the route named therein.

The question here presented is different from that which arose in the recent case in Delray, where the grant to the Fort Wayne & Elmwood Co. was from the westerly city limits easterly. In that case, while the westerly city limits at the time of the grant was Artillery avenue, yet Artillery avenue was not named in the grant, and I was of opinion that the term "westerly city limits" was unlike a fixed monument or a named street, which retains its location, notwithstanding the change in limits, but that "city limits" meant a boundary which was subject to variation and change at the will of the Legislature, and that the parties contemplated that such change might be made, and if so, the contract would run to such a point as might be determined by the Legislature to be the City Limits at any time in the future.

In this case Livernois avenue retains its location, like a fixed monument, notwithstanding the extension of the city limits, and the contract of carriage must be read in the light of the language employed in the ordinance and cannot be extended beyond the point actually fixed.

Therefore, from the terms of this grant, I am clearly of opinion that we cannot compel the railway company to carry passengers to a point beyond Livernois avenue.

I have been unable to obtain the franchise granted by the Township of Springwells for the construction and operation of this road west of Livernois avenue, but unless there is something in the grant from the township which requires the grantee to convey passengers to a point easterly of Livernois avenue I would say that the company is entitled to charge in accordance with the terms of the grant from the township.

Respectfully submitted,
TIMOTHY E. TARSNEY,
Corporation Counsel.

Accepted and placed on file.

FROM THE SAME.

To the Honorable the Common Council:

Gentlemen—Please find herewith the ordinance changing and establishing the grade at Junction avenue.

It is necessary to pass this ordinance in connection with the contract entered into by the city and the railroads with respect to this separation of grades.

Yours very truly,

P. J. M. HALLY,
Assistant Corporation Counsel.

Accepted.
The following is the ordinance:

Ordinance.

AN ORDINANCE changing and establishing the grade of Junction avenue roadway, curb and sidewalks, from the northerly line of Annexation street, as now opened, 50 feet wide, to a point 104.35 feet south of the south line of Rollin street, as now opened 60 feet wide; and the intersecting streets between said

the Michigan Central Railroad Company, the Lake Shore and Michigan Southern Railway Company, the Wabash Railroad Company and the Grand Trunk Railway Company of Canada, to bridge said Junction avenue and to operate their respective railways over and above said Junction avenue.

It is hereby ordained by the people of the City of Detroit:

Section 1. That the grade of the curbs on the easterly and westerly sides of Junction avenue, commencing at their intersection with the northerly line of Annexation street, at an elevation of 113.50 feet, as heretofore established, shall have a gradual descent northerly from said point for a distance of 181.23 feet to a point, the southerly top of slope, which shall have an elevation of 112.78. That northerly from said southerly top of slope the said curbs shall have a gradual descent for a distance of 278.84 feet to a point, the southerly foot of slope, which shall have an elevation of 104.41. That northerly from said southerly foot of slope the said curbs shall have a gradual descent for a distance of 111.74 feet to a point, said point being the valley, which shall have an elevation of 104.07. That northerly from said last point, said point being the valley, the said curbs shall have a gradual ascent for a distance of 111.74 feet to a point, said point being the summit, which shall have an elevation of 104.41. That northerly from said last point, said point being the summit, the said curbs shall have a gradual descent for a distance of 111.74 feet to a point, said point being the valley, which shall have an elevation of 104.07. That northerly from said last point, said point being the valley, the said curbs shall have a gradual ascent for a distance of 111.74 feet to a point, said point being the summit, which shall have an elevation of 104.41. That northerly from said last point, said point being the summit, the said curbs shall have a gradual descent for a distance of 111.74 feet to a point, said point being the valley, which shall have an elevation of 104.07. That northerly from said last point, said point being the valley, the said curbs shall have a gradual ascent for a distance of 111.75 feet to a point, said point being the northerly foot of slope, which shall have an elevation of 104.41. That northerly from said last point, said point being the northerly foot of slope, the said curbs shall have a gradual ascent for a distance of 210.55 feet to a point, said point being the northerly top of slope, which shall have an elevation of 109.67. That northerly from said northerly top of slope, the said curbs shall have a gradual ascent for a distance of 232.00 feet to a point, said point being distant 104.35 feet southerly from the southerly line of Rollin street, which shall have an elevation of 110.60 as heretofore established.

Sec. 2. That the grade of the curb on the southerly side of McGregor street at its intersection with the easterly and westerly

5 line of Junction avenue, as now
6 opened, 66 feet wide, is hereby es-
7 tablished at an elevation of 111.61.
8 That easterly from said intersec-
9 tion points the said northerly and
10 southerly curbs shall have a grad-
11 ual ascent for a distance of 118.66
12 feet to a point, which is hereby
13 fixed and established at an ele-
14 vation of 111.90. That the grade of
15 the curb on the northerly side of
16 McGregor street at its intersec-
17 tion with the easterly and westerly
18 line of Junction avenue, as opened
19 66 feet wide, is hereby established
20 at an elevation of 110.11. That
21 westerly from said intersection
22 points the said northerly and
23 southerly curbs shall have a grad-
24 ual ascent for a distance of 118.66
25 feet to a point, which is hereby
26 fixed and established at an eleva-
27 tion of 112.86.

Sec. 3. That the grade of the curb on the southerly side of Leavitt street, at its intersection with the westerly line of Junction avenue as now opened, 66 feet wide, is hereby fixed and established at an elevation of 104.30. That southerly and westerly from said intersection point, the said southerly curb shall have a gradual ascent for a distance of 216.47 feet, measured on the center line of said street, to a point, said point being the top of slope, which is hereby fixed and established at an elevation of 110.73. That southerly and westerly from said top of slope the said southerly curb shall have a gradual ascent for a distance of 241.53 feet, more or less, to a point, which is hereby fixed and established at an elevation of 111.70. That the grade of the curb on the northerly side of Leavitt street at its intersection with the westerly line of Junction avenue as now opened, 66 feet wide, is hereby fixed and established at an elevation of 104.20. That southerly and westerly from said intersection point the said northerly curb shall have a gradual ascent for a distance of 216.47 feet measured on the center line of said street, to a point, said point being the top of slope which is hereby fixed and established at an elevation of 110.73. That southerly and westerly from said top of slope, the said northerly curb shall have a gradual ascent for a distance of 241.53 feet, more or less, measured on the center line of said street, to a point, which is hereby fixed and established at an elevation of 111.70.

Sec. 4. That the grade of the sidewalks on the easterly and westerly side of Junction avenue, within the limits of the proposed improvement, is hereby changed and established at the same elevation as the curbs. That the grade of the sidewalks on the northerly and southerly sides of McGregor street, within the limits of the proposed improvement, is hereby

12 fixed and established at the same
13 elevation as the curbs. That the
14 grade of the sidewalk on the
15 northerly side of Leavitt street,
16 within the limits of the proposed
17 improvement, is hereby fixed and
18 established at the same elevation
19 as the curb.

20 All distances herein contained
21 are measured along the center lines
22 of Junction avenue and McGregor
23 street.

24 All elevations are referred to city
25 datum.

Sec. 5. The Michigan Central Railroad Company, the Lake Shore and Michigan Southern Railway Company, the Wabash Railroad Company and the Grand Trunk Railway Company of Canada, their successors and assigns, are hereby authorized to construct and maintain a bridge over and above the roadway and sidewalk of Junction avenue hereinbefore described, in accordance with the conditions of a contract entered into between the City of Detroit and said Companies, Provided, that there shall be not less than fourteen feet between the lower sides of the beams or stringers of said structure and the grade of said roadway as herein fixed; and provided further that said structure shall be maintained so as to be reasonably safe for persons using the road and sidewalk under said structure.

25 All ordinances and resolutions
26 inconsistent herewith are hereby
27 repealed.

Sec. 6. This ordinance shall take immediate effect.

Read twice by title, ordered printed and unanimous consent being granted, placed on the order of third reading.

Third Reading of Ordinance.

The title to the ordinance was read a third time.

The ordinance was then read. The question being "Shall this ordinance now pass?" The ordinance was passed, a majority of the Aldermen present voting therefor as follows:

Yeas—Ald. Allan, Burns, Burton, Ellis, Fisher, Freiwald, Gadde, Gibbons, Glinnan, Goeschel, Grindley, Gutman, Heineman, Hillger, Jeffries, Keating, Kingsley, Koch, Korte, Moeller, Mohr, Ostrowski, Owen, Reinhardt, Rose, Tossy, Vernor, Watson, Weibel, Wieber, Wing, Zink, Zoeller, and the President—34.

Nays—None.
The title to the ordinance was confirmed.

From the City Treasurer.

To the Honorable the Common Council:

Gentlemen—I herewith submit trial balance for the month of May 1906.

Respectfully,
W. B. THOMPSON,
City Treasurer.

Accepted.
The following is the balance sheet: