

New Jersey Court of Errors and Appeals

WALTER WOOD,

Appellant,

vs.

THE MAYOR AND COMMON
COUNCIL OF THE CITY
OF MILLVILLE, and WOR-
RALL E. S. TEMPLE,

Respondents.

ON CERTIORARI OF
ORDINANCE NUM-
BER 117.

BRIEF OF DEFENDANTS.

The appeal in this cause brings before the Court for review Ordinance Number 117 of the City of Millville, which reads as follows:

ORDINANCE No. 117.

An ordinance providing for the construction by and for the City of Millville of an electric light distributing system for public lighting.

Whereas, in the opinion of the Common Council, the construction by the city of an electric light distributing

system will ensure better service to the public and is likely to result in economy to the city by encouraging competitive bidding by contractors desiring to furnish electric current to the city for public lighting, therefore

Be it ordained by the Mayor and Common Council of the City of Millville:

1. There shall be erected forthwith by this municipality, and maintained, a system of poles, wires, conductors and appurtenances, for the transmission of electric currents, for the purpose of lighting with electricity the streets and public places in this city, and for such purpose there shall be constructed all necessary posts, poles, lanterns and fixtures on and along the roads, streets, lanes and alleys specified and indicated for said purpose in the plans and specifications of Worrall E. S. Temple, engineer, hereinafter referred to, and at the points and places and in the manner in said plans and specifications indicated.

2. Said electric light distributing system shall be constructed in accordance with the plans and specifications prepared by Worrall E. S. Temple, electrical engineer, designated "Specifications A," filed with the City Recorder October fourth, 1912; where alternative materials or appliances are referred to in said plans and specifications that finally to be selected shall be adopted by resolution of Common Council; the posts, poles, wires and appliances shall be erected and lamps placed at the points indicated on said plans; all changes in material and the selection of lamps and other material provided for in the alternative shall be made before the letting of any contract.

3. The construction of said plant or system shall be let by contract to the lowest responsible bidder, reserving to Common Council the right to reject any and all bids after proposals for such work shall have been advertised according to law; all work shall be done under the super-

vision of Worrall E. S. Temple, electrical engineer, or his successor appointed by Council, and the Committee on Finance, together with the Light Committee of Common Council; the said committee is directed to advertise forthwith for proposals for said work in the manner prescribed by law.

4. To raise the moneys to pay for said work, bonds of the city shall be issued to the amount of thirty-five thousand dollars, or for so much thereof as may be necessary for said purpose, which bonds shall bear date November first, nineteen hundred and twelve; shall draw interest at the rate of four and one-half per centum per annum, payable semi-annually; shall be of denominations of one hundred dollars or such multiples thereof not exceeding one thousand dollars as the purchasers may elect; shall be payable thirty years after date; shall bear the seal of the city; shall be signed by the Mayor, countersigned by the Treasurer and attested by the Recorder; said bonds shall be either registered or coupon bonds at the option of the purchaser, and all coupons shall be executed with the fac simile signature of the Treasurer; said bonds shall be payable principal and interest at the Millville National Bank, and shall be in such form as Council shall, by resolution, approve. All said bonds shall be numbered, and a register of such numbers, the date of issuing and time of payment of the same shall be made by the Treasurer in a book to be provided for that purpose. The interest on said bonds shall be raised annually by taxation, and the principal of said bonds shall be paid by the city at maturity; there shall be placed annually in the tax levy of the city such sum as will be sufficient to pay the interest on said bonds as it falls due and a sum equivalent to two per centum of the par value of the said bonds issued and outstanding as a sinking fund, and such portion of said tax as shall have been collected for the interest on said bonds shall be paid by the taxing officers into the city

treasury and such portion thereof as shall have been collected for said sinking fund shall be paid by said taxing officers to the Sinking Fund Commissioners appointed under Ordinance Sixty-one, or their successors, who are hereby constituted commissioners to hold the sinking fund hereby established, with like powers and duties touching the management thereof as are conferred and imposed on them by said Ordinance No. 61 with reference to the sinking fund by that ordinance established; said bonds shall be sold by Common Council from time to time as may be necessary, at public sale, by means of sealed bids.

5. All ordinances and parts of ordinances inconsistent herewith are hereby repealed and this ordinance shall take effect immediately on its publication as required by law.

Passed November 1, 1912.

L. H. HOGATE,
Recorder.

Approved November 4, 1912.

W. FRED WARE,
Mayor.

It will be observed that this ordinance in explicit terms provides for the construction by the city of an electric light distributing system for lighting the streets. Commercial or private lighting is not provided for.

No provision is made or intended to be made for generation of the current to be supplied through the distributing system. When erected the current must be obtained by a contract.

The scheme of the city is to erect and maintain or cause to be erected and maintained all necessary and proper posts, poles, lanterns and fixtures on the public roads, streets, lanes or alleys indicated on certain plans, and to make and enter into a contract or contracts with other party or parties for any term or terms not exceed-

ing five years for the supply of electric current. The ordinance is framed under the authority given by the act, P. L. 1894, page 477; 3 Comp. Stat., page 3548. It is admitted that no express authority is found in the Act of 1894 for the issuing of bonds for the construction of the plant contemplated but the defendants claim that the city has power to issue bonds for the purpose by implication under that act and expressly under other acts of the Legislature, particularly the Act P. L. 1895, page 464, 1 Comp. Stat. 930, sec. 1239, and the statute of 1902, page 782, 1 Comp. Stat., page 938, sec. 1271. The last named Act of 1902 has been, by force of the statute P. L. 1908, page 32; 3 Comp. Stat., page 3684, sec. 790, amended so that the interest rate on bonds issued under the Act of 1902 may be not exceeding five per centum per annum. The prosecutor alleges several reasons why the ordinance is invalid, involving the following:

POINTS.

1. The ordinance is an independent measure, in no wise dependent on the validity of any of the prior proceedings referred to in prosecutor's reasons, nor on the validity of Chapter 325 of the Laws of 1911.
2. The ordinance is valid in all its parts.
3. The recital of the authority for the bond issue contained in the "Form of Bonds" does not impair the validity of the ordinance.
4. The sixth reason is not warranted by the facts.

I.

THE ORDINANCE IS AN INDEPENDENT MEASURE, IN NO WISE DEPENDENT ON THE VALIDITY OF ANY OF THE PRIOR PROCEEDINGS REFERRED TO IN PROSECUTOR'S REASONS, NOR THE VALIDITY OF CHAPTER 325 OF THE LAWS OF 1911.

It is true that pursuant to Resolution Number 37 of the Common Council an election was held in Millville upon the question of the adoption of Chapter 325 of the Laws of 1911. It is also true that Mr. Temple, who is an electrical engineer, was employed by Resolution Number 42 to prepare plans and specifications for an electric lighting plant at Millville and to supervise the erection thereof.

Mr. Temple prepared these plans and specifications in three parts.

Specifications A provide only for an electric light distributing system to be located in the streets of the City of Millville. These specifications are referred to in Ordinance Number 117. Likewise, Mr. Temple prepared other specifications, one thereof known as Specifications B, being certain equipment for a power station, and a third set of specifications known as Specifications C, providing for equipment for commercial and private lighting. No action has been taken by Council in any proceeding providing for the construction or installation of any plant or system in accordance with Specifications B or Specifications C.

At the time of Mr. Temple's employment the Common Council had under consideration two projects, one of which involved the construction of a general electric lighting system for public and private lighting; while the other scheme contemplated a system providing for street light-

ing only. This last scheme is that adopted by Ordinance Number 117. By no construction of Ordinance Number 117 may it be held to provide for use other than that authorized by the statute of 1894; 3 Comp. Stat., page 3548, sec. 351. The scheme provided for by Ordinance Number 117 is entirely disassociated from and disconnected with any proceeding had under the Resolution Number 37 relating to the adoption of Chapter 325 of the Laws of 1911; and it only relates to the contract for the employment of Mr. Temple under Resolution 42 in so far as that contract involved his plans for a street lighting plant and his employment to supervise the construction of a street lighting plant.

II.

THE ORDINANCE IS VALID IN ALL ITS PARTS.

I. The authority for the erection of the plant is found in the statute of 1894, 3 Comp. Stat., page 3548, entitled "An act authorizing the lighting of public streets and places in the cities, towns, townships, boroughs and villages of the State, and to erect and maintain the proper appliances."

Section I of this act reads as follows:

"Sec. 1. That it shall hereafter be lawful for the Common Council, Township Committee or other municipal authorities of any city, town, township, borough or village in this State, authorized to act in such matters from time to time, and by ordinance or resolution to order and cause any public street or streets, place or places, or any part or parts thereof, in any such city, town, township, borough or village, respectively, to be lighted with gas, electric lights or otherwise, and for that

purpose to erect and maintain or cause to be erected and maintained all necessary and proper posts, poles, lanterns and fixtures on any or all of the public roads, streets, lanes or alleys, and to make and enter into any contract or contracts with any other party or parties, for any term or terms not exceeding five years, and to cause the annual expense thereof, after being ascertained or determined by resolution of said Council, committee or other municipal authorities, to be certified to the assessor or assessors of said city, town, township, borough and village and that such annual expense shall thereupon be levied, assessed and collected from all the real and personal property in said city, town, township, borough or village, respectively, in the same manner, at the same time and under the same penalties (but without any extra compensation therefor) as the taxes for the working or repairing of roads or streets in such city, town, township, borough or village, respectively, are or may be; provided, however, that in making such assessment of the tax hereby authorized, the said assessor or assessors shall not be restricted or controlled in any way by any special act of the Legislature heretofore passed, whereby the amount of any tax to be raised in any city, town, township, borough or village is limited to a certain percentage upon the valuation of the assessed property therein." (P. L. 1894, p. 477.)

The Supreme Court held, in the case of *Howell vs. Millville*, 31 *Vr.*, pages 95, 98, that the City of Millville was, by the Act of 1894, granted the authority to erect and maintain necessary and proper posts, poles, lanterns and fixtures on its public streets.

See also *Oakley vs. Atlantic City*, 34 *Vr.* 133, where

the Court said that express power is given, for the purpose of electric lighting, to "erect and maintain, or cause to be erected and maintained, all necessary and proper posts, poles, lanterns and fixtures on any or all of the public roads, streets, lanes or alleys" citing *Howell vs. Millville, supra*.

See also *Meyers vs. Electric Co.*, 34 *Vr.*, at page 575.

Therefore, on the authority of the statute and cases cited, the City of Millville had authority to ordain that the system be constructed; for the system intended is precisely that contemplated by the Act of 1894.

2. The bond issue provided for by the ordinance was a valid exercise of power conferred on the municipal governing body for that purpose.

(a) Power to issue these bonds is conferred on the city by the Act P. L. 1902, page 782; 1 Comp. Stat. 938, Sec. 1271, as modified, with relation to the rate of interest by the Act of 1908, 3 Comp. Stat., page 3684, Sec. 790. These two statutes read as follows:

"Sec. 1. It shall be lawful for the Common Council, Board of Aldermen or other governing body of any city of this State having the control of the finances of said city to borrow money from time to time for all purposes for which they are now authorized by law to raise money by taxation, and to secure the payment thereof by the issuance of bonds; the bonds so to be issued shall be of such denomination as the Common Council, Board of Aldermen or other governing body of any such city, having the control of the finances of such city, shall deem proper, and shall be made payable in not less than five nor more than thirty years; they shall bear interest at a rate not greater than four per centum per annum, payable semi-annually, and may be registered or coupon bonds,

or may be registered and coupon bonds combined, at the option of said governing body; they shall be sold at public sale but not for less than par and accrued interest; and there shall be raised by tax in each year the interest on the whole amount of the bonds so issued, together with at least two per centum per annum of the principal of such bonds if thirty-year bonds, at least three per centum per annum of the principal of such bonds if twenty-year bonds, and at least ten per centum per annum of the principal of such bonds if ten-year bonds, or twenty per centum of the principal of such bonds if five-year bonds, the principal so raised to be paid to the commissioners of the sinking fund of any such city for the purpose of meeting the said bonds when they shall become due; provided, however, that the bonds issued under this act shall at no time exceed the sum of one hundred thousand dollars. (P. L. 1902, p. 782.)

“Sec. 1. (2) This act shall be deemed a public act, and shall take effect immediately, and shall not repeal or be construed to otherwise change any character of any city of this State.” (P. L. 1902, p. 783.)

The Statute of 1908 reads as follows:

“Sec. 1. The rate of interest on bonds hereafter issued by counties, cities, towns, townships, boroughs, villages, school districts, committees, commissions, and all other municipalities of this State, pursuant to the authority of any general or special law or laws of this State, shall be such rate as may be determined by the board or body issuing the same, not exceeding five per centum per annum, anything in any special or general law to the contrary notwithstanding; provided, how-

ever, that nothing in this act contained shall be taken to repeal, amend or otherwise affect any law or laws of this State authorizing counties, cities, towns, townships, boroughs, villages, school districts, committees, commissioners or other municipalities to issue bonds bearing interest at a higher rate than five (5) per centum per annum. (P. L. 1908, p. 32) ; 3 Com. Stat. 3684, Sec. 790.

"2. All acts and parts of acts, general or special, inconsistent with the provisions of this act are hereby repealed.

"3. This act shall take effect immediately."

(b) The defendants also claim that the City of Millville has the power to issue these bonds under and by virtue of the Statute of 1895, 1 Comp. Stat., page 930, Sec. 1239, etc. Section 1 of this act reads as follows:

"Sec. 1. That where any city in this State is now or hereafter may be authorized to purchase or condemn lands, property or rights in lands or property for public purposes within the limits of such city, and no adequate provision is made or authority given to provide for the payment thereof, it shall and may be lawful for the City Council or other governing body of such city to issue and dispose of the bonds of such city, on its faith and credit, for any sum not exceeding one hundred thousand dollars, and to use the proceeds thereof for such purpose." (P. L. 1895, p.464.)

(c) The defendants claim, also, that the city has authority to issue these bonds under the provisions of P. L. 1904, page 86, 1 Comp. Stat., page 938. But, inasmuch as the Supreme Court lately decided in the Sea Isle City case that the Statute of 1904 does not grant the power

now contended for the Supreme Court was bound by the opinion in that case. The defendants made the point below that the Statute of 1904 does authorize this bond issue, and did not waive the point, stating in their printed brief that they intended to urge it if this case should go to the Court of Errors and Appeals.

(d) Defendants respectfully submit, further, that the power to issue the bonds is found in the Act of 1894 itself. This power is necessarily to be implied from the statute itself, for the city is given the power to erect a plant for a certain purpose, and hence, by implication, it may issue bonds to pay for the work. Said Mr. Justice Reed, speaking for the Supreme Court, in *Seaside Realty Co. vs. Atlantic City*, 45 *Vr.*, bottom of page 182:

"It is, again, objected that there is no provision for paying for the lands which the resolution directs the finance committee to purchase. Where power is given to a municipality to incur an indebtedness, the power exists, certainly, until it appears that there is some statutory limitation to the expenditure of money which will suspend the power or there is some prescribed method for payment which has been impossible." (45 *Vr.* 182.)

See also *Slingerland vs. Newark*, 25 *Vr.*, at page 68; although in that case Mr. Justice Reed seems to have held that the bonds there authorized may not be negotiable bonds.

The Statutes of 1895 and 1902, as well as that of 1904, confer on the City of Millville ample authority for the bond issue provided for by Ordinance Number 117.

III.

THE RECITAL OF THE AUTHORITY FOR THE BOND ISSUE CONTAINED IN THE "FORM OF BONDS" DOES NOT IMPAIR THE VALIDITY OF THE ORDINANCE.

The form of bonds proposed to be issued is shown at page 43. The bond recites, as authority for the issue, the Act of 1894; the Act of 1895; the Act of 1904 and also Chapter 325 of the Laws of 1911. The defendants concede that no authority can be found in Chapter 325 of the Laws of 1911, because that *pseudo* statute has been adjudged not to be a valid enactment of the Legislature. *In re Jaegle*, 85 At. 214. It must also be admitted, and is admitted, that this Court has held in the Sea Isle City case that the Act of 1904 does not grant the necessary power. Likewise the form of bonds is imperfect for that it does not recite the Statute of 1902 as amended by the Act of 1908 as authority for the issue. However, it cannot be held that this supplementary proceeding of Council, which provides only for the form of the bonds, can impair the validity of Ordinance Number 117. It is not admitted that the mere recital in the resolution fixing the form of bonds of statutes not authorizing that issue invalidates the resolution itself. If there be recited in the form of bonds sufficient authority for the issue the resolution is good. The Statute of 1895 recited in the form of bonds is sufficient authority for the issue itself. But if the Supreme Court shall hold that the recital of the Act of 1904 and the Act of 1911, and the failure to recite the Act of 1902, do invalidate the resolution fixing the form of bonds, then the resolution itself may, and should only, be set aside; and the ordinance itself should stand.

Of course it ought not be assumed that Council would issue the bonds, in the face of *in re Jaegle*, without amending the form so as to exclude all reference to Chap-

ter 325 of the Laws of 1911, as well as all reference to the Act of 1904, because of the decision in the Sea Isle City case.

The defendants respectfully submit that, if the form of bonds impairs the validity of the resolution fixing that form, the ordinance itself is not affected, because a merely supplemental, amendatory or substitute resolution may readily be passed correcting whatever is necessary in the form of bonds.

IV.

THE SIXTH REASON IS NOT WARRANTED BY THE FACTS.

The sixth reason filed reads as follows :

“6. The plans under Ordinance Number 117 provide for the furnishing of electric current and power to private consumers, which prosecutor maintains the City of Millville has no power to do.” (Book, page 58.)

The ordinance provides for the erection of a plant or system in the streets of Millville, for public lighting only.

The specifications referred to in the ordinance are Specification A. Mr. Temple was examined by the prosecutor and he testified as follows (bottom page 159, etc.) :

“Ques. Then the plans and specifications that you have prepared for the City of Millville, as sub-divided under three heads, A, B and C, provide for both public and private lighting, don't they ?

Ans. I don't think that I would collect them up in that manner as the specifications and as to their range of use. Those specifications collectively I did not prepare; I prepared them separately, A for street lighting only; B for station equipment to

suit that street lighting; C for such purposes as they may be used, among others the one that you suggest; that is, for commercial lighting.”

(Bottom page 160, top page 161):

“Ques. Schedule C provides for commercial lighting, don't it?

Ans. Yes, among other uses for it.

Ques. Among other purposes?

Ans. Yes, but A does not; that is, these three nouns which are—specification A is one of the nouns, so is specification B, so is specification C—they don't convey to that object those things which you want me to answer yes to. Yes is not an answer; they don't convey that idea. A does not provide for commercial lighting, provides purely and simply and exclusively and only for street lighting, and as an expert I would almost by force prevent a man from putting it in his house, for it would kill him as sure as he went within a sufficient distance of the circuit to turn on or off a light.”

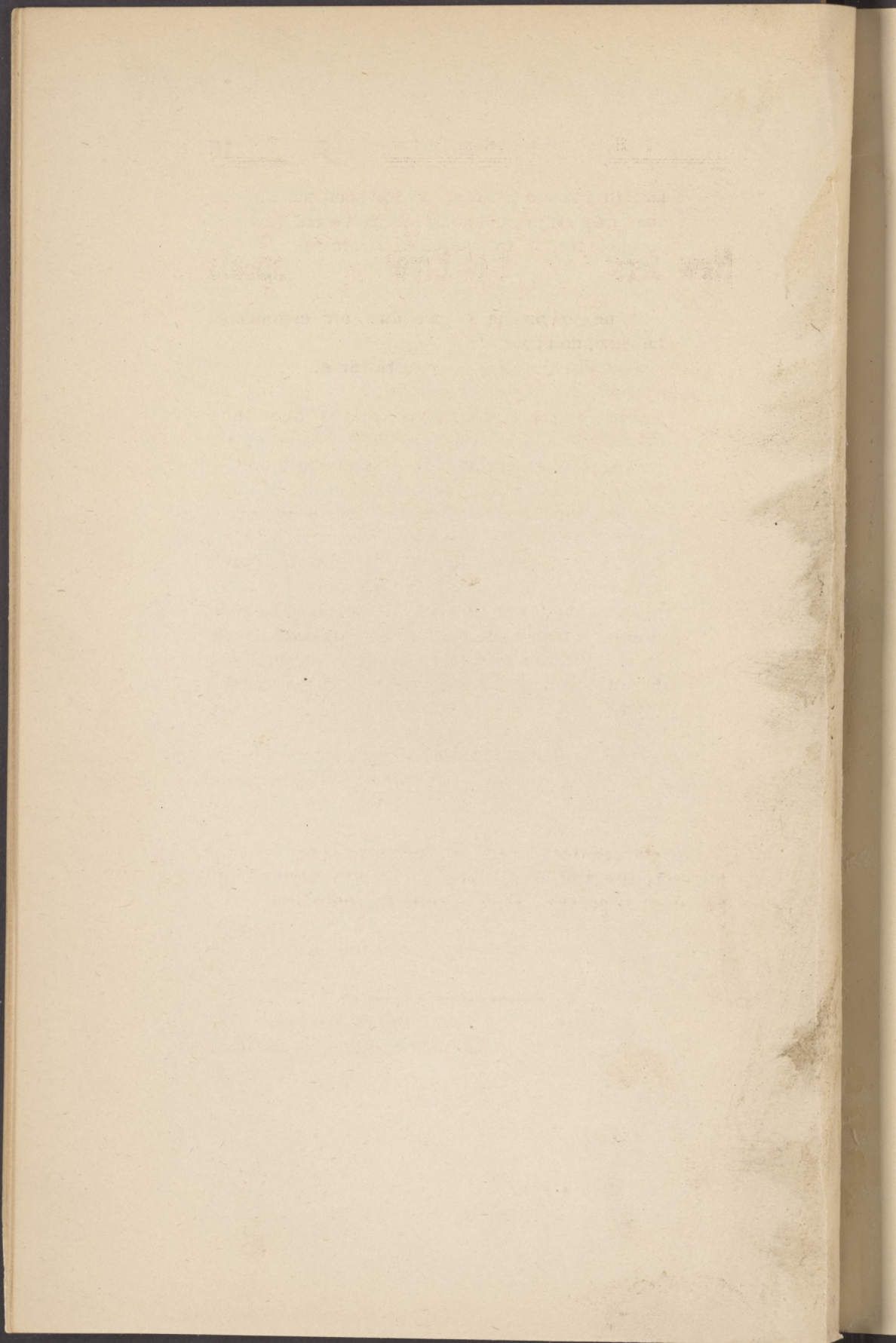
The testimony wholly disposes of facts assumed by the pleader in the sixth reason filed; so that the sixth reason should be dismissed from consideration.

There are no reasons assigned against the regularity of the proceedings of the Common Council in passing Ordinance Number 117. And because the ordinance was a valid exercise of power conferred on the Common Council of the City of Millville the ordinance should be affirmed.

Respectfully submitted,

LOUIS H. MILLER,

Of Counsel with City of Millville.

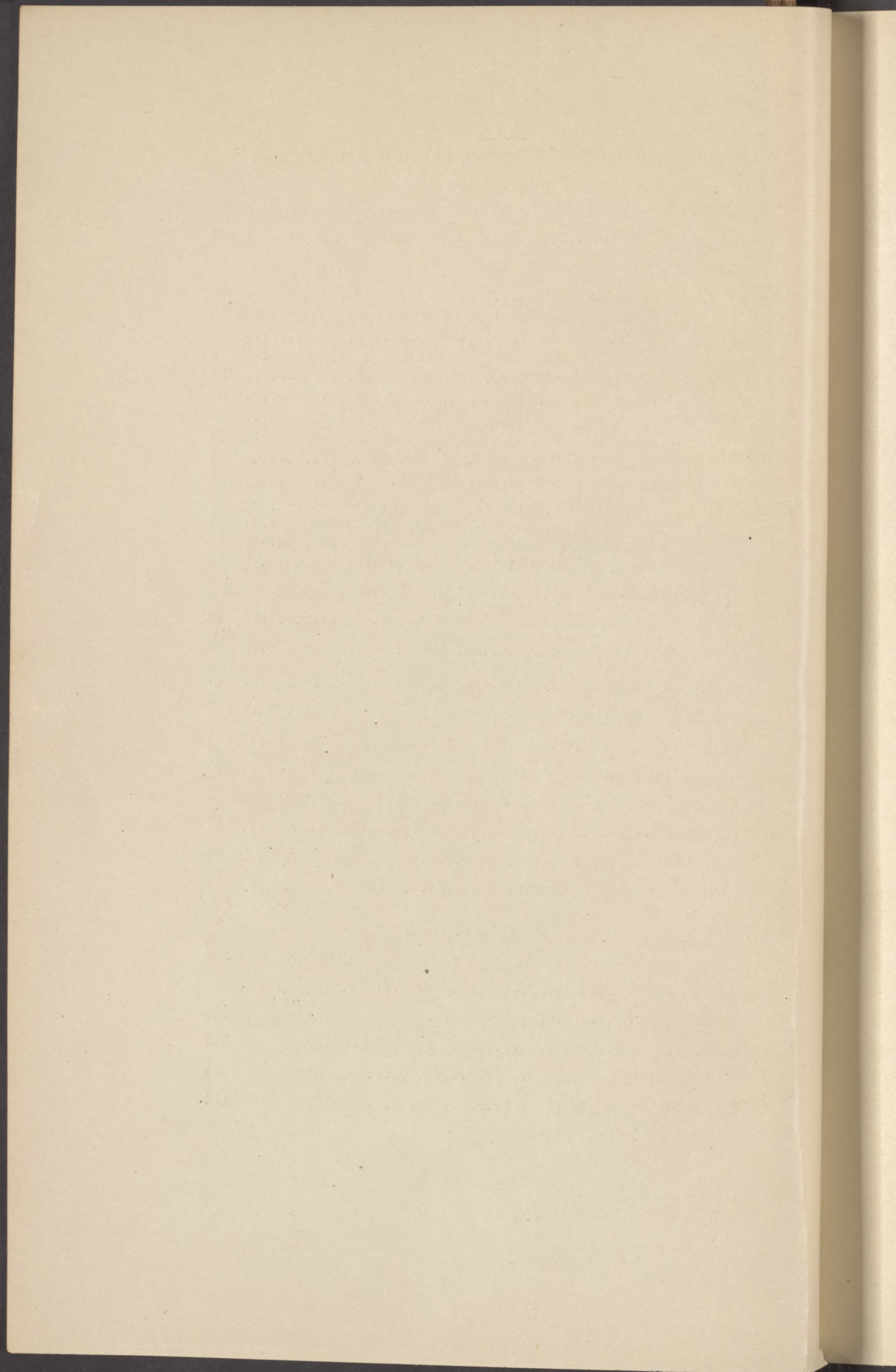


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Writ and Return Ordinance No. 117 and Proceedings
Thereunder.

NEW JERSEY, ss.

The State of New Jersey to the Mayor
and Common Council of the City of Mill-
(Seal) ville, and Worrall E. S. Temple, Greet- 10
ing: We being willing for certain rea-
sons appearing by the depositions read
and argument of counsel heard on the return of rule
to show cause heretofore granted in this matter to be
certified of a certain ordinance of the Mayor and
Common Council of the City of Millville, passed on
November First, 1912, entitled "An Ordinance pro-
viding for the construction by and for the City of
Millville of an electric light distributing system for
public lighting," and known as Ordinance Number 20
117, together with certain resolutions passed by said
Common Council under and by virtue of said ordi-
nance fixing form of bonds to be issued, fixing form
of Instruction to Bidders, Contract and Contract-
or's Bond and any and all proceedings taken by the
said City of Millville, under and by virtue of said
Ordinance Number 117, relative to the construction
of an electric light distributing system or the estab-
lishment of an electric lighting plant or system in
said City of Millville. 30

We do therefore command you that the said
ordinance entitled "An Ordinance providing for the
construction by and for the City of Millville of an
Electric Light Distributing System," and known as
Ordinance Number 117, together with certain reso-
lutions passed by said City Council under and by
virtue of said ordinance fixing form of bonds to be

issued; fixing form of Instruction to Bidders, Contract and Contractor's Bond, and any and all proceedings had or taken by the said City of Millville under and by virtue of said Ordinance Number 117 relative to the construction of an Electric Light Distributing System or the establishment of an Electric Lighting Plant or System in said City of Millville and all matters and things touching and concerning the same as fully and entirely before you they remain to our Justices of our Supreme Court of
10 Judicature at Trenton on the Sixth Day of December, A. D., 1912, you do certify and send together with this writ that therein may be done what of right and according to the laws and constitution of this State ought to be done.

Witness, William S. Gummere, Chief Justice of our Supreme Court, at Trenton, this Eighteenth Day of November, A. D., Nineteen Hundred and Twelve.

JOS. P. TUMULTY,
Clerk.

20

HERBERT C. BARTLETT,
Attorney.

30

ENDORSEMENT.

NELSON G. LIVERMORE,
Prosecutor,

vs.

THE MAYOR AND COMMON COUNCIL OF THE
CITY OF MILLVILLE AND WORRALL

E. S. TEMPLE.

10

WRIT OF CERTIORARI.

ORDINANCE NO. 117

Returnable December 6th, 1912.

20

This Writ Allowed by the Court November 18, 1912.

THOMAS W. TRENCHARD,
Justice Supreme Court

HERBERT C. BARTLETT,
Attorney of Prosecutor, Vineland, N. J.

30

**Extract From Minutes of Common Council, Millville,
New Jersey, September 1st, 1911.**

Council was called to order in regular monthly session by President Miller all members being present excepting Mr. Radcliffe.

Mr. Felmey introduced the following:—

10

RESOLUTION NO. 37. A resolution authorizing and directing an election to determine whether or not the City of Millville shall issue bonds for the payment of the cost of the acquisition, construction, maintenance and operation of a plant or plants for the production and distribution of light, heat and power in the said city and elsewhere.

20

Be it resolved by the Mayor and Common Council of the City of Millville:

30

FIRST: That an election be held in the City of Millville to determine whether or not the city shall issue bonds for the payment of the cost of the acquisition, construction, operation and maintenance of a plant or plants for the production and distribution or either, of light, heat and power, for its own public purposes, and for the purpose of selling and supplying the same to its own inhabitants or to any other municipality, or both, and to acquire all necessary real estate, works, machinery and appurtenances for supplying light, heat and power for such purpose, and to purchase light, heat and power from any other municipality pursuant to the provisions of Chapter 325 of the Pamphlet Laws of the State of New Jersey, session of 1911.

SECOND: That the said election shall be

held in the said city on Tuesday, the Seventh Day of November, 1911, and that the City Recorder is hereby authorized and directed to advertise the said election according to the tenth section of the said Act of the Legislature.

239-40-41. The above resolution was adopted.

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30

Extract From Minutes of Common Council, Millville,
N. J., December 1, 1911.

Council met in regular monthly session. President Miller in the chair. Mr. Counsellor being the only absentee.

10 The following statements of the result of a special election to determine whether or not the City of Millville shall issue bonds for the payment of the cost of the acquisition, construction, maintenance and operation of a plant or plants, for the production and distribution of light, heat and power in the said city and elsewhere, were reported to Council by the Recorder.

20 "Statement of the result of a special election to determine whether or not the City of Millville shall issue bonds for the payment of the cost of the acquisition, construction, maintenance and operation of a plant or plants for the production and distribution of light, heat and power in the said city and elsewhere, held in the First Election District of the First Ward, City of Millville, in the County of Cumberland, and State of New Jersey, on Tuesday, the Seventh Day of November, Ninteen Hundred and Eleven, to wit:

30 At said election the total number of votes cast was two hundred and twenty-two.

The total number of ballots cast 'For the issue of bonds for the purchase of distributing plant' was ninety.

The total number of ballots cast 'Against the issue of bonds for the purchase of distributing plant' was fifty-two.

The total number of ballots 'For the issue

of bonds for the purchase of distributing plant' rejected was two.

The total number of ballots 'Against the issue of bonds for the purchase of distributing plant' rejected was two.

The total number of ballots rejected because neither of said propositions were marked off was....

The total number of ballots rejected was....

We hereby certify the foregoing to be a true and correct statement of the result of the special election held in such district at the time and for the purpose above stated; that the same truly and correctly exhibits the entire number of votes cast for each proposition at such election; the whole number of ballots rejected and the number of such ballots rejected relating to each proposition; all which as fully and entirely as the same appears before the said Board.

R. L. MOHR,
HENRY O. BURT,
ARTHUR CROSSLEY,
C. L. RAMSEY,

Board of Registry and Election in and for the First Election District of the First Ward of the City of Millville, New Jersey.

"Statement of the result of a special election to determine whether or not the City of Millville shall issue bonds for the payment of the cost of the acquisition, construction, maintenance and operation of a plant or plants for the production and distribution of light, heat and power in the said city and elsewhere, held in the Section Election District of the First Ward, City of Millville, in the County of Cum-

berland, and State of New Jersey, on Tuesday, the Seventh Day of November, Nineteen Hundred and Eleven, to wit:

At said election the total number of votes cast was two hundred and twenty.

The total number of ballots cast 'For the issue of bonds for the purchase of distributing plant' was one hundred and eight.

10 The total number of ballots cast 'Against the issue of bonds for the purchase of distributing plant' was eighteen.

The total number of ballots 'For the issue of bonds for the purchase of distributing plant' rejected was none.

The total number of ballots 'Against the issue of bonds for the purchase of distributing plant' rejected was none.

The total number of ballots rejected because neither of said propositions were marked off was eighty-eight.

20 The total number of ballots rejected was six.

We hereby certify the foregoing to be a true and correct statement of the result of the special election held in such district at the time and for the purpose above stated; that the same truly and correctly exhibits the entire number of votes cast for each proposition at such election; the whole number of ballots rejected and the number of such ballots rejected relating to each proposition; all which as fully and entirely as the same appears before the said Board.

30

JOS. E. HUMMELL,
WILLIS R. JOHNSON,
RAYMOND H. GARRISON,
CHESTER A. HUMMELL,

Board of Registry and Election in and

for the Second Election District of the First Ward of the City of Millville, New Jersey.”

“Statement of the result of a special election to determine whether or not the City of Millville shall issue bonds for the payment of the cost of the acquisition, construction, maintenance and operation of a plant or plants for the production and distribution of light, heat and power in the said city and elsewhere, held in the Third District of the First 10 Ward, City of Millville, in the County of Cumberland, and State of New Jersey, on Tuesday, the Seventh Day of November, Nineteen Hundred and Eleven, to wit:

At said election the total number of votes cast was one hundred and fifteen.

The total number of ballots cast ‘For the issue of bonds for the purchase of distributing plant’ was forty-six.

The total number of ballots cast ‘Against 20 the issue of bonds for the purchase of distributing plant’ was thirty-one.

The total number of ballots ‘For the issue of bonds for the purchase of distributing plant’ rejected was none.

The total number of ballots ‘Against the issue of bonds for the purchase of distributing plant’ rejected was none.

The total number of ballots rejected because neither of said propositions were 30 marked off was two.

The total number of ballots rejected was two.

We hereby certify the foregoing to be a true and correct statement of the result of the special election held in such district at the time and for the purpose above stated; that the same truly and correctly exhibits the num-

ber of votes cast for each proposition at such election; the whole number of ballots rejected relating to each proposition; all which as fully and entirely as the same appears before the said Board.

JOHN C. STRATTON,
JOHN F. L. GREEN,
HOWARD W. VANAMAN,
NICHOLAS GRINER,

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Board of Registry and Election in and for the Third Election District of the First Ward of the City of Millville, New Jersey.”

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“Statement of the result of a special election to determine whether or not the City of Millville shall issue bonds for the payment of the cost of the acquisition, construction, maintenance and operation of a plant or plants for the production and distribution of light, heat and power in the said city and elsewhere, held in the Fourth Election District of the First Ward, City of Millville, in the County of Cumberland, and the State of New Jersey, on Tuesday, the Seventh Day of November, Nineteen Hundred and Eleven, to wit:

At such election the total number of votes cast was one hundred and seventy-four.

30

The total number of ballots cast ‘For the issue of bonds for the purchase of distributing plant’ was fifty-eight.

The total number of ballots cast ‘Against the issue of bonds for the purchase of distributing plant’ was forty-eight.

The total number of ballots ‘For the issue of bonds for the purchase of distributing plant’ rejected was none (0).

The total number of ballots ‘Against the issue of bonds for the purchase of distributing

plant' rejected was none (0).

The total number of ballots rejected because neither of said propositions were marked off was sixty-eight.

The total number of ballots rejected was two.

We hereby certify the foregoing to be a true and correct statement of the result of the special election held in such district at the time and for the purpose above stated; that the same truly and correctly exhibits the entire number of votes cast for each proposition at each election; the whole number of ballots rejected and the number of such ballots rejected relating to each proposition; all which as fully and entirely as the same appears before the said Board. 10

JOSEPH GASKILL,
B. F. ROCAP,
WM. H. MARTS,
THOMAS P. MATTICKS, 20

Board of Registry and Election in and for the Fourth Election District of the First Ward of the City of Millville, New Jersey."

"Statement of the result of a special election to determine whether or not the City of Millville shall issue bonds for the payment of the cost of the acquisition, construction, maintenance and operation of a plant or plants for the production and distribution of light, heat and power in the said city and elsewhere held in the First Election District of the Second Ward, City of Millville, in the County of Cumberland, and State of New Jersey, on Tuesday, the Seventh Day of November, Nineteen Hundred and Eleven, to wit: 30

At said election the total number of votes cast was one hundred and seventy-nine.

The total number of ballots cast 'For the issue of bonds for the purchase of distributing plant' was seventy.

The total number of ballots cast 'Against the issue of bonds for the purchase of distributing plant' was sixty-two.

10 The total number of ballots 'For the issue of bonds for the purchase of distributing plant' rejected was....

The total number of ballots 'Against the issue of bonds for the purchase of distributing plant' rejected was....

The total number of ballots rejected because neither of said propositions were marked off was forty-seven.

The total number of ballots rejected was forty-seven.

20 We hereby certify the foregoing to be a true and correct statement of the result of the special election held in such district at the time and for the purpose above stated; that the same truly and correctly exhibits the entire number of votes cast for each proposition at such election; the whole number of ballots rejected and the number of such ballots rejected relating to each proposition; all which as fully and entirely as the same appears before said Board.

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WILBERT J. SIMMERMAN,
JOHN J. WHITAKER,
HENRY R. ERRICKSON,
ALFRED PETERS,

Board of Registry and Election in and for the First Election District of the Second Ward of the City of Millville, New Jersey."

“Statement of the result of a special election to determine whether or not the City of Millville shall issue bonds for the payment of the cost of the acquisition, construction, maintenance and operation of a plant or plants for the production and distribution of light, heat and power in the said city and elsewhere, held in the Second Election District of the Second Ward, City of Millville, in the County of Cumberland, and the State of New Jersey, on Tuesday, the Seventh Day of November, Nineteen Hundred and Eleven, to wit: 10

At said election the total number of votes cast was one hundred and ninety-eight.

The total number of ballots cast ‘For the issue of bonds for the purchase of distributing plant’ was ninety-two.

The total number of ballots cast ‘Against the issue of bonds for the purchase of distributing plant’ was forty-five. 20

The total number of ballots ‘For the issue of bonds for the purchase of distributing plant’ rejected was none (0).

The total number of ballots ‘Against the issue of bonds for the purchase of distributing plant’ rejected was none (0).

The total number of ballots rejected because neither of said propositions were marked off was fifty-four.

The total number of ballots rejected was 30 seven.

We hereby certify the foregoing to be a true and correct statement of the result of the special election held in such district at the time and for the purpose above stated; that the same truly and correctly exhibits the entire number of votes cast for each proposition at such election; the whole number of ballots

rejected and the number of such ballots rejected relating to each proposition; all which as fully and entirely as the same appears before the said Board.

ARTHUR RADCLIFFE,
WILLIAM F. LOPER,
CHAS. B. IRELAND,
MATLACK R. CASSADY.

10 Board of Registry and Election in and for the Second Election District of the Second Ward of the City of Millville, New Jersey."

20 "Statement of the result of a special election to determine whether or not the City of Millville shall issue bonds for the payment of the cost of the acquisition, construction, maintenance and operation of a plant or plants for the production and distribution of light, heat and power in the said city and elsewhere, held in the First Election District of the Third Ward, City of Millville, in the County of Cumberland, and State of New Jersey, on Tuesday, the Seventh Day of November, Nineteen Hundred and Eleven, to wit:

At said election the total number of votes cast was two hundred and twenty-eight.

The total number of ballots cast 'For the issue of bonds for the purchase of distributing plant' was forty-three.

30 The total number of ballots cast 'Against the issue of bonds for the purchase of distributing plant' was ninety-three.

The total number of ballots 'For the issue of bonds for the purchase of distributing plant' rejected was none.

The total number of ballots 'Against the issue of bonds for the purchase of distributing plant' was none.

The total number of ballots rejected because neither of said propositions were marked off was ninety-two.

The total number of ballots rejected was none.

We hereby certify the foregoing to be a true and correct statement of the result of the special election held in such district at the time and for the purpose above stated; that the same truly and correctly exhibits the entire number of votes cast for each proposition at such election; the whole number of ballots rejected and the number of such ballots rejected relating to each proposition; all which as fully and entirely as the same appears before the said Board. 10

RALPH H. LEE,
RICHARD WILKINSON,
JAS. I. McCORRISTON,
EDWARD KERSHAW,

Board of Registry and Election in and for the First Election District of the Third Ward of the City of Millville, New Jersey." 20

"Statement of the result of a special election to determine whether or not the City of Millville shall issue bonds for the payment of the cost of the acquisition, construction, maintenance and operation of a plant or plants for the production and distribution of light, heat and power in the said city and elsewhere, held in the Second Election District of the Third Ward, City of Millville, in the County of Cumberland, and the State of New Jersey, on Tuesday, the Seventh Day of November, Nineteen Hundred and Eleven, to wit: 30

At said election the total number of votes

cast was two hundred and ninety-three.

The total number of ballots cast 'For the issue of bonds for the purchase of distributing plant' was sixty-four.

The total number of ballots cast 'Against the issue of bonds for the purchase of distributing plant' was ninety-eight.

The total number of ballots 'For the issue of bonds for the purchase of distributing plant' rejected was three.

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The total number of ballots 'Against the issue of bonds for the purchase of distributing plant' rejected was three.

The total number of ballots rejected because neither of said propositions were marked off was one hundred and twenty-one.

The total number of ballots rejected was three.

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We hereby certify the foregoing to be a true and correct statement of the result of the special election held in such district at the time and for the purpose above stated; that the same truly and correctly exhibits the entire number of votes cast for each proposition at such election; the whole number of ballots rejected and the number of such ballots rejected relating to each proposition; all which as fully and entirely as the same appears before the said Board.

30

WM. H. KERSHAW,
WM. BROWN, Jr.,
FRANK G. SCOTT,
PHILIP K. HUSTED,

Board of Registry and Election in and for the Second Election District of the Third Ward of the City of Millville, New Jersey."

"Statement of the result of a special election to determine whether or not the City

of Millville shall issue bonds for the payment of the cost of the acquisition, construction, maintenance and operation of a plant or plants for the production and distribution of light, heat and power in the said city and elsewhere, held in the Third Election District of the Third Ward, City of Millville, in the County of Cumberland, and State of New Jersey, on Tuesday, the Seventh Day of November, Nineteen Hundred and Eleven, to wit:

10

At said election the total number of votes cast was one hundred and eighteen.

The total number of ballots cast 'For the issue of bonds for the purchase of distributing plant' was forty-one.

The total number of ballots cast 'Against the issue of bonds for the purchase of distributing plant' was twenty-eight.

The total number of ballots 'For the issue of bonds for the purchase of distributing plant' rejected was none. 20

The total number of ballots 'Against the issue of bonds for the purchase of distributing plant' rejected was none.

The total number of ballots rejected because neither of said propositions were marked off was forty-eight.

The total number of ballots rejected was one.

We hereby certify the foregoing to be a true and correct statement of the result of the special election held in such district at the time and for the purpose above stated; that the same truly and correctly exhibits the entire number of votes cast for each proposition at such election; the whole number of ballots rejected and the number of such ballots rejected relating to each proposition; all which 30

as fully and entirely as the same appears before the said Board.

ARCHIE BRANIN,
JOHNSON L. BENNETT,
JOHN L. TOMLIN,
LORENZO ROSE,

Board of Registry and Election in and for the Third Election District of the Third Ward of the City of Millville, N. J.”

10

“Statement of the result of a special election to determine whether or not the City of Millville shall issue bonds for the payment of the cost of the acquisition, construction, maintenance and operation of a plant or plants for the production and distribution of light, heat and power in the said city and elsewhere held in the First Election District of the Fourth Ward, City of Millville, in the County of Cumberland and State of New Jersey, on Tuesday, the Seventh Day of November, Nineteen Hundred and Eleven, to wit:

20

At said election the total number of votes cast was one hundred and twenty-three.

The total number of ballots cast ‘For the issue of bonds for the purchase of distributing plant’ was twenty-nine.

The total number of ballots cast ‘Against the issue of bonds for the purchase of distributing plant’ was thirty-nine.

30

The total number of ballots ‘For the issue of bonds for the purchase of distributing plant’ rejected was none.

The total number of ballots ‘Against the issue of bonds for the purchase of distributing plant’ rejected was none.

The total number of ballots rejected because neither of said propositions were marked off was none.

The total number of ballots rejected was three.

We hereby certify the foregoing to be a true and correct statement of the result of the special election held in such district at the time and for the purpose above stated; that the same truly and correctly exhibits the entire number of votes cast for each proposition at such election; the whole number of ballots rejected and the number of such ballots rejected relating to each proposition; all which 10 as fully and entirely as the same appears before the said Board.

JOHN F. CHARLESWORTH,
STACY N. EWAN,
FRANK WATHIER,
EDWARD P. STEWART,

The Board of Registry and Election in and for the First Election District of the Fourth Ward of the City of Millville, New 20 Jersey.”

“Statement of the result of a special election to determine whether or not the City of Millville shall issue bonds for the payment of the cost of the acquisition, construction, maintenance and operation of a plant or plants for the production and distribution of light, heat and power in the said city and elsewhere, 30 held in the Second Election District of the Fourth Ward, City of Millville, in the County of Cumberland, and the State of New Jersey, on Tuesday, the Seventh Day of November, Nineteen Hundred and Eleven, to wit:

At said election the total number of votes cast was two hundred and four.

The total number of ballots cast ‘For the

issue of bonds for the purchase of distributing plant' was sixty-two.

The total number of ballots cast 'Against the issue of bonds for the purchase of distributing plant' was forty-seven.

The total number of ballots 'For the issue of bonds for the purchase of distributing plant' rejected was—

10

The total number of ballots 'Against the issue of bonds for the purchase of distributing plant' rejected was none.

The total number of ballots rejected because neither of said propositions were marked off was none.

The total number of ballots rejected was none.

20

We hereby certify the foregoing to be a true and correct statement of the result of the special election held in such district at the time and for the purpose above stated; that the same truly and correctly exhibits the entire number of votes cast for each proposition at such election; the whole number of ballots rejected and the number of such ballots rejected relating to each proposition; all which as fully and entirely as the same appears before the said Board.

30

PETER S. SAMPSON,
FRANCIS L. REEVES,
THEODORE F. BIRCH,
WILLIAM J. McCARTHY,

Board of Registry and Election in and for the Second Election District of the Fourth Ward of the City of Millville, New Jersey."

"Statement of the result of a special election to determine whether or not the City of Millville shall issue bonds for the payment of

the cost of the acquisition, construction, maintenance and operation of a plant or plants for the production and distribution of light, heat and power in the said city and elsewhere held in the Third Election district of the Fourth Ward, City of Millville, in the County of Cumberland, and the State of New Jersey, on Tuesday, the Seventh Day of November, Nineteen Hundred and Eleven, to wit:

At said election the total number of votes cast was one hundred and fifty-eight. 10

The total number of ballots cast 'For the issue of bonds for the purchase of distributing plant' was thirty-nine.

The total number of ballots cast 'Against the issue of bonds for the purchase of distributing plant' was forty-five.

The total number of ballots 'For the issue of bonds for the purchase of distributing plant' rejected was four.

The total number of ballots 'Against the issue of bonds for the purchase of distributing plant' rejected was four. 20

The total number of ballots rejected because neither of said propositions were marked off was seventy.

The total number of ballots rejected was seventy-four.

We hereby certify the foregoing to be a true and correct statement of the result of the special election held in such district at the time and for the purpose above stated; that the same truly and correctly exhibits the entire number of votes cast for each proposition at such election; the whole number of ballots rejected and the number of such ballots rejected relating to each proposition; all 30

which as fully and entirely as the same appears before the said Board.

EDWARD A. WARDEN,
JOHN PIKE,
R. L. ROBINSON,
FRANK R. BEAKLEY,

Board of Registry and Election in and for the Third Election District of the Fourth Ward of the City of Millville, New Jersey."

10

Summary of the foregoing results:

Total number of votes cast was 2232.

Total number of ballots cast "for the issue of bonds for the purchase of distributing plant" was 742.

Total number of ballots cast "against the issue of bonds for the purchase of distributing plant" was 606.

20

Total number of ballots "for the issue of bonds for the purchase of distributing plant" rejected was nine.

Total number of ballots "against the issue of bonds for the purchase of distributing plant" rejected was nine.

Total number of ballots rejected because neither of said propositions was marked off was 590.

Total number of ballots rejected was 145.

30

Said reports were accepted and ordered filed.

Following is a Copy of the Notice of Said Election Published.

“City of Millville. Notice of Election.

Pursuant to section ten of an act of the Legislature of New Jersey, entitled ‘An Act to authorize and empower any municipality to acquire or construct, to maintain and to operate a plant or plants for the production and distribution (or either) of light, heat and power for its own public purposes and for the purpose of selling and supplying the same to its own inhabitants or to any other municipality (or both) and to acquire all necessary real estate and works and machinery for supplying light, heat and power for such purposes and to purchase light, heat and power produced by any other municipality. approved May First, Nineteen Hundred and Eleven,’ and a resolution of the Common Council of the City of Millville, passed the Eighth Day of September, Nineteen Hundred and Eleven, notice is hereby given that an election will be held on the Seventh Day of November, Nineteen Hundred and Eleven, at the several polling places in the City of Millville, at which the general election is held; that said election will commence at the hour of six o’clock in the morning and shall close at seven o’clock in the evening, and shall be kept open during the whole day of election between the hours aforesaid; provided, the board of election may adjourn such election from one o’clock until two o’clock in the afternoon, or for such shorter time between said hours as they shall see fit; that the said elec-

tion shall be consolidated with the general election to be held on the said date; that the purpose of the said election shall be to determine whether or not the Mayor and Common Council of the City of Millville shall issue bonds for the acquisition, construction, maintenance and operation of a plant or plants for the production and distribution (or either of) light, heat and power for its own public purposes, and for the purpose of selling and supplying the same to its own inhabitants or to any other municipality (or both), and to acquire all necessary real estate, and works and machinery for supplying light, heat and power for such purpose; that the Recorder of the City of Millville will provide or cause to be provided ballots for each voter voting at such election upon which ballot (and beneath the list of candidates thereon), will be printed the following words; 'For the issue of bonds for the purchase of distributing plant,' and immediately thereunder the proposition 'Against the issue of bonds for the purchase of distributing plant,' and the voters may vote to authorize the issue of bonds for such purpose by marking off or obliterating the second proposition, or may vote against such issue by marking off or obliterating the first proposition.

Dated Millville, New Jersey, October 6, 1911.

L. H. HOGATE,
City Recorder

JOSEPH F. SMITH,
City Solicitor.

10-13-20-27-11-3."

Extracts From Minutes of Council.

Millville, N. J., February 2nd, 1912.

Council met in regular monthly meeting, President Rockhill in the chair besides whom there were present: Cossaboom, Felmey, White, Mitchell, Horton, Sheppard, Richards, Brown, Wade, Wheaton, Troth, 12. Absent, Radcliffe, 1. Mr. Felmey moved that when Council adjourn it be to February 16 next. 10
This was agreed to.

Millville, N. J., February 16, 1912.

Council met in adjourned meeting, President Rockhill in chair, besides whom were present: Cossaboom, Felmey, White, Mitchell, Horton, Sheppard, Radcliffe, Richards, Brown, Wade, Troth, 12. Absent, Wheaton, 1.

Mr. Felmey offered the following resolution:

Resolved, that the special committee on 20
light and the Finance Committee employ an expert electrical engineer to draw up necessary plans and specifications and consult with Council on municipal lighting problems, and that these committees be empowered to do any advertising they may deem necessary in the solution of the light question.

The above resolution was adopted, and the Finance Committee was appointed according to 30
as was also Mr. Cossaboom, to constitute the fourth member of the special committee.

**Extract From Minutes of Common Council.
Millville, N. J.**

March 1, 1912.

Council met in regular monthly meeting,

President Rockhill presiding, all members being present. The joint committee on "light" reported a conference with an expert, Prof. Temple, and had engaged him at an expense of \$200 for plans, specifications and advice on the subject. The committee's action in the matter was approved and the Recorder directed to notify Mr. Temple of Council's action.

10 **Extract From Minutes of Common Council,
 Millville, N. J.**

May, 10, 1912.

20 Council met in adjourned session. President Rockhill was in the chair and all members being present. Mr. Horton, referring to the light question, moved that the standing committees on finance and water and the light committee be directed to employ a competent engineer to prepare plans and specifications and advertise for bids for furnishing poles, wires, etc. After making satisfactory arrangements in regard to purchase of current for lighting streets, the motion prevailed by a unanimous vote.

On motion of Mr. Mitchell the special committee on lighting was discharged with thanks.

30 **Extract From the Minutes of Common Council,
 Millville, N. J.**

June 7, 1912.

Council met in regular session, President Rockhill in the chair, all members being present. Mr. Horton introduced the following resolution:

"Resolution Number 42. A resolution authorizing a contract with Worrall E. S.

Temple, Electrical Engineer, for the furnishing of plans and specifications for the construction of an electric lighting system in the City of Millville. Be it resolved by the Mayor and Common Council of the City of Millville. 1. That the Mayor and Common Council of the City of Millville enter into a contract with Worrall E. S. Temple, electrical engineer, for the furnishing of plans and specifications for the construction, operation and maintenance of an electric lighting system in the City of Millville; said contract to contain as nearly as possible the provisions contained in the annexed letter dated May 22, 1912, from said Temple to John S. Horton.”

10

Then comes the letter alluded to:

“Philadelphia, Pa., May 22, 1912.

Mr. John Horton,
Chairman Lighting Committee,
Millville City Council,
Millville, N. J.

20

Dear Sir—In accordance with the action of your committee on May 14, I am sending you a list of the items to be agreed upon between the City of Millville and myself in connection with the engineering work on your proposed lighting system.

I would be obliged if you will go over these and let me have your suggestion regarding any of them, either as to changes or additions. We can then have the agreement put in legal form, ready for the proper signatures.

30

1. The City of Millville shall furnish all reasonable assistance in estimating commercial load to be carried on proposed lines.

2. The City of Millville shall furnish me, through their City Solicitor, a complete state-

ment, setting forth the agreements which exist between the city and the various companies now having poles erected in the city limits. This refers to telephone, telegraph and trolley poles, as well as to the poles of the present lighting company. It is necessary for me to have this information in planning the new line. This information is to be supplied as soon as possible.

10 3. The City of Millville is to provide me with information as to any desired changes in the general location of the lights from the present location. This information is to be supplied as soon as possible.

4. I accept the responsibility for the planning of the entire pole line, the arrangement of all the wiring, also the entire station equipment.

20 5. I accept the responsibility for the arrangement of the contracts and specifications for the various portions of the work.

6. No contract for any portion of the work is to be let except with the joint approval of the City of Millville and myself.

30 7. Monthly estimates of the amount due any contractor for portions of the work completed are to be prepared by me on a certain day each month. A stated percentage is to be deducted from the amount due and the remaining portion is to be paid to the contractor upon the approval of the City of Millville and myself.

8. Upon the satisfactory completion of any contract and upon the acceptance of the work, the final payments are to be paid to the contractor.

9. The cost of the preparation of the plans and specifications is to be borne by me.

10. The cost of inspection of all portions

of the plant, as well as the testing of the same, is to be borne by me, except where any contractor has exceeded the time limit agreed upon for the completion of his work. The contractor in this case will be penalized a certain amount each week. The expense incurred by me as a result of this delay on the part of the contractor, is to be paid to me from this fine. The balance of said fine, after the amount due me has been paid is to be turned over to the City of Millville. 10

11. My fee for the engineering work on this plant—which includes the preparation of the plans and specifications, supervising the letting of contracts, the inspection of the material used and of the construction work as it is done, a complete test of the various portions of the plant as they are finished, a test of the entire plant when completed, also directions for the work of operating the completed plant—is to be ten (10) per cent. of the actual cost of the plant, less the two hundred dollars (\$200) already paid for the preliminary plans. 20

The plant as to scope and extent, is to be built in accordance with the preliminary plans already prepared by me.

12. Payments are to be paid to me in three installments as follows:

On July 15, 1912, seven hundred dollars (\$700). 30

On August 15, 1912, seven hundred dollars (\$700).

On September 15, 1912, seven hundred dollars (\$700).

The balance of the amount due upon the completion of the plant.

All payments contingent on work pro-

gressing in a satisfactory manner to City Council.

As soon as you have had an opportunity to go over the above items, I shall be very glad to hear further from you.

Very truly yours,

(Signed) W. E. S. TEMPLE."

The resolution was adopted by a unanimous vote on roll call.

10

**Extracts From Minutes of Common Council,
Millville, N. J.**

October 4, 1912.

Council met in regular session, President Rockhill in the chair. The roll call showed as present Rockhill, Cossaboom, Felmey, White, Horton, Sheppard, Radcliffe, Richards, Brown, Troth, Wheaton, 11; as absent, Mitchell, Wade, 2.

20

Municipal lighting plant—Engineer Temple after a statement made by Counsellor L. H. Miller, filed maps and specifications relative to the lighting plant; on motion the same was received and ordered filed. A letter from Mr. Temple was read in which he states that his contract with the city dated June 15th, 1912, with the exception of the construction work supervision (was completed); on motion the letter was received and fiffled.

30

On October 4, 1912, the defendant, Worrall E. S. Temple, submitted to the Common Council of the City of Millville, a letter in the words and figures following, to wit:

“To the Common Council of the City of Millville:

Gentlemen:

I have performed my contract with the

City of Millville, dated June Fifteenth, Nineteen Hundred and Twelve, with the exception of that part relating to the supervision of construction work. The terms of my proposal for the engineering work, now embodied in my contract were framed along lines which had been previously followed by me in acting as supervising engineer for private corporations. Your committee has suggested that the form of contract usually entered into for construction work in Millville has worked out very satisfactorily in the past and that the committee would prefer that the standard form of contract heretofore used by the city be used in fixing the terms of agreement with the contractor. Also your committee has suggested that the letting of contracts is controlled by the New Jersey statutes, so that no supervision is required by an engineer. Therefore, to meet these suggestions of your committee, which seem to be well considered and proper, I am perfectly willing that my contract as engineer be modified as indicated by the draft of supplemental contract attached, and if agreeable to the Common Council I will sign such supplemental contract. With great respect, I am truly yours,

(Signed) W. E. S. TEMPLE.

Dated October 4, 1912.

The following resolution was adopted:

Resolved by the Common Council of the City of Millville, and Worrall E. S. Temple, Electrical Engineer, be modified by supplemental agreement in the form of that attached hereto and marked A. (Here follows draft of supplemental agreement which was executed pursuant to the resolution October 4th, 1912, and which reads as follows):

“SUPPLEMENTAL AGREEMENT made the Fourth Day of October, Nineteen Hundred and Twelve, between the Mayor and Common Council of the City of Millville, a municipal corporation of the State of New Jersey, party of the first part, and Worrall E. S. Temple, of the City of Philadelphia, in the State of Pennsylvania, party of the second part, witnesseth:

10 1. The agreement made between the parties hereto bearing date June Fifteenth, Nineteen Hundred and Twelve, shall be, and the same hereby is, modified in the following particulars:

20 (a). The stipulation in said agreement contained that no contract for any portion of any work, labor or materials for or toward the construction and erection of the lighting plant or system referred to in said agreement shall not be let without the approval of the parties to said agreement and the City Solicitor, is hereby wholly abrogated, so that the letting of all and every part of the work shall be done by Common Council without any restraint or supervision by the engineer, party of the second part hereto, or the City Solicitor; (b) any covenants or agreement on the part of the engineer set out and contained, or intended so to be, in said agreement, or in the proposal of the engineer which formed the basis of said contract to the effect that the engineer should draw or prepare or supervise

30 the drawing and preparing of the contract for the work in the agreement referred to is hereby abrogated and the preparation and form of said contract, form or proposal for the work and form of contractor's bond shall remain wholly within the discretion of the Common Council of the City of Millville.

2. Otherwise than hereinbefore stated

the original contract of June Fifteenth, Nineteen Hundred and Twelve, between the parties shall remain binding and of full force.

In witness whereof the City of Millville, pursuant to resolution of Common Council has caused its corporate seal to be hereto affixed and these presents to be signed by its Mayor and attested by its Recorder, and the party of the second part has hereto set his hand and seal the day and year first aforesaid.

THE MAYOR AND COMMON COUNCIL OF
THE CITY OF MILLVILLE, By

10

(Seal) (Signed) W. FRED. WARE,
Mayor.

Attest:

(Signed) L. H. HOGATE,
City Recorder.

(Signed) W. E. S. TEMPLE, (Seal)

Witness to signature of Worrall E. S. Temple, 20

(Signed) LOUIS H. MILLER.

Mr. Horton offered the following resolutions:

Resolved by the Common Council of the City of Millville that when the Common Council do now adjourn, it be to meet again in adjourned regular session on the Twenty-fifth Day of October, instant, at seven thirty o'clock P. M.

30

Resolved further, that notice of intention to introduce at said adjourned meeting an ordinance entitled, "An Ordinance providing for the construction by and for the City of Millville of an electric light distributing system for public lighting," a copy of which is attached hereto, be published by the City Recorder according to law. (Attached to said

resolution is a draft of ordinance as per copy set out in the proof of publication of Ordinance 117 hereinafter mentioned).

The above resolution was adopted by a unanimous vote in the affirmative on roll call.

**Extracts From Minutes of Common Council,
Millville, N. J.**

10

October 25, 1912.

Council met in adjourned session and according to advertisement, President Rockhill in the chair. The roll call showed as present: Rockhill, Cossaboom, Felmev, White, Mitchell, Horton, Radcliffe, Richards, Troth, 9; as absent, Sheppard, Brown, Wade, Wheaton, 4.

20

Proof of publication of notice of intention to introduce an ordinance providing for the construction by and for the City of Millville of an electric light distributing system for public lighting was presented and being in due form was ordered filed.

(Said affidavit of publication reads as follows):

Proof of Publication.

30

STATE OF NEW JERSEY, }
COUNTY OF CUMBERLAND, } ss.

W. E. Middleton, of full age, being duly sworn, according to law on his oath, deposes and says that he is the publisher of the "Millville Daily Republican," a newspaper printed and published at the City of Millville, in the County of Cumberland and State of New Jer-

sey; and that the notice, of which the annexed printed slip is a true copy, was printed and published in the said newspaper on the Ninth Day of October, Nineteen Hundred and Twelve, and continued to be printed and published in the said newspaper for three weeks successively, at least once in each week, the last publication of said notice on the Twenty-Third Day of October, Nineteen Hundred and Twelve, and that the dates on which said publication were made as aforesaid are: 10

January,	191 July	191
February,	191 August,	191
March,	191 September,	191
April,	191 October 9, 16, 23	1912
May,	191 November,	191
June,	191 December,	191

Sworn to and sub-
scribed before me this
25th Day of October,
Nineteen Hundred and
Twelve. } W. E. MIDDLETON, 20

LOUIS H. MILLER,
Master in Chancery of N. J.

Endorsed October 25, 1912.

L. H. HOGATE,
City Recorder.

The City of Millville.

NOTICE OF INTENTION.

To Whom It May Concern,—

10 Take notice that an ordinance, a copy whereof is hereinafter set out, will be introduced in the Common Council of the City of Millville at an adjourned regular meeting of that body to be held at the Council Chamber, in the City Hall, in the City of Millville, on the Twenty-fifth Day of October, Nineteen Hundred and Twelve, at seven thirty o'clock in the evening.

20 The general object of said ordinance is to provide for the erection forthwith by the City of Millville of a system of polls, wires, conductors and appurtenances for the transmission of electric current, for the purpose of lighting with electricity the streets and public places in this city, and for such purpose to erect and construct all necessary posts, poles, lanterns and fixtures on and along the roads, streets, lanes and alleys specified and indicated for said purpose in the plans and specifications prepared by Worrall E. S. Temple, Engineer, filed with the City Recorder, October 4, 1912; the cost thereof to be raised by an issue of bonds of the City of Millville; all of which will more fully appear by the copy of said ordinance hereinafter set out.

30

Following is a copy of the ordinance so intended to be introduced:

ORDINANCE NUMBER—

An Ordinance providing for the construction by and for the City of Millville of an Electric Light Distributing System for public lighting.

WHEREAS, in the opinion of the Common Council, the construction by the city of an electric light distributing system will ensure better service to the public and is likely to result in economy to the city by encouraging competitive bidding by contractors desiring to furnish electric current to the city for public lighting, therefore,

Be it ordained by the Mayor and Common Council of the City of Millville:

10

1. There shall be erected forthwith by this municipality, and maintained, a system of poles, wires, conductors and appurtenances, for the transmission of electric currents, for the purpose of lighting with electricity the streets and public places in this city, and for such purpose there shall be constructed all necessary posts, poles, lanterns and fixtures on and along the roads, streets, lanes and alleys specified and indicated for said purpose 20 in the plans and specifications of Worrall E. S. Temple, Engineer, hereinafter referred to, and at the points and places and in the manner in said plans and specifications indicated.

2. Said electric light distributing system shall be constructed in accordance with the plans and specifications prepared by Worrall E. S. Temple, Electrical Engineer, designated "Specifications A," filed with the City Recorder, October Fourth, 1912; where alterna- 30 tive materials or appliances are referred to in said plans and specifications, that finally to be selected shall be adopted by resolution of Common Council; the posts, poles, wires and appliances shall be erected and lamps placed at the points indicated on said plans; all changes in material, and the selection of lamps and other materials provided for in the

alternative shall be made before the letting of any contract.

10 3. The construction of said plant or system shall be let by contract, to the lowest responsible bidder, reserving to Common Council the right to reject any and all bids, after proposals for such work shall have been advertised according to law; all work shall be done under the supervision of Worrall E. S. Temple, Electrical Engineer, or his successor appointed by Council, and the Committee on of Common Council; the said committee is directed to advertise forthwith for proposals for said work in the manner prescribed by law.

20 4. To raise the moneys to pay for said work, bonds of the city shall be issued to the amount of thirty-five thousand dollars, or for so much thereof as may be necessary for said purposes; which bonds shall bear date November First, Nineteen Hundred and Twelve; shall draw interest at the rate of four and one-half per centum per annum, payable semi-annually; shall be of denominations of one hundred dollars or such multiples thereof not exceeding one thousand dollars as the purchasers may elect; shall be payable thirty years after date; shall bear the seal of the city; shall be signed by the Mayor, countersigned by the Treasurer and attested by the Recorder; said

30 bonds shall be either registered or coupon bonds at the option of the purchaser, and all coupons shall be executed with the fac simile signature of the Treasurer; said bonds shall be payable principal and interest at the Millville National Bank, and shall be in such form as Council shall, by resolution, approve. All said bonds shall be numbered, and a register of such numbers, the date of issuing and time

of payment of the same shall be made by the Treasurer in a book to be provided for that purpose. The interest on said bonds shall be raised annually by taxation, and the principal of said bonds shall be paid by the city at maturity; there shall be placed annually in the tax levy of the city such sum as will be sufficient to pay the interest on said bonds as it falls due and a sum equivalent to two per centum of the par value of the said bonds issued and outstanding, as a sinking fund, and such portion of said tax as shall have been collected for the interest on said bonds shall be paid by the taxing officers into the city treasury and such portion thereof as shall have been collected for said sinking fund shall be paid by said taxing officers to the Sinking Fund Commissioners appointed under Ordinance Sixty-one, or their successors, who are hereby constituted commissioners to hold the sinking fund hereby established, with like powers and duties touching the management thereof as are conferred and imposed on them by said Ordinance No. 61 with reference to the sinking fund by that ordinance established; said bonds shall be sold by Common Council from time to time as may be necessary, at public sale, by means of sealed bids.

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5. All ordinances and parts of ordinances inconsistent herewith are hereby repealed; and this ordinance shall take effect immediately on its publication as required by law.

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Passed.....1912

.....

Recorder.

Approved.....1912

.....

Mayor.

And notice is further given that it is the intention of Common Council to consider said ordinance at said time and place and subsequently to duly pass the same, either in the said form or with such proper amendments as Council may deem advisable; and that all persons interested in said proposed ordinance will be given ample opportunity to be heard at such time and place and at such other time and place as the said ordinance may be before
 10 Common Council for consideration.

Dated Millville, N. J., October 8, 1912.

By order of Common Council.

L. H. HOGATE,

10-9-3t w

City Recorder.

An ordinance providing for the construction by and for the City of Millville of an electric light distributing system for public lighting was introduced, passed first reading and was laid over.
 20

**Extract From Minutes of Common Council,
 Millville, N. J.**

November 1, 1912.

Council met in regular session, President Rockhill in the chair; besides whom were present: Cossaboom, Felmey, White, Mitchell, Horton, Sheppard, Radcliffe, Richards, Brown, Wade, Troth, 12. Absent Wheaton, 1.
 30

An ordinance providing for the construction by and for the City of Millville of an electric light distributing system for public lighting, introduced and passed on first reading October 25, 1912, was taken up, read and adopted by a unanimous vote in the affirmative on the call of the roll.

The following resolution was adopted:
(Here follows resolution 45, which reads as follows):

RESOLUTION NUMBER 45.

A Resolution Fixing the Form of Instructions to Bidders, Proposals, Contract and Contractor's Bond For the Work to Be Done Under Provisions of Ordinance Number 117.

10

Resolved By the Common Council of the City of Millville:

1. That the instructions to bidders, proposals, contract and contractor's bond for the construction of the municipal electric lighting system, pursuant to the provisions of Ordinance Number 117, shall be in the form hereto annexed, and the conditions and requirements to be entered into set out in said annexed form of instructions, proposals, contract and contractor's bond are hereby adopted and approved; and resolved further, that a sufficient number of printed pamphlets containing said instructions to bidders, form of proposals contract (exclusive of maps and drawings) and contractor's bond shall be printed and distributed under direction of the committee having supervision of the work forthwith upon the said ordinance becoming effective, and that said committee also then forthwith advertise for bids for the performance of said work according to law, and that the said committee and engineer cause a brief advertisement of such call for proposals to be printed for at least one insertion in one or more of the electrical engineering publications.

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2. Bids for said work shall be received by Common Council on Wednesday, the

Eleventh Day of December, 1912, at 7.30 o'clock in the evening at the Council Chamber in the City Hall, and shall be immediately opened according to law. The Common Council reserves the right to reject any or all bids, and advertisements for proposals shall so state.

Adopted November 1st, 1912.

L. H. HOGATE,
City Recorder.

10

Attached to the foregoing resolutions are the documents therein referred to.

A resolution fixing the bonds to be issued in pursuance of Ordinance Number 117 was presented:

(Here follows the resolution referred to which reads as follows):

20

A Resolution Fixing the Form of Bonds to Be Issued in Pursuance of Ordinance Number 117.

Resolved by the Common Council of the City of Millville, that the bonds to be issued under and in pursuance of Ordinance Number, of this city, be in the form of the schedule hereto annexed and marked Schedule "A."

Adopted November 1st, 1912.

30

L. H. HOGATE,
City Recorder.

SCHEDULE "A."

**Form of Bonds to Be Issued in Pursuance of
Ordinance No.**

UNITED STATES OF AMERICA.
STATE OF NEW JERSEY.

CITY OF MILLVILLE ELECTRIC BOND

No. \$

The Mayor and Common Council of the 10
City of Millville, a municipal corporation,
created and existing under the laws of the
State of New Jersey, hereby acknowledges
itself to be indebted, and for value received
promises to pay, to the bearer hereof, or, if
registered, to the registered owner hereof, his
executors, administrators or assigns, at the
Millville National Bank, New Jersey, the sum
of Dollars, lawful
money of the United States of America, on the 20
First Day of November, One Thousand, Nine
Hundred and Forty-two, together with inter-
est thereon at the rate of four and one-half
per centum per annum, payable semi-annually
at the same place in like money, on the First
Days of November and May in each year, on
presentation and surrender of the proper an-
nexed coupons, or when registered, and with-
out coupons, to the registered owner hereof.
This bond, at the option of the owner, may be 30
registered both as to principal and interest;
or the same may be registered as to principal
only and when registered only as to principal
the coupons hereto attached shall continue to
be payable to bearer. If registered only as to
principal this bond may, at the owner's op-
tion, at any time be registered as to interest
also.

10 If registered only as to principal this bond may be released from registry, at any time, at the option of, and by proper endorsement made hereon by the owner; but if registered both as to principal and interest this bond may then only be released from registry upon surrender hereof to the treasurer and payment to him of the expense of printing and executing a duplicate with proper coupons attached, which duplicate shall not be prepared, executed nor delivered without a resolution of the Common Council or its successors in authority.

20 This bond is one of a series of bonds aggregating the sum of THIRTY-FIVE THOUSAND DOLLARS (numbered consecutively from one to, inclusive, of like tenor, date, amount and effect, (if of different amounts the bond shall so state) issued under and by virtue of an Ordinance of the City of Millville entitled, "An Ordinance providing for the construction by and for the City of Millville of an Electric Light Distributing System for public lighting," known as Ordinance Number, passed by Common Council,, 1912, and approved by the Mayor.....

301912. The said ordinance is intended to provide (1) for the construction by and for the City of Millville of an Electric Light Distributing System for public lighting, under the authority (a) of an act of the Legislature of the State of New Jersey entitled, "An Act authorizing the lighting of public streets and places in cities, towns, townships, boroughs and villages of the State, and to erect and maintain the proper appliances," approved May 22, 1894. (P. L. 1894, page 477; 3 Comp. Stat. of New Jersey, page

3548, Sec. 351), and (b) Chapter 325 of the laws of the Legislature of New Jersey, Session of 1911. (P. L. 1911, page 690); and also (2) said Ordinance Number provides for the issue and sale of this issue of bonds in pursuance of authority granted by the following acts of the Legislature of New Jersey, to wit, (A) P. L. 1894, page 477, aforesaid; (B) P. L. 1895, page 464, 1 Comp. Stat. of N. J. page 930, Sec. 1239; (C) P. L. 1904, page 87; and (D) P. L. 1911, page 690, aforesaid. 10

It is hereby certified that, at an election duly called for that purpose held in and for the City of Millville on November 7, 1911, to determine whether or not the City of Millville shall issue bonds for the payment of the cost of the acquisition, construction, maintenance and operation of a plant or plants for the production and distribution of light, heat and power in the said city and elsewhere, which election was called and duly held in pursuance 20 of the provisions of section 10 of the chapter 325 of said laws of 1911, the total number of ballots cast "for the issue of bonds for the purchase of distributing plant" was 742, the total number of ballots cast "against the issue of bonds for the purchase of distributing plant" was 606, the total number of ballots "for the issue of bonds for the purchase of distributing plant" rejected was 9, the total number of ballots "against the issue of bonds 30 for the purchase of distributing plant" rejected was 9, the total number of ballots rejected because neither of said propositions was marked off was 590.

And it is further certified that all the requirements of law have been complied with by the proper authorities and officers of said city in issuing this bond, and that the afore-

said election was duly called, noticed, held and the results thereof returned and recorded as required by law, and that said Ordinance Number contains all the provisions regarding the raising of money to pay the interest hereon and the establishing of a sinking fund for the redemption hereof, required by law.

10 It is further certified that the entire bonded and floating indebtedness of the said municipality, including this issue of bonds, does not exceed, nor equal, fifteen per centum of the taxable value of the real and personal property rated for assessment in said city.

20 IN WITNESS WHEREOF the Mayor and Common Council of the City of Millville has caused its corporate seal to be hereto affixed and these presents to be signed by its Mayor, countersigned by its Treasurer and attested by its Recorder, and the coupons hereto attached to be executed by the signature of its Treasurer, this First Day of November, A. D., One Thousand, Nine Hundred and Twelve.

THE MAYOR AND COMMON COUNCIL OF
THE CITY OF MILLVILLE, BY

.....
Mayor.

30 Seal of the
City of
Millville

Countersigned by
.....
Treasurer.

Attest:
.....
City Recorder.

(FORM OF COUPON).

No. \$.....

The Mayor and Common Council of the City of Millville, New Jersey, will pay to the bearer the sum of dollars in lawful money of the United States of America, at the Millville National Bank, Millville, N. J., on the First Day of (November or May) 19.., being six months' interest that day due on its Electric Light Bond 10 No., dated November 1, 1912.

.....
Treasurer.

(The following is to be endorsed on Bond.)

This bond may be registered on the books of the treasurer of the City of Millville, New Jersey, in the owner's name, at the office of the treasurer, such registry to be noted on the bond by the treasurer, after which no transfer shall be valid unless made on the 20 books of the treasurer at the request in writing of the registered owner or his legal representative, duly authorized thereto by power of attorney, or by letters of administration or testamentary, and the transfer similarly noted on the bond; but this bond may be released from registry by being transferred to bearer and notice of such transfer made as hereinbefore and according to the terms of this bond provided, after which this bond shall be trans- 30 ferable by delivery, but it may be again registered as before. The registry of the bond shall not restrain the negotiability of the coupons by delivery merely unless the coupons be surrendered and the interest thereon made payable to the registered owner.

No writing below except by the treasurer of the City of Millville.

Date of Registry	In Whose Name	Registered as To Principal Only
.....
.....
.....
.....
.....
.....

10	Registered Both as to Principal and Interest	Registry Noted by
.....
.....
.....
.....
.....
.....

20 (The following is also to be endorsed on the Bond).

30 It is hereby certified that upon the written request of the owner of this bond the coupons attached to said bond, being.....
in number and numbered consecutively from.....to..... inclusive, for the sum of..... dollars each, were on this day detached and destroyed, and that the principal of the said bond, as well as the interest, is to be paid to the registered owner hereof or the legal representatives, successors or assigns of such owner, at the Millville National Bank, Millville, New Jersey.

Dated Millville, New Jersey.....
, 19....

Treasurer of the City of Millville, N. J.

(The following is also endorsed on the
Bond.)

NUMBER.....

—————

CITY OF MILLVILLE, STATE OF NEW JERSEY, U. S. A. ELECTRIC LIGHT BOND 4½ Per Cent.	10
-----------------------------------------------------------------------------------------------	----

\$.....

—————

Interest Payable November 1st and May 1st; Principal due November 1, 1942.	20
Principal and Interest payable at the Millville National Bank, Millville, New Jersey, U. S. A.	30

A RESOLUTION FIXING THE FORM OF BONDS
TO BE ISSUED IN PURSUANCE OF
ORDINANCE NUMBER.....

ADOPTED NOV. 1st, 1912.

10

L. H. HOGATE,
City Recorder.

THE ABOVE RESOLUTION WAS
ADOPTED.

20

30

THE CITY OF MILLVILLE.

In the Matter of the Publication of an Ordinance Providing for the Construction By and For the City of Millville of an Electric Light Distributing System For Public Lighting Known as Ordinance Number 117.	}	Affidavit of Posting Ordinance Number 117.	10
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---	--------------------------------------------	----

State of New Jersey,
County of Cumberland, ss.

W. Fred Ware, being duly sworn according to law, on his oath deposes and says: That he is now and since January First, Nineteen Hundred and Eleven, has been the Mayor of the City of Millville, New Jersey, and that deponent on the Seventh Day of November, Nineteen Hundred and Twelve, published the Ordinance of said city known as Ordinance number One Hundred and Seventeen, a copy of which is hereto attached and is made a part hereof, by duly posting the same in five or more of the most public places in the City of Millville, to wit:

- One at Rockhill's Garage, West Main St.
- One at Millville Post Office.
- One at Ludlam's Drug Store.
- One at City Hall.
- One at S. W. Cor. High and Broad St.
-

And deponent further says that he also

caused said ordinance to be published twice in the Millville Daily Republican, a newspaper printed, published and circulated in the said city, to wit, on November Sixth, and November Thirteenth, Nineteen Hundred and Twelve, as by the affidavit of the publisher of said newspaper hereto attached more fully appears.

10 Sworn to and subscribed before me this 2nd Day of November, 1912. } W. FRED WARE.

THEODORE F. BIRCH,
Notary Public of N. J.

Proof of Publication.

20 STATE OF NEW JERSEY, }
COUNTY OF CUMBERLAND, } ss.

30 W. E. Middleton, of full age, being duly sworn, according to law on his oath, deposes and says that he is the publisher of the "Millville Daily Republican," a newspaper printed and published at the City of Millville, in the County of Cumberland and State of New Jersey; and that the notice, of which the annexed printed slip is a true copy, was printed and published in the said newspaper on the Sixth Day of November, Nineteen Hundred and Twelve, and continued to be printed and published in the said newspaper for two weeks successively, at least once in each week, the last publication of said notice being on the thirteenth Day of November, Nineteen Hundred and Twelve, and that the dates on which said publication were made as aforesaid are:

January,	191 July	191
February,	191 August,	191
March,	191 September,	191
April,	191 October,	191
May,	191 November, 6, 13,	1912
June,	191 December,	191

Sworn to and sub-
 scribed before me this
 Day of.....
 Nineteen Hundred and

 W. E. MIDDLETON,
 10

ORDINANCE NUMBER 117.

An ordinance providing for the construction by and for the City of Millville of an Electric Light Distributing system for public lighting.

WHEREAS, in the opinion of the Common Council, the construction by the city of an electric light distributing system will ensure better service to the public and is likely to result in economy to the city by encouraging competitive bidding by contractors desiring to furnish electric current to the city for public lighting, therefore, 20

Be it ordained by the Mayor and Common Council of the City of Millville:

1. There shall be erected forthwith by this municipality, and maintained, a system of poles, wires, conductors and appurtenances, for the transmission of electric currents, for the purpose of lighting with electricity the streets and public places in this city, and for such purpose there shall be constructed all necessary posts, poles, lanterns and fixtures on and along the roads, streets, lanes and alleys specified and indicated for said purpose in the plans and specifications of Worrall E. S. Temple, Engineer, hereinafter referred to, and at the points and places and in the man- 30

ner in said plans and specifications indicated.

10 2. Said electric light distributing system shall be constructed in accordance with the plans and specifications prepared by Worrall E. S. Temple, Electrical Engineer, designated "Specifications A," filed with the City Recorder, October Fourth, 1912; where alternative materials or appliances are referred to in said plans and specifications, that finally to be selected shall be adopted by resolution of Common Council; the posts, poles, wires and appliances shall be erected and lamps placed at the points indicated on said plans; all changes in material, and the selection of lamps and other materials provided for in the alternative shall be made before the letting of any contract.

20 3. The construction of said plant or system shall be let by contract, to the lowest responsible bidder, reserving to Common Council the right to reject any and all bids, after proposals for such work shall have been advertised according to law; all work shall be done under the supervision of Worrall E. S. Temple, Electrical Engineer, or his successor appointed by Council, and the Committee on Finance together with the Light Committee of Common Council; the said committee is directed to advertise forthwith for proposals for said work in the manner prescribed by law.

30 4. To raise the moneys to pay for said work, bonds of the city shall be issued to the amount of thirty-five thousand dollars, or for so much thereof as may be necessary for said purpose; which bonds shall bear date November First, Nineteen Hundred and Twelve; shall draw interest at the rate of four and one-half per centum per annum, payable semi-annually; shall be of denominations of one hundred dollars or such multiples thereof not ex-

ceeding one thousand dollars as the purchasers shall elect; shall be payable thirty years after date; shall bear the seal of the city; shall be signed by the Mayor, countersigned by the Treasurer and attested by the Recorder; said bonds shall be either registered or coupon bonds at the option of the purchaser, and all coupons shall be executed with the fac simile signature of the Treasurer; said bonds shall be payable principal and interest at the Millville National Bank, and shall be in such form as Council shall, by resolution, approve. All said bonds shall be numbered, and a register of such numbers, the date of issuing and time of payment of the same shall be made by the Treasurer in a book to be provided for that purpose. The interest on said bonds shall be raised annually by taxation, and the principal of said bonds shall be paid by the city at maturity; there shall be placed annually in the tax levy of the city such sum as will be sufficient to pay the interest on said bonds as it falls due and a sum equivalent to two per centum of the par value of the said bonds issued and outstanding, as a sinking fund, and such portion of said tax as shall have been collected for the interest on said bonds shall be paid by the taxing officers into the city treasury and such portion thereof as shall have been collected for said sinking fund shall be paid by said taxing officers to the Sinking Fund Commissioners appointed under Ordinance Sixty-one, or their successors, who are hereby constituted commissioners to hold the sinking fund hereby established, with like powers and duties touching the management thereof as are conferred and imposed on them by said Ordinance No. 61 with reference to the sinking fund by that ordinance established; said bonds shall be sold by Com-

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mon Council from time to time as may be necessary, at public sale, by means of sealed bids.

5. All ordinances and parts of ordinances inconsistent herewith are hereby repealed; and this ordinance shall take effect immediately on its publication as required by law.

Passed November 1, 1912.

L. H. HOGATE, Recorder.

Approved November 4, 1912.

11 6 2t W. FRED WARE, Mayor.

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THE CITY OF MILLVILLE

In the Matter of the Publication of an Ordinance Providing for the Construction By and for the City of Millville of an Electric Light Distributing System for Public Lighting Known as Ordinance Number 117.

Affidavit of Posting and Publishing Ordinance Number 117.

Filed Nov. 30, 1912.

L. H. HOGATE,

City Recorder.

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The ordinance and resolutions, record and proceedings within mentioned together with all things touching or concerning the same as fully and entirely as they remain before it, the Mayor and Common Council of the City of Millville, doth certify and send to the Justices of the Supreme Court as within it is commanded.

30

In witness whereof the said municipality hath caused its corporate seal to be hereto affixed and these presents to be signed by its Mayor and attested by the Recorder, this Thirtieth Day of November, 1912.

THE MAYOR AND COMMON COUNCIL
OF THE CITY OF MILLVILLE,

By W. FRED WARE, Mayor.

Attest: L. H. HOGATE.

Reasons.

(Filed December 13, 1912.)

NEW JERSEY SUPREME COURT.

NELSON G. LIVERMORE,
Prosecutor.

vs.

THE MAYOR AND COMMON COUNCIL of the
CITY OF MILLVILLE,
and WORRALL E. S. TEMPLE,

Respondents.

On Certiorari.
Reasons.

10

The said prosecutor by Herbert C. Bartlett, his attorney, comes and prays that the ordinance of the Mayor and Common Council of the City of Millville entitled "An Ordinance providing for the construction by and for the City of Millville of an electric light distributing system for public lighting" and known as Ordinance No. 117, and all resolutions and proceedings had or taken thereunder looking toward the establishment of an electric lighting plant or electric light distributing system in said City of Millville may be set aside, reversed and for nothing holden for the following reasons: 20

1. The said Ordinance known as Ordinance No. 117 and all proceedings had thereunder are illegal and void for the reason that they are dependent upon the proceedings looking to the establishment of an electric lighting plant or distributing system in the City of Millville, the legality of which is attacked in the proceedings now pending in this Court in a case entitled "Walter Wood, prosecutor, against The Mayor and Common Council of the City of Mill- 30

ville and Worrall E. S. Temple," for the reasons set forth in that case.

2. Because said Ordinance No. 117 proposes to construct "forthwith" and to advertise "forthwith" for proposals for the work to be done in erecting or constructing an electric light distributing system when no appropriation has been made to meet the expense of the same and no funds are on hand for that purpose.

10 3. The power to issue Bonds under Ordinance No. 117 is dependent upon an election held in the City of Millville on the Seventh Day of November, 1911, which election prosecutor maintains is illegal.

4. Under the election held November Seventh, 1911, the vote to issue Bonds failed of a necessary majority.

5. Prosecutor maintains that the voters at that election voted to purchase a distributing system and not to erect such a system.

20 6. The plans under Ordinance No. 117 provide for the furnishing of electric current and power to private consumers, which prosecutor maintains the City of Millville has no power to do .

7. That under the Act of 1894 the Mayor and Common Council of the City of Millville have no power to issue Bonds for the construction of a Distributing Plant, the Act providing the expenses of such a plant to be raised by taxation.

30 8. That the city has no power to issue Bonds under Ordinance 117 by virtue of any power given to it under the Acts of 1895 or 1904, said Acts either not relating to proceedings of this nature or providing a different method of raising funds for work of this kind.

9. The \$35,000 issue of Bonds referred to in Ordinance No. 117 are the Bonds the validity of which is attacked in the certiorari case of Wood against the Mayor and Common Council of the City

of Millville and Worrall E. S. Temple for the reasons set forth therein.

10. Because no vote has been taken for the issue of bonds under Ordinance No. 117 except the vote taken November Seventh, 1911, under the act of 1911, which vote and election is challenged in the case of Wood against the Mayor and Common Council of Millville and Worrall E. S. Temple, for reasons therein set forth.

11. The ordinance is invalid especially in so far as the bond issue is concerned for the reason that the city is attempting to tack together Four Acts of the Legislature of New Jersey to sanction the issue of such bonds, by reason of which it cannot be ascertained under which of these Acts it relies for its bond issue, and furthermore it has no power under any of the Acts above mentioned to issue bonds. 10

12. Because no referendum or vote of the people has been had for the issue of bonds as provided for in Ordinance No. 117, except under the Act of 1911, which is challenged in Wood against the City of Millville, &c., and a bonded indebtedness cannot be created for the purpose of establishing an electric lighting distributing system without a vote of the people. 20

13. Because the Act of 1911 has been declared to be invalid by the Supreme Court, said Act being entitled "An Act to authorize and empower any municipality to acquire or construct to maintain and to operate a plant or plants for the production and distribution (or either) of light, heat and power for its own public purposes, of selling and supplying the same to its own inhabitants or to any other municipality (or both) and to acquire all necessary real estate and works and machinery for supplying light, heat and power for such purposes and to purchase light, heat and power produced by any other municipality." Chapter 325, Laws of 1911, page 690. 30

14. Because said Ordinance No. 117 and the resolutions and proceedings thereunder are in divers other respects illegal and should be set aside and for nothing holden.

HERBERT C. BARTLETT,
Attorney of Prosecutor.

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NEW JERSEY SUPREME COURT.

NELSON G. LIVERMORE,

Prosecutor,

vs.

THE MAYOR AND COMMON COUNCIL OF
THE CITY OF MILLVILLE AND

WORRALL E. S. TEMPLE,

10

Respondents.

ON CERTIORARI.

REASONS—ORDINANCE NO. 117.

20

HERBERT C. BARTLETT,

Attorney of Prosecutor, Vineland, N. J.

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NEW JERSEY SUPREME COURT.

NELSON G. LIVERMORE,
Prosecutor,
vs.
THE MAYOR AND COMMON COUNCIL of the
CITY OF MILLVILLE and
WORRALL E. S. TEMPLE,
Respondents.

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On Certiorari.
Depositions.

Depositions taken by agreement of attorney of Prosecutor and Respondents in the above entitled matter at the office of Joseph F. Smith, City Solicitor of Millville, at his office, Mechanics Bank Building, in the City of Millville, on Thursday, the Fourteenth Day of November, 1912, depositions taken stenographically and signature of witnesses waived, Same taken before Theorore F. Birch, Commissioner of Deeds for New Jersey, by agreement of counsel of respective parties.

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Appearances:

Herbert C. Bartlett, Esq., for the Prosecutor.

Joseph F. Smith, Esq., and Louis H. Miller, Esq., for the Respondents.

Nelson G. Livermore, the Prosecutor, being duly sworn according to law on his oath said:

30 By Mr. Bartlett:

Q. Mr. Livermore, you reside in the City of Millville?

A. Yes.

Q. And how many years have you resided in this city?

A. Since 1887.

Q. And are now a resident of the city?

A. I am.

Q. Are you an owner of real estate in the City?

A. I am.

Q. What real estate do you own in the City of Millville?

A. The house and lot on the northeast corner of Buck and McNeal Streets.

Q. Any other real estate?

A. And one-half of a double house on the southwest corner. 10

Q. Have you the deeds for those properties?

A. I have.

Q. If you let me take them—

A. That is the first, and that is the second.

(The prosecutor offers in evidence deed from Theodore C. Wheaton and wife to Nelson G. Livermore, dated November 14, 1885, recorded in the Clerk's Office of Cumberland County, in Book 177 of Deeds, Folio 150, etc., 20 to be marked Exhibit P. 1. Also a deed from Lydia A. Adams and husband to Nelson G. Livermore, dated June 12, 1900, recorded June 22, 1900, in Book 254 of Deeds, Folio 465, etc., for property in the City of Millville, marked Exhibit P. 2.)

(It was agreed that the deeds would be considered as marked, but not actually so marked in order not to deface the deeds). 30

Q. What value do you place on those properties today, Mr. Livermore?

A. Well, one is approximately \$2,000 and the other I paid a thousand for.

Q. You are the prosecutor named in the certiorari suit in which you have just sworn?

A. Yes.

CROSS-EXAMINATION.

By Mr. Miller:

Q. Are you the real prosecutor in this case or is the Millville Electric Light Company the actual prosecutor?

A. Well, I don't know what legal terms you can twist around that. I am the man who appeared there and made up the papers and signed the affidavit.

10 Q. Did you cause the affidavit to be prepared, or Mr. Franklin?

A. I am acting under the advice of our attorney.

Q. You mean who, by "our attorney?"

A. I mean Mr. Bartlett.

Q. When you said, "our" did you mean the attorney for the Gas, Electric Light and Water Company?

A. The attorney who called me—I am in the habit of saying our whether it be for my own or for
20 me.

Q. Did you employ Mr. Bartlett yourself?

Mr. Bartlett:

I object to that question inasmuch as the witness has testified that he is the prosecutor in the case, and evidence outside of this is inadmissible.

Q. Did you employ Mr. Bartlett yourself?

(Question re-read).

30 Q. Did you employ Mr. Bartlett yourself?

A. Well, I was called upon by him at this stage of the proceedings to make this affidavit.

Q. Did you employ him to make it or did he bring the affidavit to you after it had been prepared and before you had spoken to him about it?

A. I was in his office when it was prepared.

Q. Who procured you to go to his office?

A. I went according to his call.

Q. Are you the Secretary of the Millville Electric Light Co.?

A. Yes.

Q. How long have you been the Secretary?

A. Since it was organized.

Q. And about how many years is that, approximately?

A. I have not in my mind exactly now.

Q. As much as twenty years?

A. Probably.

Q. Have you retained Mr. Bartlett in this suit 10
with the expectation of personally paying him, and if not, what is your understanding as to the source from which his payment of counsel fee is to come?

Mr. Bartlett:

That question is objected to on the ground that whatever agreement exists between myself and Mr. Livermore is not a part of these proceedings.

(Question read).

20

A. Well, I don't know that I want to say just where his counsel fee comes from.

Q. Do you expect to pay it yourself or do you not expect the Electric Light Company or the Gas Company or the Water Company to pay for it?

A. I expect his fee will be paid, but I don't know exactly the source from which it will come.

Q. You don't expect to pay it out of your own funds?

30

A. Probably not.

Q. Then from what source do you expect that the expenses of this suit will be paid?

A. I don't know as it is necessary to answer that?

Mr. Bartlett:

It is objected to on the ground that Coun-

sel cannot inquire into the understanding between Mr. Livermore and counsel.

Q. When you were called to Mr. Bartlett's office, how was it all made, by letter, by telephone, or by messenger? First state the source from which you received the message to call?

A. I think Mr. Bartlett made a call by telephone, and that it was communicated to be verbally.

Q. By whom?

A. One of the people in the office.

10 Q. You refer to the electric light office?

A. The company's office, general. That is, it is the office of several companies, gas, water and electric light.

Q. Do you remember who the messenger was which went in the office?

A. I think some boy came up from the office and told me that there was a communication, that I was wanted there.

20 Q. You mean at Mr. Bartlett's office or at the gas office.

A. I am not certain but that I was wanted at Mr. Bartlett's office. A telephone communication came in that Mr. Bartlett wanted me at his office.

Q. Is Mr. Bartlett the attorney for the Gas, Water and Electric Light Company?

A. He is the one that they have been employing recently.

30 Q. When you got to Mr. Bartlett's office, in response to his call, what did he say you were wanted for, Mr. Livermore?

A. As nearly as I could recall it was to make an affidavit of the character made, and then we went over the ground and made it.

Q. In addition to being the Secretary of the Electric Light Company have you been employed by the Electric Light Company, together with the Millville Water Company and Millville Gas Light

Company for many years as an accountant, cashier and bookkeeper?

A. I have been employed by the various companies for a good many years, yes.

Q. Does the Millville Electric Light Company supply electric current for public and private use in the City of Millville at this time?

A. Yes.

Q. How long has it been engaged in that business?

(These questions are objected to by Mr. Bartlett on the ground that the Millville Electric Light Company is not a party to the proceedings). 10

A. I cannot remember the exact date, that is a matter of record on the books.

Q. Approximately more than ten years last past?

A. I should think so?

Q. Is there any other Electric Light Company 20 in Millville which supplies electric current for public and private lighting save the Millville Electric Light Company?

A. I don't know of any that is conducting a general business. The Traction Company provides some electric lights.

Mr. Bartlett:

Objection is made to this line of examination by counsel for the respondents as above 30 set forth.

Mr. Miller:

Respondents insist that the testimony is valid on the ground that the appearance of the prosecutor in this case is elusive and actual prosecution is by the Millville Electric Light Company.

George Zeller, a witness produced on the part of the prosecutor, being duly sworn according to law, on his oath said:

Mr. Bartlett:

Q. Mr. Zeller what official position do you hold in the city of Millville?

A. Assessor.

Q. Assessor in what ward?

A. Third.

10 Q. Has Nelson G. Livermore property in that ward?

A. Yes, sir.

Q. What property does he own in that ward?

A. One on opposite corners.

Q. You mean two houses?

A. He owns half a house and a single house.

Q. And the land connected therewith?

A. He owns the northeast corner of McNeal and
20 Buck, and the southwest corner of McNeal and
Buck.

Q. These are streets in the City of Millville?

A. Yes, sir.

Q. You valued them for taxing purposes for the year 1912?

A. Yes, sir.

Q. Will you please state what valuations you placed on those properties?

A. On the two?

Q. On each separately?

30 A. On half house lot, \$100 and his building \$700.

Q. Making a total assessed valuation how much?

A. \$800.

Q. How many years Assessor in that ward?

A. This is the first.

Q. Those stand in the name of Nelson G. Livermore?

A. Yes.

NO CROSS-EXAMINATION.

L. H. Hogate, being duly sworn according to law, on his oath says:

By Mr. Bartlett:

Q. You are the City Clerk of Millville.

A. Yes.

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Q. Have been for how many years?

A. Twenty-eight years.

Q. And you are at present occupying that position?

A. I am.

Q. Have you with you the note book of Council meeting of November 1, 1912?

A. Yes.

Q. At that meeting was an ordinance passed on the final reading known as ordinance No. 117?

20

A. Yes.

Q. And the title of that ordinance was what?

A. An ordinance providing for the construction by and for the City of Millville of an Electric Light Distributing System for Public Lighting.

Q. When was the ordinance first introduced?

A. October 25, 1912.

Q. And passed on first reading at that time?

A. Yes.

(Prosecutor offers in evidence Ordinance No. 117, passed on November 1, 1912).

Mr. Miller:

We admit the passage of Ordinance No. 117, and agree that newspaper copy shall be introduced as evidence and spread on the minutes.

(Following is the ordinance as published).

Ordinance No. 117.

An ordinance providing for the construction by and for the City of Millville of an Electric Light Distributing system for public lighting.

10 WHEREAS, in the opinion of the Common Council, the construction by the city of an electric light distributing system will ensure better service to the public and is likely to result in economy to the city by encouraging competitive bidding by contractors desiring to furnish electric current to the city for public lighting, therefore,

 Be it ordained by the Mayor and Common Council of the City of Millville:

20 1. There shall be erected forthwith by this municipality, and maintained, a system of poles, wires, conductors and appurtenances, for the transmission of electric currents, for the purpose of lighting with electricity the streets and public places in this city, and for such purpose there shall be constructed all necessary posts, poles, lanterns and fixtures on and along the roads, streets, lanes and alleys specified and indicated for said purpose in the plans and specifications of Worrall E. S. Temple, Engineer, hereinafter referred to, and at the points and places and in the manner in said plans and specifications indicated.

30 2. Said electric light distributing system shall be constructed in accordance with the plans and specifications prepared by Worrall E. S. Temple, Electrical Engineer, designated "Specifications A," filed with the City Recorder, October Fourth, 1912; where alternative materials or appliances are referred to in said plans and specifications, that finally to be selected shall be adopted by resolution of Common Council; the posts, poles, wires and appliances shall be erected and lamps placed

at the points indicated on said plans; all changes in material, and the selection of lamps and other materials provided for in the alternative shall be made before the letting of any contract.

3. The construction of said plant or system shall be let by contract, to the lowest responsible bidder, reserving to Common Council the right to reject any and all bids, after proposals for such work shall have been advertised according to law; all work shall be done under the supervision of Worrall E. S. Temple, Electrical Engineer, or his successor appointed by Council, and the Committee on Finance together with the Light Committee of Common Council; the said committee is directed to advertise forthwith for proposals for said work in the manner prescribed by law. 10

4. To raise the moneys to pay for said work, bonds of the city shall be issued to the amount of thirty-five thousand dollars, or for so much thereof as may be necessary for said purpose; which bonds shall bear date November First, Nineteen Hundred and Twelve; shall draw interest at the rate of four and one-half per centum per annum, payable semi-annually; shall be of denominations of one hundred dollars or such multiples thereof not exceeding one thousand dollars as the purchasers shall elect; shall be payable thirty years after date; shall bear the seal of the city; shall be signed by the Mayor, countersigned by the Treasurer and attested by the Recorder; said bonds shall be either registered or coupon bonds at the option of the purchaser, and all coupons shall be executed with the fac simile signature of the Treasurer; said bonds shall be payable principal and interest at the Millville National Bank, and shall be in such form 20 30

as Council shall, by resolution, approve. All said bonds shall be numbered, and a register of such numbers, the date of issuing and time of payment of the same shall be made by the Treasurer in a book to be provided for that purpose. The interest on said bonds shall be raised annually by taxation, and the principal of said bonds shall be paid by the city at maturity; there shall be placed annually in the tax levy of the city such sum as will be sufficient to pay the interest on said bonds as it falls due and a sum equivalent to two per centum of the par value of the said bonds issued and outstanding, as a sinking fund, and such portion of said tax as shall have been collected for the interest on said bonds shall be paid by the taxing officers into the city treasury and such portion thereof as shall have been collected for said sinking fund shall be paid by said taxing officers to the Sinking Fund Commissioners appointed under Ordinance Sixty-one, or their successors, who are hereby constituted commissioners to hold the sinking fund hereby established, with like powers and duties touching the management thereof as are conferred and imposed on them by said Ordinance No. 61 with reference to the sinking fund by that ordinance established; said bonds shall be sold by Common Council from time to time as may be necessary, at public sale, by means of sealed bids.

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5. All ordinances and parts of ordinances inconsistent herewith are hereby repealed; and this ordinance shall take effect immediately on its publication as required by law.

Passed November 1, 1912.

L. H. HOGATE, Recorder.

Approved November 4, 1912.

W. FRED WARE, Mayor.

By Mr. Bartlett:

Q. Were other resolutions passed at that meeting in relation to establishment of electric lighting plant and system at Millville?

A. Yes.

Q. What?

A. Resolutions giving specifications for bidders, contracts, and contractor's bond, in pursuance to Ordinance 117, and a resolution giving the form of bonds to be issued in pursuance of Ordinance No. 117. 10

Q. Any other resolutions?

A. In reference to this?

Q. In reference to Ordinance 117?

A. I think not.

Q. You had a resolution fixing the form of bonds?

A. Yes.

Q. A resolution fixing form of instructions to bidders, proposals, contracts, and contractors' bonds. 20

A. Yes.

Q. Form of bond?

A. Form of bond.

Q. Issued in pursuance of Ordinance 117.

A. Yes.

Q. Resolution known as Resolution No. 45, entitled "A Resolution fixing the form of instructions to bidders, contract and contractors' bond, for work done under the provisions of Ordinance 117 passed at a meeting of the City Council of Millville on November 1, 1912?" 30

A. Yes.

Q. What is the first resolution passed at the meeting of the City Council of Millville on November 1st, pursuant to Ordinance No. 117?

A. What I have named as No. 45.

Q. Resolution No. 45, that is Number One?

(The prosecutor introduces Resolution No. 45, which is as follows:)

RESOLUTION NUMBER 45.

A Resolution Fixing the Form of Instructions to Bidders, Proposals, Contract and Contractor's Bond For the Work to Be Done Under Provisions of Ordinance Number 117.

10 Resolved By the Common Council of the City of Millville:

1. That the instructions to bidders, proposals, contract and contractor's bond for the construction of the municipal electric lighting system, pursuant to the provisions of Ordinance Number 117, shall be in the form hereto annexed, and the conditions and requirements to be entered into set out in said annexed form of instructions, proposals, contract and contractor's bond are hereby adopted and approved; and resolved further, that a sufficient number of printed pamphlets containing said instructions to bidders, form of proposals contract (exclusive of maps and drawings) and contractor's bond shall be printed and distributed under direction of the committee having supervision of the work forthwith upon the said ordinance becoming effective, and that said committee also then forthwith advertise for bids for the performance of said work according to law, and that the said committee and engineer cause a brief advertisement of such call for proposals to be printed for at least one insertion in one or more of the electrical engineering publications.

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2. Bids for said work shall be received by Common Council on Wednesday, the Eleventh Day of December, 1912, at 7.30

o'clock in the evening at the Council Chamber in the City Hall, and shall be immediately opened according to law. The Common Council reserves the right to reject any or all bids, and advertisements for proposals shall so state.

Adopted November 1st, 1912.

L. H. HOGATE,
City Recorder.

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Form of Proposal

.. For the
Construction of Municipal Series Street Lighting
System

For the
City of Millville, New Jersey.

10 **Notice:** The bidder must be experienced in the kind of work bid for, and have sufficient cash capital for the purchase of ample plant and machinery and for the prompt pay of the working force. He shall employ only skilled and experienced workmen, satisfactory to the Engineer, and shall personally supervise the work.

To the Common Council, City of Millville, New Jersey:

20 Gentlemen: The undersigned declares that he is qualified to bid, that he has carefully examined the Specifications for the municipal series street lighting system proposed to be constructed in and by the City of Millville, New Jersey, and the drawings therein referred to, and will provide all necessary machinery, tools, apparatus and other means for the construction of the part or parts of the work bid on, and will furnish all materials called for by this bid in accordance with the Specifications and drawings related thereto, and in a manner acceptable to the Engineer and Lighting Committee, for
30 the the following sums, to wit:

Furnishing, Installing and Constructing.

- 27 heavy chestnut poles, 25 feet in length.....\$ each
- 34 heavy chestnut poles, 30 feet in

length.....	\$	each	
34 heavy chestnut poles, 35 feet in length.....	\$	each	
1 heavy chestnut pole, 40 feet in length.....	\$	each	
1 heavy chestnut pole, 45 feet in length	\$	each	
290 standard chestnut poles, 25 feet in length.....	\$	each	
221 standard chestnut poles, 30 feet in length.....	\$	each	10
198 standard chestnut poles, 35 feet in length.....	\$	each	
46 standard chestnut poles 40 feet in length.....	\$	each	
2 standard chestnut poles, 45 feet in length.....	\$	each	
1 anchor guy.....	\$	each	
46 head guys.....	\$	each	
19 pole guys.....	\$	each	
36 stub guys.....	\$	each	20
11 tree guys	\$	each	
147,000 feet No. 6 gauge insulated wire.....	\$	per 1000 feet	
129 arc lamps {	\$	each	
{	\$	each	
{	\$	each	
Contractor must give name of the manufacturer of each lamp upon which he furnished bid; selection of the lamp to be used will be made by Common Council before the contract is awarded.			
129 arc lamp hangers.....	\$	each	30
129 attachments for fastening arc lamp suspension chain to pole...	\$	each	
79 12-foot arc lamp mast arms.....	\$	each	
50 sets of pulleys for suspending arc lamps from chains.....	\$	each	
4250 feet of galvanized steel chains,	\$	per 1000 ft.	
4500 feet of flexible twin conductor	\$	per 1000 ft.	

	300 feet of $\frac{3}{8}$ in. galvanized steel guy wire.....	\$ per 1000 ft.
	278 series Tungsten lamps.....	\$ each
	278 4-foot lamp brackets with spreader arms, lamp sockets, 16-inch radial reflectors and all insulator for same.....	\$ each
	1590 brown porcelain insulators..	\$ each
	100 strain insulators.....	\$ each
10	779 36-inch 2-pin cross arms with braces and hardware for mounting on poles.....	\$ each
	76 66-inch, 64-pin cross arms with braces and hardware for mounting on poles.....	\$ each
	101 96-inch 6-pin cross arms with braces and hardware for mounting poles.....	\$ each
	450 malleable break arms.....	\$ each
	2469 locust pins.....	\$ each
20	450 pieces of abrasion moulding, 18 inches long.....	\$ each
	180 feet 4-conductor lead covered, steel armored submarine ca- ble	\$ per ft.
	2 pot heads or open air terminals... (Bidders must total bids). Total amount of bid	\$ each

30 Construction work to begin within thirty days after contract becomes operative, and all work enumerated in the contract and specifications to be completed and ready for acceptance within one hundred and twenty-five days (exclusive of Sundays and holidays) after the time the contract shall become operative.

Accompanying this proposal is a certified check to the order of Edward H. Stokes, City Treasurer, drawn on some National Bank, State Bank or Trust Company of New York, Pennsylvania, or New Jer-

sey, for the sum of Two Thousand Dollars (\$2,000.00), which check I agree shall be forfeited to the city to its own use, if this proposal shall be accepted by the City of Millville and the undersigned shall fail to execute the contract with and give bond to said city according to the requirements of the contract and specifications; otherwise the said check, or the proceeds thereof, shall be returned to the undersigned forthwith upon the award of the contract.

(Signature)..... 10

(Address).....

Dated.....1912.

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**MUNICIPAL SERIES STREET LIGHTING
SYSTEM,
MILLVILLE, NEW JERSEY.**

Instructions to Bidders.

1. Sending in Bids:

10 All bids shall be made out, sealed and addressed to the Common Council of the City of Millville. They will be received at the hour of on and opened immediately thereafter.

2. General:

20 All bidders must distinctly understand that the work is to be done in strict accordance with the spirit of the contract and specifications, as interpreted by the Engineer, and the contract and specifications shall be carefully read and digested by all intending bidders.

3. Material and Workmanship:

All material and apparatus must be of the best procurable type, design and construction, and all workmanship must be first class in every particular.

4. Qualifications of Contractor:

30 All bidders must satisfy the Common Council at the time of bidding as to their competency for the management of the work, and as to the sufficiency of their cash capital for the purchase of ample plant and machinery, and for the prompt cash payment of the working force. No bid will be accepted without such assurance as will satisfy the authorities that the bidder, should he be awarded the contract, has sufficient cash capital for all requirements.

5. Certified Check and Bond:

Each bid shall be accompanied by a certified check for 5 per cent. of the amount bid, payable to _____, City Treasurer, without conditions. The City Treasurer shall have the right to send the check of any bidder or bidders likely to be awarded the work for collection prior to the acceptance of the bid. Cash to be held until the contract is signed.

The party to whom the contract shall be awarded shall furnish a bond of a responsible Indemnity or Guarantee Company, authorized to do business in the State of New Jersey, and satisfactory to the City Council, of approximately one-half the amount of the contract, such bond to be conditioned for the faithful performance of the contract. The name of the Indemnity Company must be submitted to the City Council within five days after the date of award, together with a letter from said Indemnity Company, agreeing to qualify as a bondsman. The contractor will be required to attend at the office of the City Recorder with the sureties offered by him, and execute the contract within ten days from the date of award, and in case of neglect or failure so to do he will be considered as having abandoned it, and as in default to the city; and the amount of the certified check shall be payable to the city and held and retained by it for its own benefit. The purchaser shall then have the right to re-award the contract.

6. Bids:

Bids must be itemized in such a manner as to show a price for supplying, also for completely installing each item, or unit of material of apparatus herein specified; they must also state a lump sum for which the entire work will be done which lump sum must be a summation of the several items. In other words, the bids must be balanced bids. Each

bid must cover the entire work herein specified.

7. Proposals Must Be in Proper Form:

The proposals must be made on blanks furnished by the city, and all proposals will be considered informal which are not in all respects in conformity with this notice.

10 The city expressly reserves the right to reject any and all proposals. It further reserves the right to omit or add to the construction of any portion or portions of the work hereinafter enumerated or shown in the plans.

CONTRACT

FOR THE

CONSTRUCTION OF AN ELECTRIC LIGHT

20

DISTRIBUTING SYSTEM

FOR THE

CITY OF MILLVILLE,

CUMBERLAND COUNTY, NEW JERSEY.

MEMORANDUM OF AGREEMENT, made and entered into this.....day of

30A. D.,.....
.....by and between the Mayor and
Common Council of the City of Millville, hereinafter
called the "City," party of the first part, and.....
..... of
..... of the second part,
hereinafter in divers places called the "Contractor."

For and in consideration of the payment and covenants hereinafter mentioned, on the part of the party of the first part to be made and performed, the

party of the second part hereby covenants and agrees to and with the said party of the first part as follows:

Agreement of Contractor.

1. The contractor has agreed, and by these presents does agree with the city, for the consideration herein mentioned and contained:

(a) To furnish at.....own proper cost and expense all the necessary material and labor, and to clear, excavate for and build, in a good, firm, substantial and workmanlike manner, an Electric Light Distribution Plant and System provided for by Ordinance Number.....of the City of Millville, New Jersey, and indicated on the plans, drawings and specifications referred to in said ordinance and filed with the Recorder of said city.....1912, and the connections and appurtenances thereof of every kind complete, of the dimensions, in the manner and under the conditions herein specified. 10 20

(b) That any committee of the Common Council of said city, and the engineer in charge of the work on behalf of the city, shall be and they are, and each of them is hereby authorized to inspect or cause to be inspected the materials to be furnished and the work to be done under this agreement, and to see that the same correspond with the requirements hereof.

(c) To perform the work called for under this contract complete in every detail to the satisfaction of the engineer and of the Common Council of the city. 30

(d) To fully complete said work on or before the date hereinafter specified for its completion.

(e) To guarantee and indemnify, and the contractor hereby does guarantee and indemnify, the city against any loss whatever by reason of obliga-

tions incurred, defaults or torts or injuries to persons or property done by the contractor.

(f) It is understood and agreed by the contractor that the work to be done under this contract embraces the construction of a complete plant and system for the distribution of electric current for public lighting in the public roads, streets, lanes or alleys of the City of Millville, at the particular point or points to be indicated by the engineer; and the plans, drawings and specifications aforesaid are agreed and understood to be incorporated herein and form a part hereof; a copy of the said specifications is hereto attached and marked "A;" but for greater certainty the original specifications on file with the Recorder are to be deemed part of this contract.

Workmanship and Material.

20 2. It is the intention of this contract and these specifications to secure the best workmanship and material of the grade specified, and if any work or material is found to be imperfect, either before or after its completion, or whether it has been passed upon or not by the inspectors, the said work shall at the request of the engineer, be taken up and replaced by new work at any time prior to the final acceptance of the entire work.

30 3. If any doubt exists as to the character of any portion of the completed work, it must, at the request of the engineer, be taken up. If found to be imperfect according to the determination of the engineer, it must be made good, otherwise such extra work may be done and paid for by the said city, and the cost thereof plus 15 per cent. profit, may be retained from any sums due the contractor or recovered on his bond.

4. It is hereby expressly agreed and understood further, that in the event of anything reasonably

necessary or proper to the due and complete performance of the work (of which the engineer shall be the sole judge) having been omitted to be shown in the drawings, or which is not described in the specifications, through oversight or error, the contractor shall notwithstanding, execute and provide all such omitted work and things, as if they had been severally shown and described, without any extra charge and according to the direction of the engineer and to his satisfaction, subject, however, to the provisions contained in section nine. 10

5. In case of repetition, variation or discrepancies in the terms of the contract, specifications and drawings, the interpretation and determination of which are doubtful, it is distinctly understood that the engineer may adopt that interpretation or construction which shall secure in all cases the most substantial and complete performance of the work and be most favorable to the parties of the first part and secure to it the most ample protection. 20

Authority of the Engineer.

6. Wherever the word "Engineer" is used in the contract and specifications it refers to Worrall E. S. Temple, the engineer in charge of the work, employed by the city and acting in conjunction with the Committee on....., or in case of the death, resignation, or dismissal of the said engineer, such other person as may be appointed for that purpose by the city, and all explanations or directions necessary for the proper construction of the work shall be given by the engineer. 30

Work To Be Done Under the Supervision of the Engineer.

7. It is expressly understood that the work included in this contract shall be done under the supervision and to the entire satisfaction of the engineer

as above mentioned, and the contractor hereby agrees to accept as final all decisions of the said engineer as to the fitness of all material furnished or work done, and to immediately replace all work rejected by said engineer.

Work To Be In Competent Hands.

8. The contractor agrees to follow at all times, without delay, all orders and instructions of the engineer in the prosecution of the work, and he shall have on each and every part of the work under progress a duly qualified person to look after the work and receive and carry out the instructions of the engineer given under this contract. The contractor also agrees to provide and place suitable stakes and form, etc., and to provide all help that the engineer may require in the establishment of lines and grades for the guidance of the work, and the contractor shall see that all such grades and lines shall be carefully preserved.

Engineer As Referee and Can Make Changes in Work.

9. The engineer shall have the final decision on all matters of dispute involving the character and amount of work. With the approval of the Committee on..... of the Common Council, he shall have the right of making changes in the line, grade, plan, form, position, dimensions or material of the work hereinafter contemplated, either before or after its construction has approval of the Common Council. If such alterations diminish the quantity of work to be done, they shall not constitute a claim for damages for anticipated profits for work dispensed with; if they increase the amount of work the increase shall be paid for according to the quantity actually done, and at the price established for such work under this con-

tract, excepting where, in the opinion of said committee, the contractor is clearly entitled to extra compensation. Where increase in quantity is made the contractor agrees to accept as an extension of time a period of time bearing the same proportion to the cash amount of the increase as the time for the completion stated in this contract bears to the cash amount of this contract.

10. It is further agreed, that any changes shall in no wise affect the validity of the bond nor require the party of the first part to notify the bondman either as to the time, nature of, or extent of such changes; such changes shall be held to be within this present contract, and the bond taken herewith shall stand as security for the proper execution of the same. 10

Prosecution of Work.

11. The work shall be prosecuted in such manner and from as many different points, and at such times and with as much force as the engineer may from time to time during the progress of the work determine. 20

Engineer's Authority In Case Of Delay Or Stoppage.

12. When the contractor at any time has been notified in writing, by the engineer of any requirements or any precautions neglected or omitted, or any work improperly constructed, or of any delay in prosecuting the work or stoppage thereof, except for inclement weather, he shall at once remedy the same. If after twenty-four hours' notice, he fails to do so, the Committee..... 30
may thereupon perform such work, furnish such material and supply such laborers at the contractor's expense, giving orders for the payment of such labor and materials upon the Treasurer of the City, who shall honor all such orders and deduct the cost

thereof from the amount due or to become due the contractor.

Incompetent Persons To Be Discharged.

10 13. If any person employed by the contractor on the work is or shall appear to be incompetent to perform the work entrusted to him, or should, in the opinion of the engineer or said committee, be untrustworthy, or one who shall act in a disorderly manner, he shall be discharged immediately on the requisition of the engineer or said committee, and such person shall not again be employed on the work except with the written approval of the said committee.

Contractor Must Employ Proper Appliances.

20 14. The contractor shall provide and use such modern and approved appliances for the performance of all operations connected with this work embraced under this contract as will, in the opinion of the engineer, secure a satisfactory quality of work and at a rate of progress which will, without fail, accomplish the completion of the work within the time specified herein. If the contractor fails to do so the engineer, with the consent of the said committee, shall have full power immediately to purchase or hire such appliances and pay therefor out of the moneys due the contractor.

30 Time For Completion and Penalty For Non-Completion.

15. Construction work must begin within thirty days after this contract becomes operative, and all work enumerated in this contract and specifications shall be completed and ready for acceptance within one hundred and twenty-five days, (exclusive of Sundays and holidays) after the time this contract

shall become operative, and no allowance of further time shall be made to the contractor for or because of inclemency of the weather or on any other account whatsoever. It is distinctly understood that the time specified for the completion of this work is of the essence of this contract, and the contractor shall not be entitled to claim performance of this contract unless the work is entirely completed in every respect on or before the date specified; and in case this contract is not completely performed by the contractor within the time so fixed and the contractor is permitted to complete the work, which he shall be obliged to do if the city so elect, the contractor agrees to pay to the city the sum of twenty-five dollars per diem for each business day thereafter consumed by him in completing such work, which moneys the parties hereby agree upon as liquidated damages and not as a penalty, and may be retained by the city from any sums in its hands due from it to the contractor, or the same may be collected by suit on the bond of the contractor in this agreement mentioned. 10

If the contractor is permitted to finish the work, or if the work is completed as provided in section sixteen, the city shall have full authority to deduct monthly from the monthly and final estimates of the amounts due the contractor on his contract, and pay to the engineer and inspector sums which shall be equal to the same average per diem amount as would have been paid to the engineer during the period of this contract if completed on time, and to the inspectors the same per diem as was paid to them by the city. 20 30

Procedure In Taking Work From Contractor.

16. In case of any unnecessary or inexcusable delay in the general conduct of the work, or in the event of an actual or practical abandonment of the work, the engineer will notify the contractor and his bondsmen (who, if they shall proceed with the work,

- shall assume all the obligations and be subject to all the restrictions herein imposed upon the contractor) shall not, within five consecutive days thereafter, take such measures as will, in the judgment of the said committee, insure the satisfactory completion of the work in the time specified, or in a reasonable time thereafter, if he has been permitted to continue beyond the time specified as provided for elsewhere in this contract, the engineer may then, by and with the consent of the city, notify the aforesaid contractor and his bondsmen to discontinue all work under this contract; and it is hereby agreed that the contractor and his bondsmen are to immediately respect said notice and stop work. The city shall thereupon have the power to readvertise the work in the manner as is required by law. All expenses of such re-letting of the work, including the additional amount to be paid to the party to whom the work is to be re-let, and any other claims arising under this contract, shall be deducted and paid by the parties of the first part out of any such moneys as may then be due the said contractor, or which thereafter becomes due, under and by virtue of this agreement or any part thereof, and in case such expense is less than the sum which would have been payable for such work under this contract, if the same had been completed by the party of the second part, the contractor shall not be entitled to receive the difference; if the expense is greater, then the bondsmen will be called upon to make good the difference.
- 30 It is further agreed that the said party of the second part shall be liable for all sums which shall accrue or become due for all wages, expenses or necessary disbursements of the engineer, his assistants or inspectors, for each and every day that elapses between the time limit hereinabove set forth, and the actual subsequent completion of all work covered by this contract; and the said party of the second part hereby warrants authorizes and in-

structs the said party of the first part to deduct and pay over to the said engineer such sum or sums of money out of any moneys that may be due or may become due to the said party of the second part.

**Contractor To Guarantee City Against All Claims
For Damages.**

17. It is expressly understood and agreed, that the party of the second part shall indemnify and save harmless the city for all claims for the labor performed or materials furnished, and shall furnish the city with satisfactory evidence when called for that all persons who have done work or furnished material for which the said city may have been liable have been fully paid and satisfied, otherwise the said city shall have the right to pay for all such claims out of any moneys that may be due or that may afterwards become due the said contractor. 10

18. In the event of an abandonment of the work the money remaining due the contractor for work done up to the date of abandonment shall be applied to the payment of labor. This does not include the retained percentages, held for the benefit of and to indemnify the city. 20

19. The contractor will notify the engineer each month of the names and amounts of accounts of all creditors for materials and supplies furnished during the preceding month. If such accounts are not paid out of the estimate next received, after said accounts become due or are presented to the engineer, the engineer will, if requested by the contractor's creditors, deduct such amounts from the next succeeding estimate which amounts shall be held as the property of the creditors, to be paid to them when they fully satisfy the engineer and said city of the correctness of their claims. 30

20. The party of the second part hereby further agrees to furnish to party of the first part acceptable

proof of the proper and satisfactory payment of all fees upon any patent invention, article or arrangement that may be used upon or in any manner connected with the construction, erection or maintenance of the work, or any part thereof, and guarantee to protect and hold harmless forever the said party of the first part against any and all demands for such fees or claims of any owner of any such patent.

10

Injury to Person and Property.

21. The contractor hereby agrees to keep sufficient guards by day and night to prevent accident by travel, and to indemnify and save harmless the said party of the first part from all suits or actions of any kind or description for or on account of any injuries or properties, by or from said party of the second part, his servants, agents, employes or workmen, during the prosecution of the work, or by or in consequence of any improper materials in its construction, or by or on account of any act of negligence or omission whatsoever of said party of the second part, or any of his servants, employes, workmen or agents; and in case of suit or suits, claim or claims therefore being made, so much of the money due or to become due to the said party of the second part, under and by virtue of this contract, as shall be considered necessary by said city, may be retained by the city and withheld from the said party of the second part until all such suits or claims shall have been settled and evidence of such settlement furnished the city to its satisfaction, and the said party of the first part shall not in any way be liable therefor. In case any suit is brought against the city for damages to persons or property alleged to have been caused by the act or negligence of the contractor as aforesaid in and about the performance of this contract, the contractor agrees to pay

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to the city its cost, charges and expenses of defending any such suit without respect to the result thereof.

Extra Work.

22. The contractor shall not be entitled to receive payment for any work as extra work unless such bill for extras be accompanied by an order, in writing, from the engineer and said committee, who shall fix the price for such work. 10

Labor to Be Employed.

23. During the prosecution of the work herein contemplated the contractor shall, in the employment of workmen and mechanics, give the preference to citizens of the State, and shall pay them at current prices to be paid for such labor.

It is understood and agreed, that the contractor and his officers and agents in the employment of mechanics and laborers upon the work to be done under this contract will obey the provisions of the law of the State of New Jersey, making it unlawful to employ laborers which are not citizens of the United States, etc., entitled, "An Act respecting the employment of mechanics and laborers upon the public work of this State and the municipalities within the same," passed March 24, 1899. (See laws of New Jersey, 1899, page 524.) 20

Work to Be Kept in Repair

30

24. The said party of the second part further agrees to keep such work as may be done by him under this contract and specifications in complete repair twelve months after its final acceptance, and authorizes the said city to retain 10 per cent. of the gross amount of this contract for the same period to insure such repairs; such 10 per cent. to come out

of the amount retained hereinafter referred to, the compensation for any such repairs having been included in the regular prices bid for said work and system; and in case of failure on the part of the said party of the second part to perform this portion of the contract, such repairs will be made by the said city, and the expenses thereof deducted from the percentage retained.

Monthly Estimates.

10

25. The engineer on the first day of each month, or within five days thereafter, during construction will estimate approximately the amount of work completed during the preceding month according to the contract and specifications, and eighty per cent of the estimated cost thereof under this contract shall then be due and shall be paid to the said party of the second part, except as provided for elsewhere, on or before the fifteenth day of each month for the work of the preceding month.

20

Retained Percentage.

26. It is further agreed, that when this contract shall be completely performed on the part of the contractor, the engineer shall proceed to make final inspection and measurements and estimates of the same to the said city, and the said city shall, except for cause herein specified, pay to the contractor, within thirty days thereafter, the balance which shall be due, excepting therefrom such sums as may be lawfully retained under any of the provisions of this contract.

30

Estimates of Quantities.

27. The materials to be furnished and work to be done by the party of the second part in the construction of the said electric light distributing

plant, and also the compensation to be accepted by the contractor for the same shall be:

Contract Price.

28. The said party of the first part hereby agrees to pay, and the said party of the second part hereby agrees to receive and accept in full payment the sum of dollars and cents, for furnishing all material, labor, tools and appliances used in building and construction, excavating and backfilling and in all respects completing the aforesaid work and appurtenances in the manner and under the conditions before specified and as full compensation for all loss or damage arising out of the nature of the work aforesaid; or from the action of the elements or from any unforeseen obstructions or difficulties which may be encountered in the prosecution of the same, and for all expenses incurred by or in consequence of the suspension or discontinuance of the said work and for well and faithfully completing the same and the whole thereof, according to the specifications and plans and requirements of the engineer under them; PROVIDED HOWEVER, that if in the construction of the said work there shall be any diminution from, or addition, to, the above mentioned quantities, there shall be a corresponding diminution from, or additon to, the above total sum, at the rate given above.

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Sub-Letting Forbidden.

29. The said party of the second part hereby agrees to give personal attention to the fulfillment of this contract; and shall not sub-let the aforesaid work, or any part thereof, but will keep the same under control; and shall not assign by power of attorney or otherwise, any of the moneys payable un-

der this contract, unless by consent of the said city, to be signified by endorsement upon this contract; any assignment, transfer or subletting of this contract or any payment due under the same, without the written consent aforesaid, shall in every case be absolutely void.

Bond.

10 30. This contract shall not become operative unless the said party of the second part shall concurrently herewith execute and deliver a proper bond, with sureties to be approved by the Common Council of the city, in the sum of fifty per cent. of the contract price, conditioned for the faithful performance of all of the conditions and provisions of this contract on the part of the party of the second part to be performed, and for the indemnification of the party of the first part from and against all loss by reason of non-fulfillment by the said party of the second part of the covenants contained in this contract to be performed by him, and also against any loss by reason of any and all claims, defects, objections, liens, encumbrances, damages, negligence, costs or suits arising from non-fulfillment by the party of the second part of any of the provisions of this contract. A blank form of the bond, in this paragraph referred to, is annexed and made a part of this agreement.

30

Agreement to Bind Heirs and Assigns.

31. It is hereby understood and agreed by and between the parties hereto, that the said stipulation, agreements and covenants aforesaid are to apply to and bind the heirs, executors, administrators, successors and assigns of the respective parties.

All Documents Portions of This Contract.

32. It is further understood and hereby agreed by the contracting parties that the following documents, all and singular, are integral and essential portions of this contract, as fully as though set out herein at large, to wit; the advertisement, all drawings, maps and plans hereto attached or herein described, the specifications, the proposals, this specified contract, and the contractor's bond.

33. The said party of the second part hereby admits and affirms that ha read each and every clause in this contract, and that ha examined the maps, plans and drawings, and the site of the proposed works, and that fully understands the scope and meaning of the same; and hereby agree that will comply with all the terms, covenants and agreements herein set forth. 10

34. This contract shall not become operative unless the said party of the second part shall concurrently herewith execute the bond hereto annexed, with sureties to be approved by the Common Council of said city as herein above mentioned and particularly set forth. 20

IN TESTIMONY WHEREOF, the said party of the first part has caused its corporate seal to be here-to affixed, and these presents to be signed by its Mayor and attested by its Recorder, and the party of 30

the second part.....
.....
.....
.....

..... the day and
year first above written.

THE MAYOR AND COMMON COUN-
CIL OF THE CITY OF MILL-
VILLE, BY

.....
Mayor.

(Seal)

Attest:

10

.....
City Recorder.

.....
.....
.....
.....

20

30

SPECIFICATIONS
FOR
MATERIAL AND LABOR
FOR
MUNICIPAL SERIES STREET LIGHTING
MILLVILLE, N. J.

GENERAL.

10

1. Sending in Bids:

All bids shall be made out, sealed and addressed to the Common Council of the City of Millville. They will be received at the hour of _____ on _____ and opened immediately thereafter.

2. Purchaser or Owner:

20

The word purchaser or the owner wherever used in these specifications, refer to the Common Council of the City of Millville or their authorized agents.

3. Engineer:

The word engineer wherever used in these specifications refer to W. E. S. Temple or his authorized representative.

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4. Contractor:

The word contractor wherever used in these specifications refers to the party or parties bidding on the work herein specified. Upon the final acceptance of any bid by the purchaser the word contractor refers to any party or parties whose bid is accepted, whereupon these specifications become a part of the

contract to be entered into between the purchaser and the contractor.

5. Qualifications of Contractors:

10 All bidders must satisfy the Common Council at the time of bidding as to their competency for the management of the work, and to the sufficiency of their cash capital for the purchase of ample plant and machinery, and for the prompt cash payment of the working force. No bid will be accepted without such assurance as will satisfy the authorities that the bidder, should he be awarded the contract, has sufficient cash capital for all requirements.

6. Certified Check and Bond:

20 Each bid shall be accompanied by a certified check for 5 per cent. of the amount of bid, payable to City Treasurer, without conditions. The City Treasurer shall have the right to send the check of any bidder or bidders likely to be awarded the work, for collection prior to the acceptance of the bid. Cash to be held until the contract is signed.

30 The party to whom the contract shall be awarded shall furnish a bond of a responsible Indemnity or Guarantee Company authorized to do business in the State of New Jersey, and satisfactory to the City Council, of approximately one-half the amount of the contract, such bond to be conditioned for the faithful performance of the contract. The name of the Indemnity Company must be submitted to the City Council within five days after the date of award, together with a letter from said Indemnity Company agreeing to qualify as bondsmen. The Contractor will be required to attend at the office of the City Recorder with the sureties offered by him, and execute the contract within ten days of the date of award; and in case of neglect or failure so to do he will be

considered as having abandoned it, and as in default to the city; and the amount of the certified check shall be payable to the city and held and retained by it for its own benefit. The purchaser shall then have the right to re-award the contract.

7. Bids:

Bids must be itemized in such a manner as to show a price for supplying, also for completely installing such item or unit of material or apparatus herein specified; they must also state a lump sum for which the entire work will be done, which lump sum must be a summation of the several items. Each bid must cover the entire work herein specified. 10

8. Details and Information:

Each contractor bidding upon these specifications must submit with his bid full and complete details and information as to the construction and performance of the particular material or apparatus which he intends to supply. Such detail, when accepted, must become a part of the contract specifications, the purchaser reserving the right to eliminate therefrom any part which might conflict with these specifications. 20

9. Rejection of Bids:

The purchaser reserves the right to reject any or all bids. 30

10. Object of Specifications:

It is the object of these specifications to secure for the purchaser for a sum to be agreed upon, the complete installation of all materials and apparatus herein named, of the most modern and approved and up-to-date design and construction and of the best material and workmanship. All apparatus, material

and workmanship are to be in strict accordance with the intention of these specifications, and there shall be no variation from said specifications, unless written consent be given by the purchaser. It is intended that these specifications shall cover all necessary details to make the apparatus complete, but anything omitted, essential to the operation of the apparatus, must be provided by the contractor without extra charge than specifically stated in the specifications.

10

11. Standard Apparatus:

All contractors bidding upon these specifications shall quote as far as possible on apparatus of standard type, design and construction, deviating therefrom only in so far as it is necessary to meet the special requirements given herein.

12. Changes:

20

The purchaser reserves the right to make such changes in the specifications as shall in his opinion seem desirable and to his best interests. Should such changes involve additional labor and material, the contractor shall be paid for the same a fair and reasonable amount to be decided upon by the engineer. If, on the other hand, such changes relieve the contractor from furnishing certain labor and material, then a fair and reasonable amount shall be deducted from the contract price, to be decided upon by the engineer. Should the bidder decide to call to the attention of the purchaser any special feature or any special fittings or device that he wishes to furnish which are not called for in these specifications he is to include the same in a separate letter, stating the difference in price and time of delivery such changes would involve, and the same may become a part of the contract and specifications, with the approval of the purchaser.

30

13. Patents:

The contractor agrees to protect the purchaser against any and all loss or expense from suits, royalties or claims of any kind whatsoever and against any damage caused by being forced to cease operations whenever suits, losses, expenses or damages arise from alleged infringements in the use of any apparatus furnished by the contractor and all expenses occasioned by suits relative to any of the above are to be borne entirely and exclusively by the contractor. 10

14. Material and Workmanship:

All material and apparatus must be of the best procurable type, design and construction, and all workmanship must be first class in every particular.

15. Inspection:

The quality of the material used and the method of manufacture shall be such as to ensure for the completed material the durability and finish and general qualifications as called for in these specifications. The contractor shall make sure that all material and workmanship are in accordance with these specifications before making deliveries. 20

The purchaser is to have the right to make such inspections and tests as may seem desirable of all materials, at any stage of their preparation.

The engineer shall have the power to reject any of the materials whatsoever, which are defective in any respect. Inspection shall not, however, relieve the contractor from the obligation of furnishing perfect material and sound and reliable and satisfactory workmanship. Any imperfect material or workmanship that may be discovered before the final acceptance of the material called for in these specifications, must be corrected immediately by the contractor, 30

upon the requirements of the purchaser, notwithstanding that it may have been overlooked by the engineer or his inspector.

If the requirements of these specifications are not entirely and absolutely fulfilled when the material called for is offered for final acceptance, the purchaser shall have the right to reject the material, but the expense of inspection of such defective material is to be borne entirely by the contractor.

10 **16. Guarantees:**

The contractor is to guarantee his material to give satisfactory results for a period of one year from the date of the final acceptance. Any defect in the material or workmanship found within this period shall be immediately rectified by the contractor in such a manner as to cause the least inconvenience to the purchaser and in case of loss or damage resulting therefrom said loss or damage shall be made good completely by the contractor, upon his
20 being properly notified of the same by the purchaser.

If after the trial of the material furnished, the guarantees are not met, it will rest with the contractor to prove that the fault was not with his material, and all expenses necessary so to prove must be borne by the contractor.

17. Drawings:

30 The contractor is to submit drawings giving approximate dimensions and necessary diagrams of the apparatus covered by his proposals. These drawings shall state clearly the amount of information necessary to enable the purchaser to make definite preparation for the installation of the apparatus. They shall also give the purchaser all reasonable information as to the apparatus which the contractor proposes to furnish. The drawings of the switchboard shall show the over all dimensions and the ap-

proximate location of the equipment to be placed on the various panels.

The successful bidder shall furnish the purchaser within two weeks of the acceptance of his bid two official copies of the drawings of all apparatus to be supplied, giving accurately all necessary dimensions.

18. Apparatus and Material to Be Furnished and Construction Work to Be Done:

The contractor shall furnish, erect and install the following material and apparatus, in accordance with these specifications and with drawings Nos 1, 2, 3 and 4, which form part of these specifications.

Chestnut Poles. The number of poles required is approximately as follows:

HEAVY		STANDARD	
Number	Size	Number	Size
27	25 ft. in length	290	25 ft. in length
34	30 ft. in length	221	30 ft. in length
34	35 ft. in length	198	35 ft. in length
1	40 ft. in length	46	40 ft. in length
1	45 ft. in length	2	45 ft. in length

GUYS	
1 Anchor Guy	} As herein specified.
46 Head Guys	
19 Pole Guys	
36 Stub Guys	
11 Tree Guys	

Note: the approximate location of each pole is shown on the drawings referred to above.

147,000 ft. of No. 6 gauge (Browne & Sharpe Standard) hard drawn, triple braided, weather proof, insulated copper wires, installed in accordance with the drawings referred to above.

129 arc lamps as herein specified.

129 arc lamp hangers as herein specified.

10

30

79 12 ft. arc lamp mast arms, complete, as herein specified.

4250 ft. of galvanized steel chain complete with pole attachments and all hardware necessary for suspending 129 arc lamps.

4500 ft. of flexible rubber covered, standard twisted conductor, as herein specified.

3000 ft. of $\frac{3}{8}$ inch seven strand, galvanized steel guy wire, exactly as herein specified, for suspending arc lamps as indicated on the drawings above referred to.

10 All necessary hardware for attaching arc lamp suspension wires to supporting poles.

278 series Tungsten incandescent lamps, as herein specified.

278 4 ft. lamp brackets complete with spreader arms, lamp sockets, 16 inch radial reflectors and all insulators for same, as herein specified.

1590 brown or chocolate porcelain insulators, as herein specified.

20 100 strain insulators, as herein specified.

Number		Approximate Length
779	2 pin cross arms	36 inch
76	4 pin cross arms	66 inch
101	6 pin cross arms	96 inch

The lengths given are intended as approximate values only. The standard length for the spacing indicated under "size of cross arms" should be supplied by the contractor. Cross arm braces and all hardware necessary for attaching cross arms to poles must be supplied, as herein specified.

30

450 malleable break arms, as herein specified.

2468 locust pins, as herein specified.

450 pieces of abrasion moulding for use on lumber Number 6 gauge copper wire, as herein specified.

Approximately 180 ft. of 4-conductor lead covered, steel armored, sub-marine cable, as herein specified.

2 pot heads or open air terminals for use at the extremity of the sub-marine cable referred to above.

Chestnut Poles.

The contractor shall furnish chestnut poles as herein specified.

19. Classification:

The poles shall be classified under headings of "Standard" and "Heavy." Their sizes shall be as shown in the following table: 10

Note: Circumference dimensions are in inches.

Length	HEAVY.		20
	Circumference at top of pole	Circumference 6t ft. from bot. of pole.	
25	24	37	
30	24	40	
35	24	43	
40	24	45	
45	24	48	
	STANDARD.		
25	22	33	
30	22	36	
35	22	40	
40	22	43	
45	22	47	

20. Quality of Timber:

All poles shall be of best quality, sound, live chestnut timber. They shall be squared at both ends. They shall be reasonably straight and well proportioned from bottom to top. They shall be peeled and not shaved. 30

21. Dead Poles:

The wood of a dead pole is grayish in color and

the presence of a black line on the edge of the sap wood shows that the pole is dead. No dead poles and no poles showing dead streaks will be accepted under these specifications.

22. Fire Killed or River Poles:

No dark red or copper colored poles, which when scraped do not show good live timber, shall be accepted under these specifications.

10

23. Twisted, Checked or Cracked Poles:

No poles having more than one complete twist for over 20 ft. in length and no cracked poles, and no poles containing large season checks, shall be accepted under these specifications.

24. "Cat Faces:"

20 No poles having "cat faces," unless they are small and perfectly sound, and the poles have an increased diameter at the cat face, and no poles having cat faces near the six foot mark or within 10 feet of the pole top shall be accepted under these specifications.

25. Miscellaneous Defects:

30 No poles which contain sap rot, evidence of internal rot as disclosed by a careful examination of all black knots, hollow or plugged holes, and no poles showing evidence of having been eaten by ants, worms or grubs shall be accepted under these specifications, except that poles containing worm or grub marks below the six foot mark will be accepted.

26. Crooked Poles:

No poles showing a short crook or bend or a crook or bend in two places or a reversed curve, shall be accepted under these specifications.

The amount of sweep or bend measured between the six foot mark and the top of the pole, that may be present in poles, acceptable under these specifications, is shown in the following table:

25 ft. poles shall not have a sweep of over 8 inches

30 ft. poles shall not have a sweep of over 9 inches

35 ft. poles shall not have a sweep of over 10 inches

40 ft. poles shall not have a sweep of over 11 inches

45 ft. poles shall not have a sweep of over 15 inches

27. Defective Tops:

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Poles having tops of the required dimensions must have sound tops. Poles having tops of one inch or more above the required dimensions may have one pipe rot which shall not exceed $\frac{1}{2}$ inch in diameter. Poles with double tops or double hearts shall be free from rot where the two parts or hearts join.

No poles having ring rot or hollow hearts will be accepted under any condition. Scattered rot, unless it is on the outer surface of the pole, will render the pole unacceptable.

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28. Wind Shakes.

No poles showing wind shakes will be accepted under these specifications.

29. Inspection of Poles:

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All poles shall be subject to inspection, either at the point of shipment or at any point between the point of shipment and destination, or after their arrival at destination, or any other time before final acceptance.

All poles which fail in any way to meet these specifications shall be rejected and shall be immediately eliminated by the purchaser.

Cross Arms.

The contractor shall use standard cross arms as herein specified.

30. Material:

These cross arms shall be made of the best grade, long leaf yellow pine. They shall be untreated and unpainted by the contractor until after inspection and acceptance. The treatment they are to receive is stated at another place in these specifications.

All cross arms shall be made of thoroughly air-dried or kiln dried straight grained, first grade timber.

31. Size of Cross Arms:

The cross section of these arms shall be $3\frac{1}{4} \times 4\frac{1}{4}$ inches, slightly roofed or rounded at the top, except at the point where the arm shall be straight.

The spacing of the wires is to be in accordance with the standard number as indicated by the Committee on Overhead Line Construction of the National Electric Light Association.

The distance from the centre of the arm to the centre of the nearest insulator pin hole is to be approximately 15 inches. The pin holes are to be arranged for spacing of approximately $14\frac{1}{2}$ inches between centres. There shall be not less than 4 inches between the centre of the outside pin hole on either side and the extreme end of the cross arm. (See fig. 5 for general dimensions of 6-pin arm).

32. Size of Holes to Be Bored in Cross Arms:

The size of the holes for the insulator pins in the cross arms listed above are to be placed 19 inches from the center on either side of the 6-pin arms, and on the 4-pin arms, 15 inches from the center on either

side. On the 2-pin arms an 11-16 inch hole is to be bored through the center of each cross arm for the through bolt used to fasten it to the pole.

33. Sapwood:

The cross arms supplied under these specifications may contain sapwood, provided it is clear and does not form over 20 per cent. of the cross section of the cross arm, and provided, also, that the cross arm shall be sawed and shaped so that the sapwood shall be on the top or the side of the cross arm. 10

34. Grain:

All cross arms shall be straight grained. The grain shall not depart from parallel to any edge of the cross arm by an amount greater than 1 inch to 3 inches length of the cross arm.

35. Pitch Pockets:

Pitch pockets are openings between the grain of the wood which contains pitch and which are surrounded by sound grain wood. Pitch streaks are well defined accumulations of pitch at one point and are characterized by an opening between the grain, as described for pitch pockets. Pitch streaks of any length will be permitted. 20

All cross arms shall be free from pitch pockets exceeding 5 inches in length and $\frac{1}{8}$ inch in width. No pitch pockets which enter the pin or the bolt hole on the top or the sides of the cross arms will be accepted under these specifications. 30

No pitch pockets shall have a depth in excess of 1 inch.

36. Knots:

All cross arms shall be absolutely free from loose or unsound knots. A sound knot having a pitch hole

in the center not more than $\frac{1}{4}$ inch in diameter is acceptable. A knot surrounded in part by bark or pitch will not be acceptable. All cross arms covered by these specifications shall be free from knots at the pole bolt holes and at the holes at which the cross arm braces are attached to the arm end at the points at which the holes for the insulator pins are bored.

37. Wans:

10 All cross arms shall be free from wans.

38. Shakes and Checks:

All cross arms shall be free from through shakes and from shakes or checks exceeding 3 inches in length.

39. Warp:

20 A straight edge laid lengthwise on any side of a 6-pin arm shall not show an offset in excess of $\frac{3}{4}$ inch.

No cross arm shall be twisted nor bent in more than one direction and no cross arm shall be bent on edge.

40. Loose Heart:

All cross arms shall be free from loose hearts, rot and worm holes.

Cross Arm Braces.

30 The contractor shall use cross arm braces as herein specified.

41. Material:

These braces shall be made of strap iron or mild steel, "Manufacturers' Standard," and shall be galvanized or sherradized in accordance with the Na-

tional Electric Light Association's Standard specifications for galvanizing or sherradizing.

42. Dimensions:

These braces shall have a width of 1 inch and a thickness of 4-16 inches, and a length of 22 inches for use on the 2-pin cross arms and 28 inches for use on the remaining cross arms. The hole provided in the end to be attached to the cross arms shall be approximately $\frac{3}{8}$ inches in diameter, and in the end to be attached to the pole, approximately $\frac{1}{2}$ inch in diameter. 10

43. Bolts:

All bolts, complete with nuts and washers, necessary for attaching these braces to the cross arms shall be provided by the contractor under these specifications, also all other material and labor necessary for mounting cross arms and braces on poles. 20

44. Galvanizing:

All galvanizing or sherradizing for the cross arm braces, the bolts for attaching same to cross arms, guy wire, all guy material and all other hardware used on this construction work, shall be in accordance with the National Electric Light Association's Standard Specifications for galvanizing or sherradizing. A coating of zinc shall be left on the threads of the bolts, conforming in all respects with the said specifications for galvanizing or sherradizing. 30
The threads on the nuts provided with the above bolts need not be galvanized. The holes in the washers provided with the above bolts shall be clean and free from superflous zinc. The galvanizing shall not be chipped off when the washers shall have stuck together.

45. Tests:

The galvanizing shall be of such quality as to stand the test with the standard solution of the National Electric Light Association.

Locust Pins.

The contractor shall supply standard locust pins as herein specified.

10 46. Material:

All pins shall be made of sound, straight grained, yellow or block locust, free from knots, checks, shakes, sapwood, worm holes, brashwood, cracks, or other defects, except as hereinafter specified.

47. Knots:

20 The pins shall be free from large, loose, or unsound knots. Small knots not exceeding $\frac{1}{8}$ inch diameter are permitted on the shoulder and on the lower half of the shank of the pin.

48. Checks:

Small seasoned checks are permitted on the shoulder and on the lower half of the shank of the pin. The number of such pins shall not exceed 5 per cent. of the number of pins furnished.

49. Sapwood:

30 Sapwood is permitted on the shoulder of the pin, but it must not extend to the shank of the pin; otherwise it will not be acceptable under these specifications.

50. Worm Holes:

If the wood is otherwise perfect and sound worm holes will be permitted on the lower third of

the shank, provided such holes are not in excess of $\frac{1}{8}$ inch in diameter. The number of such pins shall not exceed 5 per cent. of the number supplied.

51. Grain:

The grain of the wood on all pins shall be parallel to the axis of the pin. The grain through the center of the bottom of the pin shall not run out below the bottom thread.

10

52. Seasoning:

All pins shall be thoroughly seasoned.

53. Dimensions:

All pins shall have four threads to the inch and shall be of such size as to fit properly into the holes provided for them in the cross arms. Their length and the diameter of their various portions shall be in accordance with Fig. 6 in the drawings forming part of these specifications.

20

54. Finish of Pins:

The pins shall be circular in cross section throughout. Flat surfaces not exceeding $\frac{1}{8}$ inch in depth are permitted when on the shoulders of the pins, provided the number of such pins does not exceed 5 per cent. of the number furnished. The length of the threaded portions shall be such that a standard insulator can be readily secured on until the end of the pin touches the top of the insulator and when in this position there shall be no perceptible lagging or play on the insulator or the pin. Pins shall be provided untreated and unpainted, as their treatment will be covered under another section of these specifications.

30

Insulators.

The contractor shall use porcelain insulators as herein specified.

55. Material:

All insulators shall be of brown glazed porcelain and provided with a standard size threads, for use with the above locust insulator pins.

10 56. Size of Insulators:

The size and general proportions of the insulators is not restricted under these specifications, except that they shall be built as small as possible to accommodate circuits of the voltages specified, and to withstand the test voltages specified. They shall also be built in such a manner as to give the greatest possible strength consistent with their weight.

57. Form of Insulators:

20 The insulators shall be designed for carrying the wire on the side groove. If the insulator which the contractor proposes to supply should also have a top groove, there shall be no objections but the top groove is not necessary under these specifications.

The insulators called for under these specifications shall have not less than two petticoats.

58. Voltage:

30 The working voltage for which these insulators are to be designed is 5000. The insulators shall also successfully withstand a dry test voltage of 1500 volts between the supporting point and the point at which the line wire is attached. The rain test voltage between these two points shall be 10,000 volts.

59. Break Arms:

The contractor shall furnish and install 450

malleable iron, heavily galvanized or sherradized, with 12 inch spread between pins. These shall be so designed as to support with a factor of safety of $2\frac{1}{2}$ a 175 foot span of No. 6 gauge (Brown & Sharpe Standard) hard drawn copper wire, as herein specified.

60. Arc Lamps:

The contractor is to furnish and install arc lamps known as the Luminous Arc, or the Metallic Flame Arc, or the Magnatite Arc. These are to be arranged for operation in series on a 4-ampere circuit which will be supplied by a constant current transformer in conjunction with a mercury rectifier. This station equipment is covered under specifications "B." Each lamp is to be complete with the necessary electrodes and enclosing globes. There are to be supplied also ten additional metallic oxide electrodes with each of the above lamps, and 32 additional enclosing globes with the entire lot.

The average power consumption for each lamp shall be not less than 300 watts nor more than 325 watts. The maximum candle power from the lamps should be in a zone above 10 degrees below a horizontal plane through the arc.

Each lamp shall have a strongly built, durable copper casing with black oxidized external finish. It shall be so designed as to protect the lamp mechanism from the weather and shall be conveniently removable in order to allow easy access to the working parts of the lamp. Each lamp shall be provided with an automatic cut out so that in case the electrode is consumed or broken the lamp will be cut out of the circuit, thereby avoiding its destruction.

61. Incandescent Lamps:

The contractor is to furnish and install Tungsten filament incandescent lamps for operation in

series on a 4-ampere constant current circuit. These lamps are to be of such size as to consume approximately 40 watts each. They are to be arranged for use in a socket having a device to prevent the opening of a circuit in case the lamp is destroyed. The filament is to be of the wire type and anchored so that it is held firmly in position in its globe. The glass globe is to be plain, sealed at the end farthest from the base, and not frosted or etched.

10 62. Arc Lamp Hangers:

20 The contractor shall furnish and install absolute cut out arc lamp hangers, complete with convenient switch for the operation of the same, and provided with spreader arm upon which are to be mounted insulators suitable for attaching the wires supplying current to the lamp. There is to be provided also an each hanger one insulated ring or eye for attaching the chain by which the lamp is suspended. These hangers are to be designed so that by means of the switch the lamp is entirely eliminated from the circuit supplying it without interrupting this circuit and also that the current carrying parts are amply protected against the weather, and furthermore, in case the insulating material should be destroyed, that the lamps are not dropped to the ground. They shall be capable of withstanding a potential of not less than 10,000 volts for one minute between the current carrying parts and the eye by which the hanger is suspended.

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63. Tungsten Lamp Brackets:

The contractor shall furnish and install series incandescent lamp brackets complete with spreader arm on which are to be mounted insulator suitable for attaching the wires supplying the current to the lamp; each bracket shall be provided with a white enameled radial reflector located at such distance

above the lamp as to give the most desirable and efficient distribution of light obtainable, the enamel shall be on a copper or steel base and the reflector shall be surmounted by a hood or cover which shall protect the reflector from the weather and give it mechanical support. Each bracket shall be fully equipped with a series incandescent lamp socket suitable for the Tungsten lamps specified herein, this socket to be so designed that the current carrying parts are strong and of sufficient cross section to secure safe operation, and furthermore, so that if the lamp should burn out or be otherwise destroyed, the main series circuit supplying the lamp will not be interrupted; the bracket arm should be of pipe or tubing not less than 1 inch in diameter (outside), firmly fastened to a pole casting or fitting which shall be attached to the pole by not less than three lag screws, these lag screws being not less than one-quarter inch in diameter and four inches long, screwed into the pole—not driven in. The current carrying parts shall be insulated from the bracket arm so as to withstand a test potential of not less than 10,000 volts for one minute. All metal parts of the bracket and the fittings mounted on it which are exposed to the weather shall be painted with at least two coats of weather proof enamel, or an equivalent weather proof coating. These brackets must be erected completely equipped, and lamps installed ready to operate.

64. Mast Arms:

The contractor shall furnish and install mast arms complete with all pulleys, pole attachments and suspension chain as herein specified, and all other devices and attachments required to suspend the arc lamps herein specified over the street. These mast arms shall be built up of pipe or tubing not less than 1½ inches in diameter. They shall be fully braced

30

to support the vertical load due to the arc lamp and hanger with a factor of safety of $2\frac{1}{2}$. The metal parts of the mast arm and the fittings required to make it complete ready for the lamp shall be painted with at least two coats of black enamel, or an equivalent weather proof coating. The arc lamps and hangers shall be hung complete ready for operation.

65. Spans For Supporting Arc Lamps:

- 10 The contractor shall construct spans for carrying arc lamps of 7-strand steel guy wire $\frac{3}{8}$ inch in diameter, heavily galvanized. This wire shall be supported by poles at diagonally opposite corners of the street intersections and attached to those poles by means of insulated eyebolts, having one washer and two nuts each. This span wire shall be drawn up so that the sag with the lamp in place shall not be less than 8 inches nor more than 15 inches. Pulleys, pole attachments and suspension chains, as herein
20 specified, shall be provided; the lamps and hangers, and all other material shall be installed complete ready for operation.

66. Pulleys:

- All pulleys used in constructing the suspensions for arc lamps, whether on mast arms or span wires, shall be of such type as to admit of the free passage of the chain through and over them. They shall be so designed that the bearings for the pulley will
30 not be affected by the weather. All hardware and other material used shall be approved by the Engineer.

67. Arc Lamp Suspension Chains:

The contractor shall furnish and install the best grade of "Oneida" arc lamp suspension chain, or an equivalent to be approved by the engineer. Each in-

dividual chain for any arc lamp shall be coupled with end links and all necessary fittings to allow the lamps to be conveniently raised and lowered.

68. Length of Chain:

A sufficient length of chain shall be provided to allow the lamp to be brought to a convenient distance from the street for inspection and trimming. The complete arrangement shall be such that danger from lowering of any lamp by a person not officially 10
qualified so to do will be a minimum.

69. Height of Lamps:

All arc and Tungsten lamps shall be placed at such elevations from the street as shall be designated by the engineer.

Conductors.

Hard Drawn Copper Wire.

70. Material:

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The material used for the conductor shall be copper of such quality and variety that when hard drawn it shall have the properties and characteristics herein named.

71. Cross Section:

These specifications cover hard drawn round wire as herein specified.

72. Finish:

30

The wire in all shapes must be free from all surface imperfections, and consistent with the best commercial practice.

73. Packages:

The wire must be packed so that it shall receive

complete protection from damage in ordinary handling and shipping and in such a manner that it will be conveniently available for stringing on the poles without receiving injury in handling.

74. Insulation:

10 The insulation on the hard drawn No. 6 gauge and No. 2 gauge conductor shall be triple braided, weather proof. Over the copper conductors shall be laid a triple braided cotton covering. This braiding shall be closely woven and fairly saturated with an insulating compound which shall render it moisture proof. This compound shall not run or drip or become fluid at a temperature lower than 160 degrees Fahrenheit, nor shall it lose its elasticity at zero degrees Fahrenheit.

75. Specific Gravity:

20 The specific gravity of the copper used as the conductor for this wire shall be taken at 8.90.

76. Weight:

30 The finished weight of the No. 6 gauge, hard drawn copper wire herein specified shall be for the copper conductor approximately 79.5 lbs. per 1000 ft. It shall carry approximately 32 lbs. of insulation per 1000 ft. Its approximate weight complete shall therefore be $111\frac{1}{2}$ lbs. per 1000 ft.

77. Conductivity:

The copper used in all conductors in these specifications shall have a conductivity of not less than 95 per cent. of pure copper, Mattheissen's standard.

78. Tensile Strength:

The No. 6 hard drawn copper conductor shall

not break at less than 59,000 lbs. per square inch of original conductor. The permissible elongation in 10 inches should be approximately 1.5 per cent.

79. Diameter of Hard Drawn Copper Wire:

The No. 6 gauge shall be approximately .162 inches in diameter. The allowable variation in this diameter is 1 per cent. over or under.

80. Continuity:

The wire shall be supplied in continuous lengths for any insulated portion. Factory splices covered by the braided insulation will not be permitted.

10

Flexible Duplex Conductors.

81. Conductors:

The wires used for each of these flexible conductors shall be 21 in number. The gauge of each wire shall be No. 25 Browne & Sharpe standard. They shall be soft drawn copper and shall be laid up in three strands of seven wires each. Each strand shall be twisted in accordance with the best commercial practice.

20

82. Insulation:

Each of the two flexible conductors shall be covered with a wall of insulation containing not less than 30 per cent best Para rubber. This insulation shall be free from substitutes for rubber and from reclaimed rubber.

30

The insulation used shall be 3-32 inch in thickness.

The two insulated conductors forming the duplex conductor shall be held closely together with a drilled tape which shall be well filled with rubber, and also with a double braided cotton covering. This braided covering shall be closely woven and thor-

oroughly saturated with an insulated compound which shall render it non-absorptive and it shall not dip nor become fluid at a lower temperature than 160 degrees Fahrenheit, nor lose its elasticity at zero degrees Fahrenheit.

The conductors shall be thoroughly tinned.

83. Tensile Strength:

10 The tensile strength of the wires used in the flexible duplex conductor shall not be less than 33,000 per square inch.

84. Conductivity:

The conductivity of the wires used in the flexible duplex conductors shall be not less than 98 per cent of pure copper, Mattheissen's standard.

Submarine Cable.

85. Number of Conductors:

20 The number of conductors in this submarine cable shall be four.

86. Size of Conductors:

The size of conductors in this submarine cable shall be No. 4 Browne & Sharpe standard.

87. Conductors:

30 These conductors shall be of soft drawn copper wire and shall consist of seven strands of approximately No. 12 gauge, Browne & Sharpe standard. The lay of the strands forming any conductors shall not be less than twelve nor more than sixteen diameters of the resulting diameter.

The conductors may be laid left handed or right handed, as the contractor may desire, but all four conductors in the cable shall be laid in the same manner in this respect.

All conductors shall be thoroughly tinned.

88. Construction of Cable:

Each conductor shall be covered with an insulating wall containing not less than 30 per cent. pure Para rubber. No substitutes and no re-claimed rubber shall be used. A sufficient amount of rubber filled tape shall be placed over the rubber covering of each conductor to bring its diameter up to approximately .65 of an inch. The four conductors shall be held closely together, the spaces between them being filled with high grade jute fillers and the resulting core taped to a thickness of approximately 1.6 inches. This core shall be covered with a continuous lead sheathing having a radial thickness of $\frac{1}{8}$ inch, and this lead sheathing is to be covered with a steel armor consisting of No. 8 gauge solid steel wires. These steel wires forming the armor shall be thoroughly sherradized or hot galvanized with a covering of pure zinc.

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89. Insulation Tests:

The above cable shall withstand an insulation test of 16,500 volts for a period of five minutes between any two conductors or between any conductor and the sheathing.

90. Working Voltages:

This cable is to be designed for a continuous use on a voltage of 6600. The voltages referred to are root mean square values of alternating voltages, on the basis of a sine wave being used.

30

91. Potheads or Open Air Terminals:

Two complete potheads or open air terminals arranged for use with the above cable, are to be supplied. They shall be so arranged as to protect the

terminals of the cable completely from the weather and to permit the serial conductors to be connected with the conductors of the cable. These terminals or potheads are to be arranged for mounting on a pole and all material required for their being so mounted shall be supplied with them complete. These potheads or terminals shall withstand an insulation test of not less than 16,500 volts for five minutes between any two terminals or between any terminal and the ground or housing.

10

92. Abrasion Moulding:

Tree or abrasion moulding shall be furnished and installed by the contractor where the engineer shall designate to prevent destruction of the insulation on the wire. This moulding shall be of standard design, made in halves of seasoned hard wood and saturated with a preserving compound such as coal tar creosote, dead oil of coal tar, or an equivalent compound to be approved by the engineer; it shall be installed as shown in Fig. 9.

20

Construction Work.**Guys.****93. General:**

All material used for guys shall be approved by the engineer. All guys shall be constructed in location to be approved by the engineer, of $\frac{3}{8}$ inch 7-strand, steel guy wires, heavily galvanized; two strain-insulators, as herein specified, shall be used for each guy; three bolt standard guy clamps shall be used as shown in Figures 12 and 15 for joining portions of the guys; a standard thimble shall be used at every point where the guy wire is looped about the eye of a strain insulator or anchor bolt.

30

94. Anchor Guys:

Anchor guys shall be attached under second

gain as shown in figure 12, and anchored in the ground in accordance with requirements as shown in figure 4.

95. Head Guys:

Head guys shall be constructed in accordance with requirements as shown in figure 4.

96. Stub Guys:

Stub guys shall be constructed in accordance with requirements as shown in figure 4. 10

97. Pole Guys:

Pole guys shall be constructed in the same manner as the stub guys with the exception that the stub shall be of sufficient length to allow the guy wire attachment to be at least 18 feet from the ground.

98. Tree Guys:

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Tree guys shall be constructed in accordance with drawings 1, 2, 3 and 4.

All pole locations shall be approved by the engineer.

100. Pole Settings:

Pole settings shall be as follows:

Length of Pole	Depth in Ground	
	Straight Portions	Curves, Corners, and Points of Extra Strain.
25)		30
30)	5.0 feet	6.0 feet
35	5.0	6.0 feet
40	5.0 feet	6.5 feet
45	6.5 feet	7.0 feet

All poles must be set in a first class workman-like manner. When a pole has a sweep within the

specified limits and has been accepted, it shall be set in such a manner as to show the least amount of sweep, when viewed in the direction in which the line extends.

All holes for poles shall be dug large enough to admit the poles without forcing, and shall be of the same diameter at the top as at the bottom.

Unless the density of overhead wiring or trees make it undesirable, all cross arms shall be mounted on poles before they are erected.

10

101. Replacing Poles:

The contractor shall arrange, with the approval of the engineer, for the replacement of such poles as may be necessary in order to construct the line in accordance with these plans.

102. Roofing and Gaining of Poles:

20 All poles shall be roofed and gained as shown in Figure 1. There shall be two gains cut in every pole.

103. Heavy Poles:

Heavy poles shall be placed at corners and turns in line or other points of exceptional strain.

104. Placing of Cross Arms:

30 Cross arms shall be placed on alternate sides of the successive poles in any run, except where ascending a hill; in this case they shall be on the side of the pole toward the top of the hill.

All poles shall be set so that the cross arms are perpendicular to the direction of the line, unless otherwise specified.

105. Treatment:

All pole roofs and gains shall be painted with

two coats of creosote as herein specified. A heavy coat of creosote or dead oil of coal tar shall be applied over a space of 4 feet along the side of the pole, the space so treated shall be located so that the middle of it is approximately at the ground line.

All cross arms and pins after being inspected and accepted shall be dipped twice in a bath of creosote. There shall be a time interval of at least 24 hours between the two immersions.

106. Wood Preservative:

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The wood preservative used for treatment specified herein shall be coal tar creosote or dead oil of coal tar. No other material may be employed without the approval of the engineer.

Stringing Wires.

107. General:

All wires shall be strung in accordance with best modern practice and in accordance with the rules of the National Electric Light Association. 20

108. Circuits:

There shall be three separate circuits as shown in drawings 1, 2, 3 and 4. These shall be installed in such a manner that where more than one circuit appears on a cross arm the circuits appearing shall occupy the same relative location on the arm.

30

109. Special Forms of Construction:

Figures 17 to 24 inclusive, show special forms of construction to be adhered to.

110. Splicing Wires:

Every joint and tap shall be carefully soldered and taped. Mechanical connections shall be used on

medium or hard-drawn copper wires. See Figures 13 and 14.

111. Ties:

All ties shall be made with soft-drawn copper having same gauge and insulation as line wire herein specified. Ties shall be made in accordance with Figure 3.

10 **112. Railroad Crossings:**

The construction at all railroad crossings shall conform as nearly as possible to the specifications of the railroad company for such crossings.

113. Spacing Between Wires of Other Companies:

20 The space between the wires strung under these specifications, and present wires of other companies, shall conform as nearly as possible to the requirements of these companies and shall conform strictly to the laws of the State of New Jersey.

114. Sags:

The wire shall be strung in such a manner that the sag for spans of various lengths shall meet with the approval of the engineer.

115. Completeness:

30 The entire amount of material and labor necessary for the successful completion of the work herein specified shall be supplied by the contractor.

116. Samples:

The contractor must furnish along with his bid one complete arc light similar to the one he proposes to furnish, with sufficient electrodes of the exact type he proposes to supply for three extra trims

and full instructions for the operation of the lamp. There shall also be furnished three sample Tungsten filament series incandescent lamps of the exact type the contractor proposes to supply. There shall also be furnished one sample arc lamp hanger exactly the same in design, finish and construction as those he proposes to supply.

In addition, the following samples shall be furnished with the bid:

- Guy wire (not less than 10 feet), 10
- 3 bolt guy clamp,
- 2 strain insulators,
- 20 feet of copper wire,
- 3 insulators,
- 2 break arms,
- 5 feet of arc lamp suspension chain,
- 1 Tungsten lamp bracket complete.

Samples are to be delivered at the time the bids are sent in and at such place as the engineer may direct. Samples received from bidders whose proposal is not accepted will be returned after contract is awarded to successful bidder. 20

Full detailed information must be supplied as to construction, operation and method of carrying the mercury rectifier tubes. This information must state the best temperature at which these tubes will operate and what means are provided for producing and maintaining that temperature under all the various conditions of temperature met with in practice through the various seasons of the year. 30

117. Damages:

The contractor shall agree to make good to the purchaser any and all damages whatsoever, caused by him or his men to apparatus or material or buildings, sidewalks, or any property whatsoever, during the carrying out of any portion of the work herein specified. The contractor further agrees to take full

responsibility for any and all injuries or other damages which may be received by any person whatsoever, as a result of his carrying out the work herein specified. This shall apply to all persons or property, whether the same shall be in any way connected with the carrying on of this work or whether the damages or injuries shall occur to any person or property located on the public streets or highways of the City of Millville, N. J.

10 (It is stipulated by Counsel of the respective parties that the blue prints attached to Resolution No. 45 need not be shown in the minutes of the depositions.)

By Mr. Bartlett:

Q. What other ordinance was introduced at the meeting of City Council pursuant to Resolution No. 45?

A. A resolution fixing the form of bonds to be issued in pursuance of Ordinance No. 117.

Q. You have that resolution with you?

20

A. Yes.

(Paper is produced.)

Q. That is the resolution?

A. That is the resolution.

(Resolution is offered fixing the form of bonds to be issued in pursuance of Ordinance No. 117, and is marked Exhibit P-4.)

A RESOLUTION FIXING THE FORM OF BONDS
TO BE ISSUED IN PURSUANCE OF
ORDINANCE NUMBER 117.

30

Resolved by the Common Council of the City of Millville, that the bonds to be issued under and in pursuance of Ordinance Number 117 of this city be in the form of the schedule hereto annexed and marked Schedule "A."

Adopted November 1, 1912.

L. H. HOGATE,
City Recorder.

SCHEDULE "A."

**Form of Bonds to Be Issued in Pursuance of
Ordinance No.**

UNITED STATES OF AMERICA.

STATE OF NEW JERSEY.

CITY OF MILLVILLE ELECTRIC BOND

No. \$

The Mayor and Common Council of the City of Millville, a municipal corporation, created and existing under the laws of the State of New Jersey, hereby acknowledges itself to be indebted, and for value received promises to pay, to the bearer hereof, or, if registered, to the registered owner hereof, his executors, administrators or assigns, at the Millville National Bank, Millville, New Jersey, the sum of Dollars, lawful money of the United States of America, on the First Day of November, One Thousand, Nine Hundred and Forty-two, together with interest thereon at the rate of four and one-half per centum per annum, payable semi-annually at the same place in like money, on the First Days of November and May in each year, on presentation and surrender of the proper annexed coupons, or when registered and without coupons, to the registered owner hereof. This bond, at the option of the owner, may be registered both as to principal and interest; or the same may be registered as to principal only and when registered only as to principal the coupons hereto attached shall continue to be payable to bearer. If registered only as to principal this bond may, at the owner's option, at any time be registered as to interest also.

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10 If registered only as to principal this bond may be released from registry, at any time, at the option of, and by proper endorsement made hereon by the owner; but if registered both as to principal and interest this bond may then only be released from registry upon surrender hereof to the treasurer and payment to him of the expense of printing and executing a duplicate with proper coupons attached, which duplicate shall not be prepared, executed nor delivered without a resolution of the Common Council or its successors in authority.

20 This bond is one of a series of bonds aggregating the sum of THIRTY-FIVE THOUSAND DOLLARS (numbered consecutively from one to, inclusive, of like tenor, date, amount and effect, (if of different amounts the bond shall so state) issued under and by virtue of an Ordinance of the City of Millville entitled, "An Ordinance providing for the construction by and for the City of Millville of an Electric Light Distributing System for public lighting," known as Ordinance Number, passed by Common Council,, 1912, and approved by the Mayor.....

301912. The said ordinance is intended to provide (1) for the construction by and for the City of Millville of an Electric Light Distributing System for public lighting, under the authority (a) of an act of the Legislature of the State of New Jersey entitled, "An Act authorizing the lighting of public streets and places in cities, towns, townships, boroughs and villages of the State, and to erect and maintain the proper appliances," approved May 22, 1894. (P. L. 1894, page 477; 3 Comp. Stat. of New Jersey, page

3548, Sec. 351), and (b) Chapter 325 of the laws of the Legislature of New Jersey, Session of 1911. (P. L. 1911, page 690); and also (2) said Ordinance Number provides for the issue and sale of this issue of bonds in pursuance of authority granted by the following acts of the Legislature of New Jersey, to wit, (A) P. L. 1894, page 477, aforesaid; (B) P. L. 1895, page 464, 1 Comp. Stat. of N. J. page 930, Sec. 1239; (C) P. L. 1904, page 87; and (D) P. L. 1911, page 690, aforesaid. 10

It is hereby certified that, at an election duly called for that purpose held in and for the City of Millville on November 7, 1911, to determine whether or not the City of Millville shall issue bonds for the payment of the cost of the acquisition, construction, maintenance and operation of a plant or plants for the production and distribution of light, heat and power in the said city and elsewhere, which election was called and duly held in pursuance 20 of the provisions of section 10 of the chapter 325 of said laws of 1911, the total number of ballots cast "for the issue of bonds for the purchase of distributing plant" was 742, the total number of ballots cast "against the issue of bonds for the purchase of distributing plant" was 606, the total number of ballots "for the issue of bonds for the purchase of distributing plant" rejected was 9, the total number of ballots "against the issue of bonds 30 for the purchase of distributing plant" rejected was 9, the total number of ballots rejected because neither of said propositions was marked off was 590.

And it is further certified that all the requirements of law have been complied with by the proper authorities and officers of said city in issuing this bond, and that the afore-

said election was duly called, noticed, held and the results thereof returned and recorded as required by law, and that said Ordinance Number contains all the provisions regarding the raising of money to pay the interest hereon and the establishing of a sinking fund for the redemption hereof, required by law.

10

It is further certified that the entire bonded and floating indebtedness of the said municipality, including this issue of bonds, does not exceed, nor equal, fifteen per centum of the taxable value of the real and personal property rated for assessment in said city.

20

IN WITNESS WHEREOF the Mayor and Common Council of the City of Millville has caused its corporate seal to be hereto affixed and these presents to be signed by its Mayor, countersigned by its Treasurer and attested by its Recorder, and the coupons hereto attached to be executed by the signature of its Treasurer, this First Day of November, A. D., One Thousand, Nine Hundred and Twelve.

THE MAYOR AND COMMON COUNCIL OF
THE CITY OF MILLVILLE, BY

.....
Mayor.

30

Seal of the
City of
Millville

Countersigned by
.....
Treasurer.

Attest:

.....
City Recorder.

(FORM OF COUPON).

No. \$.....

The Mayor and Common Council of the City of Millville, New Jersey, will pay to the bearer the sum of..... dollars in lawful money of the United States of America, at the Millville National Bank, Millville, N. J., on the First Day of (November or May) 19.., being six months' interest that day due on its Electric Light Bond No., dated November 1, 1912. 10

.....
Treasurer.

(The following is to be endorsed on Bond.)

This bond may be registered on the books of the treasurer of the City of Millville, New Jersey, in the owner's name, at the office of the treasurer, such registry to be noted on the bond by the treasurer, after which no transfer shall be valid unless made on the books of the treasurer at the request in writing of the registered owner or his legal representative, duly authorized thereto by power of attorney, or by letters of administration or testamentary, and the transfer similarly noted on the bond; but this bond may be released from registry by being transferred to bearer and notice of such transfer made as hereinbefore and according to the terms of this bond provided, after which this bond shall be transferable by delivery, but it may be again registered as before. The registry of the bond shall not restrain the negotiability of the coupons by delivery merely unless the coupons be surrendered and the interest thereon made payable to the registered owner. 20 30

No writing below except by the treasurer of the City of Millville.

Date of Registry	In Whose Name	Registered as To Principal Only
.....
.....
.....
.....
.....
.....

10	Registered Both as to Principal and Interest	Registry Noted by
.....
.....
.....
.....
.....
.....

20 (The following is also to be endorsed on the Bond).

30 It is hereby certified that upon the written request of the owner of this bond the coupons attached to said bond, being.....
in number and numbered consecutively from.....to..... inclusive, for the sum of..... dollars each, were on this day detached and destroyed, and that the principal of the said bond, as well as the interest, is to be paid to the registered owner hereof or the legal representatives, successors or assigns of such owner, at the Millville National Bank, Millville, New Jersey.

Dated Millville, New Jersey.....
, 19....

.....
 Treasurer of the City of Millville, N. J.

(The following is also to be endorsed on the Bond.)

NUMBER.....

CITY OF MILLVILLE,
STATE OF NEW JERSEY,
U. S. A.
ELECTRIC LIGHT BOND
4½ Per Cent.

10

\$.....

Interest Payable
November 1st and May 1st;
Principal due November 1, 1942.
Principal and Interest payable
at the Millville National Bank,
Millville, New Jersey, U. S. A.

CONTRACTOR'S BOND.

20

KNOW ALL MEN BY THESE PRESENTS,
that.....
..... of
.....
as principal, and.....
..... of
..... as surety

30

(hereinafter called the obligors), are held and firmly
bound unto the Mayor and Common Council of the
City of Millville, a municipal corporation of the
State of New Jersey (hereinafter called the obligee),
in the sum of.....
.....dollars (\$.....) for the payment
whereof said principal bind.....
....., heirs, executors and administrators,

and said surety binds itself and its successors, jointly and severally firmly by these presents.

Sealed with the seals of said obligators. Dated theday ofA. D., 191

10 WHEREAS, the said principal has entered into a written contract, dated.....191 , with the said obligee, for the construction of an electric light distributing plant in the city of Millville, a copy of which contract is hereto annexed, and to which together with the specifications, all parties agree to be bound:

20 NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said principal shall well and faithfully perform said contract on..... part, according to the terms, covenants and conditions thereof, and indemnify and save harmless the said obligee, and its successors from all suits or actions of every name and description, and the costs and expenses thereof brought against it for or on account of any injuries or damages received or sustained or claimed to have been sustained or received by any person or persons, by or from the said principal,..... servants or agents, in the construction of the said work, or by or in consequence of any negligence in performing or in guarding the same, or in any improper or unauthorized materials used in its construction, or by or on account of any act or omission of the said principal, servants or agents, in the faithful performance of said contract; and will indemnify and save harmless the obligee, and its successors of or from any loss, damage, costs, charges, or expense in anywise arising to it by, from or through any damage to persons or to any property of it or others; then this obligation to be void, otherwise to remain in full force and virtue.

AND IT IS EXPRESSLY AGREED by and between all parties hereto, that no extension of time, or alterations in additions to or omissions from the work provided for under said contract, plans and specifications, although without the consent of said surety, or notice to it, shall vitiate this bond or discharge said surety.

IN WITNESS WHEREOF, the said principal has 10
..... said surety has caused its corporate seal to be hereto affixed, and these presents to be signed by its..... president, and attested by its..... secretary, pursuant to due corporate action this.... day of nineteen hundred and.....

Signed, sealed and delivered (as to principal) in the presence of: } 20
..... (Principal)

..... (Surety)

By..... (President)

Attest:..... 30
(Secretary)

By Mr. Bartlett:

Q. Was any other proceeding taken at that Council?

A. Not at that Council.

Q. That is all that was done at that meeting, passing of the ordinance and these two resolutions?

A. Yes.

Q. Mr. Hogate, is there any fund on hand in the City Treasury of Millville to meet the cost of this plant which the city proposes to build under Ordinance No. 117?

A. I am not City Treasurer, I could not tell you.

Mr. Miller:

10 I will admit that there is no fund sufficient for the cost of the construction of the electric light plant contemplated by Ordinance No. 117, other than that proposed to be raised by the issue of bonds referred to in the ordinance.

Q. Have any bonds been issued under Ordinance No. 117?

A. I think not.

Q. Or any bond issued under any previous ordinance or resolution for the construction or acquisition of electric lighting plant in the City of Millville?

A. No.

20 Q. Have any bids been submitted as yet for the purchase, acquisition or building of an electric lighting plant in the City of Millville?

A. Not to me.

Q. To your knowledge, to the City or any Committee of Council?

A. Not to my knowledge.

CROSS-EXAMINATION.

By Mr. Miller:

30 Q. No bids have been advertised for yet?

A. Not that I have known of.

Q. But your name accompanies requests for bids?

A. The Committee may have gone on without my knowledge. I should say "No," in the abstract. No bids have been advertised for or received.

Q. Has the city received or made any agreement

for the supplying of electric current for a distributing system in connection with the erection or acquisition of an electric lighting plant.

(Question read).

A. I know of none.

Q. Do you know whether bids have been asked for from the Millville Manufacturing Company or any other individual or corporation for the supplying of electric current to the new distributing system for the City of Millville? 10

A. I don't.

Q. Has any other city or municipality been asked to your knowledge to bid on the supplying of the City of Millville with electric current for its distributing system?

A. Not to my knowledge.

Q. Was any election called for the purpose of bonding under Ordinance No. 117?

A. Under Ordinance No. 117?

Q. Under Ordinance No. 117. 20

A. No.

Q. Have any instructions been given to you by any committee of Council to call an election for the purpose of issuing bonds under Ordinance No. 117?

A. No.

Q. And has any election preceded the passage of Ordinance No. 117 relating thereto in relation to the issuance of bonds?

A. Under this ordinance?

Q. Under this ordinance. 30

A. No.

Mr. Miller:

I give notice to the prosecutor that upon the coming in of the rule to show cause in this case I will read such depositions and other evidence as were produced in the case of Walter Wood vs. the Mayor and Council of the

City of Millville, in Supreme Court, on application for certiorari, as may be applicable to the issues under the present rule, and will consent that the prosecutor have the same leave.

Mr. Bartlett:

That is all right.

10 Q. Mr. Hogate, prior to introduction of Ordinance No. 117, City of Millville, did the Common Council of the City of Millville at the regular meeting held on the first Friday in October, authorize a notice of the introduction of that resolution to be published?

A. Yes.

Q. Have you in your files an affidavit that such publication was made?

A. I have.

Q. Will you produce it please?

A. This is it.

20 (Witness produces paper endorsed, "The City of Millville in the matter of a passage of an ordinance providing for the construction by and for the City of Millville of an Electric Light Distributing System for public lighting. Proof of Publication of Notice of Intention. Which affidavit is described by W. E. Middleton, alleging himself to be the publisher of the Millville Daily Republican, before a Master in Chancery of New Jersey, and re-
30 cites that a Notice of Intention attached to the affidavit was published October 9, 16 and 23rd, 1912, in the Millville Daily Republican, which is offered in evidence on the part of the Respondent and is marked Exhibit D-1.)

Q. Mr. Hogate, when was this proof of publication actually filed with you?

A. October 25, 1912.

Q. Will you read from the minutes of the meet-

ing of Common Council held October 20, 1912, the note of the filing of the Proof of Publication?

A. The Proof of Publication of Notice of Intention to introduce an ordinance providing for the construction by and for the City of Millville of an electric light distributing system for public lighting was presented, and being in due form, was ordered filed.

Q. That was filed before the introduction of Ordinance No. 117, was it not?

A. Yes.

10

Q. Ordinance No. 117 is now being published, isn't it?

A. It is.

Q. In accordance with the provisions of the City Charter?

A. (No answer.)

By Mr. Bartlett:

Q. I want to ask if the plant proposed to be built for the city cannot be used both for private and street lighting? 20

A. (No answer.)

Mr. Bartlett:

I offer in evidence maps and specifications relative to the lighting plant filed with the City Recorder October 4, 1912, being the maps and specifications referred to in Ordinance No. 117.

30

John S. Horton, being duly sworn according to law on his oath, said:

By Mr. Bartlett:

Q. You are a member of the City Council of Millville?

A. I am.

Q. And chairman of what committee of that Council?

A. Finance and Water.

Q. Was an ordinance known as Ordinance No. 117, providing for the construction by and for the City of Millville of an electric light distributing system, for public lighting passed on November 1, 1912?

10 A. Well, without investigation I am not qualified just on that date. I would say yes.

Q. That was last Friday?

A. That is right.

Mr. Miller:

Friday before last.

Q. It was the regular November Council meeting?

A. That is right.

20 Q. Under that ordinance it is the purpose of the city to issue bonds to the extent of \$35,000?

Mr. Miller:

I object on the ground that the ordinance speaks for itself.

The Witness:

There is a further provision in the wording of that ordinance "\$35,000 or such part thereof as may be necessary."

30 Q. And it is the purpose of the city to establish what sort of a lighting plant or system under that ordinance?

A. For the purpose of street lighting only.

Q. Is the plant so constructed that you can supply private consumers?

A. No plant has been constructed.

Q. Do you know whether the plant that is to be constructed is to be built so that private consumers

can be supplied with electricity?

A. I am not familiar with the details of the plant at all, Mr. Bartlett.

Q. Is it not the intention of the city in addition to supplying light for streets to supply lights to private consumers?

Mr. Miller:

Objected to on the ground that witness is not competent to answer that question.

A. I have no knowledge.

10

Q. Is it the purpose of the City of Millville to receive bids from individuals or corporations to supply electric current to this distributing system that the city is to erect?

Mr. Miller:

Objected to that the witness is not qualified to speak for the City Council of Millville other than as disclosed by the ordinance and resolutions passed by Council.

20

(Question read).

A. Well, I don't see how I could with any consistency state what the purpose of the City of Millville is.

Q. Mr. Horton, as Chairman of the Finance Committee or of any Committee of Council have you ever written to the Millville Manufacturing Company or any other private corporation relative to the furnishing of electric current to a distributing system to be built by the City of Millville?

30

(Question read.)

Mr. Miller:

Objected to as not relevant unless it be shown that his action was taken pursuant to direction of Council since the passage of Ordinance No. 117.

A. Several months ago I either wrote or had knowledge of such a letter being written to the Millville Manufacturing Company.

Q. Is it not the intention of City Council to ask the Millville Manufacturing Company or other private companies to supply electric current to an electric distributing system in the City of Millville under Ordinance No. 117?

Mr. Miller:

10 Objected to for the reason heretofore stated that it is not competent for him to state the intention of Council and the intention of the city must be gathered from the ordinances and resolutions.

A. I am not competent to answer for the intentions of the City of Millville.

Q. Have you, since the passage of the Ordinance No. 117 sent out requests for bids for supplying current to any private companies?

20 A. Have I?

Q. As a member of Council or for any committee of Council?

A. No.

CROSS-EXAMINATION.

By Mr. Miller:

Q. Ordinance 117 is now being published according to law?

30 A. I so understand it.

Q. You have seen it?

A. (No answer.)

Q. No action has been taken at all by your committee to execute or carry out any part of Ordinance No. 117 as yet?

A. I understand the ordinance is not effective for twenty days.

Q. You have done nothing?

A. No.

By Mr. Bartlett:

Q. Is it your purpose to take any action whatever under the provisions of Ordinance No. 117 until advised by counsel?

A. I don't remember the wording of the ordinance. If any directions in there we will carry out the instructions of the ordinance.

Q. In view of this litigation?

A. No, I would not, as an individual or as a member of Council. 10

Q. Does the distributing system that the City of Millville is to build under Ordinance 117 contemplate securing the current from private companies instead of manufacturing the current itself? Can you answer that question?

A. As I understand it could be used for either. That is merely general information secured from conversation held with the engineers. This system could be used for current the municipality might manufacture, or it could be used for current which we might buy. 20

Q. But it is the intention of the city is it not to purchase current for this distributing system?

Mr. Miller:

Objected to because the witness is incompetent to state, and the intentions of the city must be drawn from the ordinances and resolutions of the City Council. 30

A. My answer would be as an individual member of Council. I am not competent to state.

Q. No provision has been made by any resolution or ordinance of Council to your knowledge providing for the construction of an electric light producing plant—generating plant, has there?

A. No. There has not.

Q. And the letters that you refer to as having

been written to the Millville Manufacturing Company were written before the passage of Ordinance No. 117?

A. Yes.

Q. But have proceedings been taken under Resolution No. 37?

A. I am not familiar with them.

Q. That is the resolution passed September 1, 1911?

A. September 1, 1911.

10 Q. Yes?

A. After that. It was relative to holding a special election. It was after that.

Q. It was after that?

A. Yes, sure.

It was stipulated between counsel of the respective parties that the further taking of depositions
20 shall be continued until Friday, November 15, 1912, at two o'clock P. M., at the office of Worrall E. S. Temple, Electrical Engineer, Thirty-fourth and Walnut Streets, Philadelphia, and that the depositions of Mr. Temple may be taken before T. F. Birch, Esq., Commissioner of Deeds, out of the State, and that upon examination of Mr. Temple, the copies of the maps and specifications filed by him with the City Recorder, October 4, 1912, may be used and referred to by counsel in the same manner as though the original maps and specifications now on file with the City
30 Recorder were produced.

L. H. Hogate, recalled.

By Mr. Bartlett:

Q. Have any plans or specifications been filed

with you since October 4, 1912, relative to an electric lighting system in the City of Millville?

A. Yes, sir, those embraced in Resolution No. 45.

Q. Has any additional contract been made with Worrall E. S. Temple, since the modification of his contract as set forth in the minutes of the City Council on October 4, 1912?

A. No.

By Mr. Miller:

Q. The blue prints attached to resolution 45 and forming part thereof are copies of those filed with you October 4, 1912? 10

A. Yes.

Q. Are they not?

A. Yes.

Q. Duplicate?

A. Duplicate, yes.

(Taking of depositions continued as noted above until Friday, November 15, 1912, at two o'clock P. M., at the office of W. E. S. Temple, Philadelphia, Pa.) 20

NEW JERSEY SUPREME COURT.

NELSON G. LIVERMORE,
Prosecutor,
vs.
THE MAYOR AND COMMON
COUNCIL OF THE CITY
OF MILLVILLE AND WOR-
RALL E. S. TEMPLE,
Respondents.

10

On Certiorari.
Depositions.

Philadelphia, Pa., November 15, 1912.

Taking of depositions in the above matter resumed on this date, at the office of Worrall E. S. Temple, Esq., University of Pennsylvania, at two o'clock P. M., pursuant to adjournment, in the presence of counsel for the respective parties.

20

Worrall E. S. Temple, a witness produced on the part of the prosecutor, being duly sworn, according to law, on his oath says:

By Mr. Bartlett:

Q. Mr. Temple, you are an electrical engineer engaged by the City of Millville in preparing plans and specifications for an electric lighting system in that city?

30

A. Yes, sir.

Q. And you are the same Worrall E. S. Temple who is a respondent in this case and who has testified in a case entitled Walter Wood vs. the Mayor and Common Council of the City of Millville?

A. Yes, sir.

Q. Have you completed your plans and speci-

eations for the electric lighting system in the City of Millville!

A. They are completed ready for advertising for bids, yes; there is a reservation in these plans permitting, if it is desired by the City of Millville, certain changes to be made. Aside from any possible changes that may be found desirable those plans are regarded as complete.

Q. What is the cost of the system to be established under your plans and specifications?

A. The actual cost cannot be determined until bids are received from those who will offer the bids, probable contractors, in other words. 10

Q. How many sets of plans and specifications have you prepared for the City of Millville in reference to the establishment of an electric lighting system?

A. Three sets of specifications, which I would refer to as specifications A. B. and C., and one set of plans. That is, I distinguish there between the sketch part of this story — 20

Q. When were those plans and specifications completed?

A. I should say—I am not positive as to the date, but as I remember about the third of October.

Q. And you have drawn no set of plans or specifications since the first day of November?

A. Certainly not since the first day of November, no.

Q. Were the plans and specifications that were completed on the 4th day, you say, of October— 30

A. I think the 3rd day of October they were completed, if I remember correctly.

Q. Is that the same date you had the contract modified?

A. We had the contract modified the 4th of October. I should say the 3rd of October; I am not positive of that; it might have been we completed them the day we brought them down; we were pretty

well pinched for time, owing to some changes that were suggested in their form.

Q. And they are the plans and specifications that you originally started in on under your contract of hiring of last May with the City of Millville?

A. No, under my contract of June 15th.

Q. Under your contract of June 15th?

A. Yes.

10 Q. Now, Mr. Temple, can you approximate the cost of the system that is to be established under these plans and specifications?

A. How close an approximation have you in mind?

Q. Well, I will state this: Provided \$35,000 be issued in bonds to pay for this system, now, how near to that \$35,000 can you state that this plant is supposed to cost?

A. Under all three specifications, you mean, or just under the one?

20 Q. First under all three specifications, A. B. and C.?

A. First the complete specifications and plans which I have prepared?

Q. Yes.

A. Well, in answer to that I would simply hark back to the preliminary plans that I prepared in accordance with the agreement with the Council of the City of Millville during the month of March.

Q. And under that agreement they were to spend how much in establishing the system?

30 A. There was no agreement as to how much they were to spend; they merely asked me to find out roughly what it would cost to do that, in order to determine the possibility of it from a financial standpoint and otherwise.

Q. And what cost did you submit to them as the price of such plant?

A. In round numbers a total cost of \$30,000. You understand this, the time of year has something

to do with the cost of a venture of that kind. Another element that has something to do with it is the cost of copper, which our friends in New York have something to do with; when they decide to make it a little higher, plants are going to cost a little more. Based on—I do not recall the base price of the copper I figured on in that estimate, but it was a mean price or an average price—and based on that and based on reasonably favorable weather conditions, the price would not run very much above \$30,000. It would not run under \$30,000, it might run a little above \$30,000. It is my custom in cases of this kind, when the question is asked of me how much money should be provided for carrying out a venture of this kind, in estimating the cost at a given figure, I would advise providing probably ten per cent. more than that figure for the purpose of being on the safe side. Occasionally unforeseen difficulties arise, and they have to be taken care of.

Q. How complete a system is provided for under your plans and specifications for the City of Millville?

A. The plans and specifications themselves will show that.

Mr. Miller:

Just a moment; the question is objected to for the reason that the inquiry of counsel is not directed toward the ascertainment of the particular work contemplated by Ordinance No. 117, it being made apparent by the record and the ordinance itself now in evidence that the City of Millville only contemplates the construction of an electric lighting plant for public lighting, in accordance with the specifications of Mr. Temple marked specifications A., and no work is contemplated by the ordinance covering the specifications prepared by

Mr. Temple and marked by him specifications B. and C.

(Question repeated).

Q. The plans and specifications you are thoroughly familiar with, Mr. Temple?

A. At the present moment I am reasonably familiar with them. I have done a great many other things of more or less the same nature in the last few months, along with carrying on my work here at the
 10 University, and I make it point as an engineer not to try to carry things in mind that I can carry in my pocket or in my filing cabinet. At the same time, I am sufficiently familiar with them to give you some rough idea in the way of a digest of them if you like.

Q. And from your knowledge of those plans and specifications, how complete a system is to be established thereunder?

A. May I ask if by "complete" you mean—

Q. Wait a moment; I want to hold you to that
 20 question.

A. I want to get what you mean by "complete," is all. Do you mean how extensive?

(Question repeated).

A. I don't understand your question exactly—how complete a system?

Q. What I want to get at is how complete a system from your knowledge of these plans?

A. You mean complete from the standpoint of
 30 protective apparatus, or from the standpoint of—

Q. No, what is the system and what can be done with it?

A. If you mean as to the work this system should do—

Q. Yes.

A. My idea was—the essential features of it are these; I have provided, as far as my knowledge goes, for all the essential features of it.

Q. You have provided for all the essential features of it?

A. Yes.

Q. What I wish to know, Mr. Temple, is, how comprehensive are those plans for the establishment of this electric lighting system in the City of Millville?

Mr. Miller:

I object to the words "this electric lighting system." 10

Q. The system that you have planned?

A. Under specifications A first?

Q. Yes.

A. That being the first thing.

Q. All right, if you want to divide it that way.

A. There is provided for there a complete—that is the word which involves all of the protective apparatus and other means for installing and handling generally one hundred and twenty-nine, more or less, arc lamps for street lighting purposes, and 278, as I 20 remember it, series Tungsten filament incandescent lamps, also for street lighting purposes. Is that the sort of information you want?

Q. Yes, that is all right. That is under Schedule A?

A. That is under specification A.

Q. Under specification B, what do your plans embrace?

Mr. Miller:

I object to that as irrelevant and immaterial, because there has been no action taken by Council looking toward the erection of any work under specifications B or C. 30

A. Under specifications B, as I remember it, there is provided for the station equipment which would meet the needs as to current supply for the street lighting system covered by specifications A.

Those specifications were planned so that they might be used in providing such equipment without regard to the location of the station equipment, but merely with regard to what it must do from an electrical standpoint to meet the needs of the lighting system referred to under specifications A.

Q. And under specifications C, what do your plans contemplate?

10 A. Provisions for supplying any public buildings, for instance, or supplying any other needs, occasion for which might arise.

Q. You mean by other needs for which occasion would arise private buildings and private consumers, don't you?

20 A. As the plans and specifications are planned, there is no—that would not become a part of the requirements in carrying them out. What they would be used for is something that I have personally no definite knowledge of, but they might be used for running a large pumping station here or there or some other place, might be used for quite a lot of things. I figured on what I thought would be a certain sized load; I don't know just exactly how I got at the size of that load; at all events, there is no particular restriction in what they are used for. What it is used for is up to the City of Millville if it is ever done at all.

Q. They might be used, mightn't they, for private lighting?

30 A. Might be used for anything.

Q. And you mean by anything that that would include private lighting?

A. Sure, they might be used for making carborundum, anything at all that electricity might be used for.

Q. I want to get at private lighting; they might be used to supply private houses, private consumers, mightn't they?

A. There is no reason why they should not that I know of.

Q. Isn't, as a matter of fact, Mr. Temple, schedule C in your plans so as to provide for private lighting by the City of Millville?

A. Well, now, when I am answering that question, I have to bear in mind the fact that I have no control over that side of it at all, that I don't know what they are going to be used for. As a matter of fact, in one sense of the word, I have an intimation perhaps that ultimately they might be used for something of that kind; otherwise I don't know. 10

Q. I am not asking that, Mr. Temple; I am asking you under the plans and specifications marked C—

A. I know what you are asking.

Q. Aren't they adapted to allowing the city to supply private consumers with electricity?

A. I have already answered that.

Q. How have you already answered it?

A. I said they might be used for anything, among other things that. 20

Q. When you say anything—

A. They might be used to supply lights in the local City Hall.

Q. Or in any private residence?

A. Any place, yes.

Q. Any place?

A. Yes.

Q. In other words, the city could supply private houses under that schedule? 30

A. Under schedule C; they could not under schedule A.

Q. I am only asking under schedule C.

A. Yes, certainly.

Q. Then the plans and specifications that you have prepared for the City of Millville, as sub-divided under three heads, A, B and C, provide for both public and private lighting, don't they?

A. I don't think that I would collect them up in that manner as the specifications and as to their range of use. Those specifications collectively I did not prepare; I prepared them separately, A for street lighting only, B for station equipment to suit that street lighting, C for such purposes as they may be used, among others the one that you suggest, that is, for commercial lighting.

10 Q. That is what I asked you, whether under your plans and specifications as sub-divided into A, B and C, whether that does not provide for a system for both public and private lighting?

Mr. Miller:

I object to that question because it has just been answered. I don't think that is fair.

The Witness:

Oh, that is all right.

20 Mr. Bartlett:

I want it not under his sub-divisions but under his general plan as sub-divided.

A. I did not prepare specifications A, B and C; there is no such specifications in there. That is the answer to that.

Q. But did you divide them so A, B and C—

30 A. I divided them in the way I prepared them so as to permit any one of those three things to be purchased and installed—contracted for, make it that way—and I don't know whether I can think of anything that would clear up the difficulty there or not. You can see it just as well as I can.

Q. No, I can't see it as you do.

(The former question repeated).

A. My answer is no.

Q. Schedule C provides for commercial lighting, don't it?

A. Yes, among other uses for it.

Q. Among other purposes?

A. Yes, but A does not; that is, these three nouns which are—specifications A is one of the nouns, so is specifications B, so is specifications C—they don't convey to that object those things which you want me to answer yes to. Yes is not an answer; they don't convey that idea. A does not provide for commercial lighting, provides purely and simply and exclusively and only for street lighting, and as an expert I would, almost by force, prevent a man from putting it in his house, for it would kill him as sure as he went within a sufficient distance of the circuit to turn on or off a light. 10

Mr. Bartlett:

Wait a moment; that answer is not in response to the question. I move to strike out the answer as not responsive.

Q. Under your plans and specifications, which are sub-divided into three parts known as A, B and C., cannot the City of Millville establish an electric lighting plant for both public and private lighting? 20

(Objected to as immaterial).

A. Under all three of them combined; if they use all three of them combined, yes.

Q. Mr. Temple, under schedule A how does the City of Millville propose to get the electric current to supply that system?

Mr. Miller:

30

I object, because the witness cannot state what the city proposes to do.

A. I am not in a position to answer that question at present, sir.

Q. What do your plans provide—no, strike that out. What do your plans and specifications provide as to the creation of electric current under schedule A for street lighting?

A. As to the creation?

Q. As to the creation?

A. Production, do you mean?

Q. Production, yes.

A. All right, let's make it production.

Q. I mean the generation of current?

A. I understand; I will take the spirit of the question.

Q. Now, you know what I mean by that; what I want to know about that is whether the city is going to buy current or going to make it?

A. What do my plans provide for?

(Question repeated).

A. Specification A provides, as has been previously stated, for the equipment on the streets only.

Q. Do the plans and specifications under schedule A provide in what way the City of Millville shall secure electric current.

A. They do not.

20 Q. For supplying this system?

A. They do not; those specifications place no restrictions as to the source of supply. It is evident that the nature of the supply will have to be such as to permit the operation of the system called for under specifications A; it is evident that they will have to be such as to do that.

Q. Under specification A does it provide for the manufacture by the City of Millville of electric current?

30 A. No, sir.

Q. Was it your plan to buy this current as laid out in these plans from other parties outside of the City of Millville?

Mr. Miller:

I object to that because it is not the function of the engineer to have any plans for securing the current; that function lies with the

Common Council of the City of Millville.

A. It was my plan to follow the instructions of my client in the matter of plans under specifications A for the street lighting equipment as previously described.

Q. Then under specifications A it is left for the city to secure its electric current in such way as it sees fit?

A. There is no statement in the specifications there to that effect, but, of course, it is their natural right. 10

Q. Specification A relates only to street lighting, doesn't it?

A. As previously stated, yes, sir.

Q. Under specification A did your plans call for the expenditure of \$30,000, as previously stated under specification A alone?

Mr. Miller:

I object to that, because the plans do not call for the expenditure of any particular amount of money; they merely indicate a particular scheme of electric light distribution. 20

(Question repeated).

A. I made no estimate of the amount of expenditure necessary to meet the requirements covered by specification A.

Q. You have previously stated, Mr. Temple, that your plans contemplated the expenditure of \$30,000

30

Mr. Miller:

I object to that because it is based upon the presumption that the witness stated something which he has not said.

Mr. Bartlett:

Wait until I get my question through.

Q. (Continuing). Was that for the establish-

ment of a street lighting system only?

(Question repeated).

Mr. Miller:

10 I object to that on the ground that the question is clearly based on the assumption that the witness has testified that the construction of the particular plant and system provided for by the specifications now on file would only cost \$30,000 whereas the testimony related merely to some estimate he made over an indefinite project in March of 1912.

(Question repeated).

A. I would like to ask, when you say "plans" if you refer to what I have been referring to as preliminary plans—is that what you mean by plans? For I made no estimate as to these plans we are now talking about.

20 Q. Yes.

A. If you mean preliminary plans, yes, my preliminary plans did total up to approximately \$30,000.

Q. And did those preliminary plans only include street lighting?

(Objected to as irrelevant).

30 A. You will understand that at the time that these preliminary plans—that preliminary plans are made in many cases and by many organizations, municipal as well as private, in order to get a more or less accurate idea as to what a project, which may or may not be in definite form, is going to cost if possible, perhaps several other conditional deductions there. It might at some time or other be that those preliminary plans I have referred to once or twice were gotten up under those conditions, and no steps, as far as I know, had been taken toward a definite decision as to just what part of these pre-

liminary plans would be acted on. They included, however, the material and the range of application as covered by A, B and C specifications.

Q. And A, B and C specifications cover both street and private lighting, don't they?

Mr. Miller:

I object, because that question has been asked at least twice and been answered.

Q. Answer the question yes or no.

A. Yes, sir.

10

Mr. Miller:

I think the Commissioner should state to the witness that he is not obliged to answer a question yes or no; he can answer it under his oath in accordance with his views, and in accordance with the truth and the whole truth.

Q. Those are the only plans you have drawn for the city that you have just spoken of in your last answer?

20

A. Those preliminary plans covering the tentative proposition, and then the plans covering the work finally decided on—yes, those are the only plans.

Q. You have prepared no new plans or specifications since the first of November last?

A. Of 1912?

Q. Of 1912?

A. No.

Q. Then, as I understand you, Mr. Temple, that expenditure of \$30,000 contemplated both street and private lighting. Now, that you can answer yes or no, can't you?

30

(Objected to as irrelevant).

A. No, no expenditure of \$30,000 has been made yet.

Q. What I mean by expenditure is the estimate

that you have previously testified to; I realize no money has yet been expended.

A. You mean the preliminary estimate?

Q. Yes.

10 A. My instructions at the time that I made the agreement to get up the preliminary plans were, as it all came at the same price, to give them their money's worth, that is, to go ahead and cover this so they could pick out what they wanted, and it was intimated to me at the time that there was very small probability of any action being taken as far as the ability to handle a commercial load was concerned. That was more than intimated to me, and my instructions were to so arrange my preliminary estimate that information as to various portions of it could be secured from that preliminary estimate, which I did.

Q. I will ask the stenographer to read again the last question and ask you to answer it yes or no.

20 A. I know your last question—did the preliminary plans contemplate an expenditure of \$30,000?

Q. You are like all experts; you won't answer yes or no.

A. Oh, yes, I will answer you. Contemplated—my answer is no. It is not square to you or to me to answer yes or no.

Q. Here is what I want to get at—

30 A. I know what you want to get at; you are trying to make out that these people planned a commercial load, and I am in a position to understand that as well as you do, and I know they did not, because they told me when these plans were gotten up—

Q. I am asking you if you have not prepared a system that does embrace those, consequently whether the expenditure of \$30,000 does not include both a private and a public plant?

A. The estimate of \$30,000 covers both of those.

Q. Those two things, public and private?

A. Yes, but it did not contemplate that; it does not say so. It covers it but does not contemplate it, and there is the difference, if you will put that in my answer. I don't want anybody to think I am a quibbler or—

Q. Oh, no, but I think you dodge a little bit. What, Mr. Temple, would be the cost of a street lighting plant only as under your plans?

Mr. Miller:

I object to that unless the question is confined to the plant provided for by specification A; also the further objection that the witness is referring to preliminary plans which would involve one thought, and also reference has been made to particular plans filed with the City Recorder known as specifications A, and the question does not require the witness to distinguish the cost of any particular one of those plans. 10

A. Under the most favorable conditions— 20

Q. I am not trying to tie you up on any figures—you understand that. Now, answer that question.

A. You mean, of course, the estimated cost?

Q. That is right.

A. Somewhere between \$18,000 and \$20,000—probably twenty-four or twenty-five thousand dollars, depending on the time of the year and the price of copper and other conditions which will vary from time to time; somewhere between \$18,000 and \$24,000 or \$25,000. Is that close enough, Mr. Bartlett? 30

Q. That is all right.

A. Because that is as close as I would want to go. I have my preliminary plans—

Q. I am not trying to tie you up on any future figures in your contracts with the city; you understand that; I don't care what your contracts are going to be in the future.

A. I am not looking for any motive; I only want to be fair and square. When you say "contemplate" they do not contemplate that.

Q. How much additional would be the private system added to this cost?

(Objected to).

A. Added to the street lighting cost?

Q. Strike that out; I will give it to you better. You have just stated approximately what it would
10 cost to light the streets under your plans and specifications?

A. Yes, sir.

Q. How much additional expense would be necessary to supply private consumers under this system of street lighting as planned by you?

Q. Your question is not quite clear; when you say to supply private consumers under this street lighting, how do you mean? In addition to the street lighting, you mean? Do you mean in addition
20 to it?

Q. Yes, what I mean is this: Your plans are so fixed that they provide for street lighting, and another sub-division for commercial lighting?

A. Yes.

Q. But I take it that the system is to be established so that one can be added to the other in the future?

A. Yes.

Q. And what I wish to know is what additional
30 expense would be incurred in case of the addition of the private lighting?

(Objected to as immaterial and as wholly irrelevant to the present issue).

A. That would depend among other things upon whether or not the construction providing for the commercial requirements should be carried on at the same time that the street lighting part of the system

is constructed. It would cost less money, evidently, to do the two things at the same time, roughly, than it would to complete one of them and then after a lapse of months or more, perhaps, to attack the other one, just as it would cost less money to make certain arrangements in a house when you are building it rather than after you get it finished. Furthermore, it will depend upon the amount of commercial load to be handled and the location of that commercial load, that is, the location in the town of the customers who might find it convenient or desirable to use that current so distributed. 10

Q. Can you state what the approximate cost would be if the same was installed with the street lighting plant?

(Objected to as irrelevant and immaterial).

A. I am unable to recall at present the extent of the equipment which those preliminary plans provided for. As I remember it, however, the cost of that part of the entire equipment would be from between \$2500 and probably \$5,000, depending upon how much equipment there was, that is, supposing it was done at the time the rest of the work was done. Do you catch the idea? 20

Q. Yes. Now, one other question, Mr. Temple. Did you ask for bids from any corporations or individuals as to the cost of supplying the current to the system contemplated under your plans and specifications? 30

A. Did I ask you for such bids?

Q. Yes.

A. No, sir.

Q. In making your plans, did you take up this question with any individual or private corporation as to the supplying of current to the City of Millville?

Mr. Miller:

10 I object to that unless the plans referred to are indicated. Mr. Temple has testified to some preliminary set of plans that I have never seen nor heard of, which have no official standing, prepared by him in March, touching which he has just testified, and the question does not indicate whether counsel now wishes the witness to testify touching the preliminary plans, so-called, that he prepared in March, 1912, or the plans filed October 4, 1912, and referred to, or partly referred to in Ordinance No. 117. The question is further objected to because the inquiry is wholly irrelevant and impertinent.

A. Now, the question is did I, when I was making those plans, take up the question of the supply of the commercial load?

Q. No.

20 A. The power, I mean, for this system?

Q. Yes.

A. Yes, sir.

Q. Who did you take up the question of power for the system with?

Mr. Miller:

30 I object to this; it seems to me wholly improper, and I direct the witness, as his counsel, that he does not have to answer these questions. Let it be noted on the record that under the advice of counsel the witness refuses to answer the questions.

(Question repeated).

A. I refuse to answer.

Q. Then you refuse to answer, Mr. Temple, the last question of the prosecutor?

A. By advice of counsel.

Q. Mr. Temple, your preliminary plans that you have spoken of are included and embraced in with the completed plans, aren't they, that you have testified to?

A. No, sir, not if I understand your meaning correctly as to included and embraced in them.

Q. Did not your preliminary plans furnish you the basis or furnish you your information and the basis for your final plans?

A. Of course they did not; the preliminary plans were not a source of information to me. I provided them as a source of information to the City of Millville. 10

Q. And on those preliminary plans you have completed your final plans—they furnished the information for your final plans?

A. No sir, I don't think you quite understand—

Q. All right; one minute, I will ask the question. Are they entirely separate and distinct from the plans as completed on October 4th?

20

Mr. Miller:

I object to that as wholly immaterial what was the basis that resulted in the completed work represented by plans filed October 4, 1912. The Professor may have prepared twenty preliminary plans which are of no moment.

(Question repeated).

A. Yes. If I may explain, I would like to do so. 30
The scope and extent of the construction work provided for under those preliminary plans is covered by specifications A, B and C but as far as they, the preliminary plans supply information other than as the scope and extent is concerned, they are not the guide in the preparation of specifications A, B and C. The preparation of the plans A B and C was the result of a detailed study of the City of Millville,

the physical features of it, the requirements of it as to location and kind of light and the conditions for best arrangement of circuits and problems of that kind: and the specifications A, B and C are the result of this before mentioned study, that is, the plans and specifications. These preliminary plans were sort of a feeler—"What are you going to land if you jump this way?"

Q. One moment—

10 Mr. Miller:

I object to the witness being interrupted.

Q. They are the plans and specifications prepared—

Mr. Miller:

Just a moment; have you finished?

The Witness:

Not quite.

20 (Last question and answer repeated).

A. (Continuing). As to the expenditure of money.

Q. They are the plans prepared under resolution No. 42, aren't they, of the City Council of Millville?

A. I could not state the number, sir.

Q. They were drafted under a contract with you bearing date—

A. June 15th.

30 Q. June what was it?

A. The 15th.

Q. June 15, 1912?

A. Yes.

Q. June 8th, wasn't it?

A. No, that was the date of the acceptance of the resolution.

Q. June 8, 1912?

A. That was the date of the acceptance of the

resolution; the date of the contract was one week later, June 15th.

CROSS-EXAMINATION.

By Mr. Miller:

Q. Professor, did you prepare for the City of Millville preliminary plans of some contemplated electrical engineering work?

A. Yes, sir, I did, sir.

Q. When were they prepared? 10

A. During the early part of the month of March, and completed, I think, not far from the twenty-first or second of March, possibly a little later.

Q. Those plans had no reference to the work provided for by contract made June 15th, did they, except that the contract of June 15th had some reference to money that had been paid for those preliminary plans, is that correct?

A. I think the contract of June 15th referred only to the money; I think the contract itself referred 20 only to the money.

Q. The City of Millville never adopted those preliminary plans?

A. As far as I know they did not.

Q. As the basis of any construction work, as far as you know?

A. As far as I know they did not.

Q. How much did you receive in payment for the preliminary plans?

A. \$200. 30

Q. And you say this work was completed in March, do you?

A. Those preliminary plans, yes, between the 20th and 25th of March, I should say off-hand.

Q. Subsequently the City of Millville made the contract of June 15th, under which were prepared detailed plans and specifications for an electric lighting system, embracing first a generating plant,

secondly an electric lighting distributing system for public lighting, and thirdly, a supplemental system providing for commercial lighting—is that correct?

(Objected to as leading).

A. Yes, except the contract called for station equipment which is somewhat different from a generating plant.

10 Q. I see. The estimate of cost which you have referred to of \$30,000 had reference to the cost of the construction of the plant described in the preliminary plans which you prepared last March, is that so?

(Objected to as leading).

A. That is so.

Q. And the estimate of \$30,000 would have no reference, would it, to the cost of the plant covered by specifications A, B and C filed October 4, 1912, would it?

20 A. The preliminary plans—

Q. Well, just a moment, Professor; can't you answer that one question. The reason you are puzzled—we are all tangled because they have got you testifying to a \$30,000 estimate of something entirely different.

Mr. Bartlett:

Well, I am not puzzled at all.

Mr. Miller:

30 I am; I never heard of any \$30,000 estimate; I want to find out what it is. Well, strike the question out.

Q. According to your best judgment, what will be the cost of the construction of the work contemplated by Ordinance No. 117, of the City of Millville, covering the work described in specification A?

A. Well, I have given that before. I think if I remember rightly I figured it out roughly at some-

where between eighteen and twenty-four thousand dollars, depending upon a lot of variable conditions already cited.

Q. In no event would the cost of that work exceed \$35,000 in your judgment, would it?

A. No. It is customary to make a bond issue ordinarily large enough so as to cover emergencies that might arise, and that is the reason, I presume, that the \$35,000 bond issue was provided for.

Q. Well, that \$35,000 provided for the bond issue will cover the construction of the work contemplated by specifications A, won't it? 10

A. It surely will.

By Mr. Bartlett:

Q. The \$35,000 bond issue would also cover private lighting in addition to street lighting, wouldn't it?

A. I should think so, yes, sir; I should say so, yes, sir. 20

By Mr. Miller:

Q. Do you mean by the answer to Mr. Bartlett's last question that the cost of a proper generating system including the power house and land for the station, boilers, engines and dynamos, and other equipment would only cost not exceeding \$17,000?

A. By no means, no, sir; I referred in that estimate to the part covered by specifications A. That is the way the question was asked me. That is the part of the street lighting system covered by specifications A, or, in more detail, the part which is located in the streets of the City of Millville. In those plans it does not include station equipment; it does not include power plant or any anything of that kind. 30

Q. Mr. Temple, what would be the cost—I will ask you again—of the work contemplated under specification A?

A. Between eighteen and twenty-four or twenty-five thousand dollars.

Q. What would be the cost of the work contemplated by specifications B, if that is the proper letter to indicate the provision for private lighting but not for the station equipment?

A. That is, as I recollect, not the proper letter; specifications C cover the sub-division for private lighting.

Q. Then I direct my inquiry to specifications C?

10 A. I would estimate that that would cost from twenty-five hundred to five thousand dollars, depending on the location of the private customers, supposed private customers, and the other things which I referred to previously as variable, such as the cost of copper, and so forth, and the time of year and whether or not it is done when the rest of the plant is constructed. It would be much higher than that if done after the rest of the plant is constructed.

20 Q. What would be the cost of the installation of the work contemplated by specification B, station equipment, and so forth?

A. From four to five thousand dollars.

Q. That includes your boilers, engines, dynamos—

30 A. That includes the station equipment covered by specifications B, which was prepared on the assumption that power would be bought and supplied to regulators and other equipment suitable for use in connection with the street lighting circuits called for under specifications A, and pre-supposes the present existence of the station itself and its generating equipment and prime movers, such as engines or whatever, and its boilers or anything of that kind, or if water power is pre-supposed, the presence already of the turbines for driving them and generators for developing the current.

Q. What would be your estimate of the cost of proper boilers, engines, dynamos and other appliances used at a power station for such a system as you planned by specifications A, B and C, exclusive of land and buildings?

A. Then as I understand it you mean —

(Question repeated).

A. The cost, not in addition to the \$35,000, but the total cost, including everything we have got?

Q. No, just those alone, I want.

10

(Question repeated).

Q. Specify it in three ways, the cheapest, ordinary construction and the best.

A. I cannot estimate it without some deliberation.

Q. Would the expense surely be more than \$15,000 for the necessary boilers, engines and dynamos, with the other appliances required at the station?

A. It would probably be not less than fifteen to twenty thousand dollars for equipment of that kind to supply this much power, the lower figure applying to the lower grade of apparatus, of course, apparatus of low efficiency, and in many cases poor in its regulating characteristics, with low over-load capacities, large changes with a given change of load, unsatisfactory apparatus; the higher figure applying naturally to the other extreme, that is, high in efficiency, high grade regulation and convenient in control, and so forth. Now, those figures might be modified somewhat by the distance from the factory; the element of freight and hauling might modify those materially, and further, the arrangement of the station would have a good deal of bearing on the case.

20

30

Q. Now, Professor, what would be approximately the cost of a proper building suitable for the power station, if the most economical construction were used?

A. If the most economical construction were used, without much regard to its appearance, but merely giving protection from the weather and fire-proof construction, and providing the required storage rooms for taking care of lighting equipment and other equipment about the station, the cost would range from probably eight to ten thousand dollars. That would include foundations for the machines and all of the stuff not covered in the previous question. The upper limit would be probably as high as

10 you cared to go; I don't know whether you would want to stop even at \$20,000 if you had it located in a place in the town where you wanted it to be of creditable appearance and so forth. Furthermore, the cost of the water supply, which is necessary if the station is steam-driven, might influence those figures; also the cost of provision for bringing in fuel. Sometimes the siding on which the freight cars supplying coal come in might cost a good deal.

20 I know of one case where that cost almost as much as all the rest of the plant. So you see the thing is extremely flexible; those figures I have given you are figures below which you could not do very much; no engineer would figure on a plant which would run below those minimum figures.

Q. Then in your opinion, and without making any detailed estimate, you could not construct any proper power house and install any proper machinery for less than \$25,000?

A. The two together, you mean, including the

30 two things?

Q. Yes.

A. No, not for less than probably \$30,000.

Q. Professor, reverting now to specification A, if the distributing system provided for by Ordinance No. 117 shall be erected and the City of Millville should purchase electric current from some corporation or individual, is it necessary that any particular equipment be installed at the power house furnish-

ing this current in order to meet the requirements of your system?

A. Yes, it is, unless that equipment is already provided there, which it is not ordinarily in any plant.

Q. Now, if the City of Millville should on its part, after contracting for current at a stated price per kilowatt hour, if that be the proper term, and should, under its contract with such other party, agree to install the proper appliances you have reference to, not for developing the current, but for properly distributing it, or conveying it—is that correct? 10

A. Providing it in its proper form, you might say.

Q. Not for developing it, but for providing it in its proper form—what would be the cost of that equipment as nearly as you can now roughly approximate?

A. I have already given that, from four to five thousand dollars.

Q. If the cost of those appliances be added to the cost of the distributing system provided for by Ordinance 117, what will be the total cost of the distributing system then, plus these appliances that you refer to? 20

A. In the station?

Q. To be placed in the station, but which will belong to the City of Millville, and would be removed at the termination of any contract it might make?

A. Based on the figures I have already cited here, that would be from twenty-four to perhaps thirty thousand dollars, unless some emergency arose, as it occasionally does, when it might run as high as thirty-one or thirty-two thousand dollars. It is customary to add two per cent. against such emergencies. 30

Q. If the system provided for by Ordinance No. 117 be installed, the City might secure current under

a contract which provided that the city should furnish these appliances you last referred to, costing four or five thousand dollars, or the contract might provide that the person or corporation supplying the current install that apparatus, mightn't it?

A. It might; it would undoubtedly involve a somewhat different contrast.

Q. It is merely a question of the contract between the city and any person that might supply it, should the city seek a contract for supplying electric current to it, isn't that so?

A. That would be. I would like to put one thing in there—about Ordinance 117, I am not familiar with the wording of that ordinance. I however, infer that you are speaking of the ordinance looking toward the carrying out of construction work called for in specification A.

Q. I am, yes.

A. All right; I have no knowledge of that ordinance as to that number.

Q. Then if the City of Millville shall erect the distributing system for public lighting provided for by specification A and should enter into a contract with other corporations or parties to supply electric current to the city, and the city under the terms of its contract should agree to install those appliances you refer to at the power house for the proper delivery of the current, the total cost to the City of Millville for the construction of the plant and in the installation of those appliances would be how much?

A. For the construction of the plant—the public lighting plant, you mean?

Q. Yes, including these other appliances?

A. Would be from, as I previously said, twenty-four to thirty thousand dollars or a little over, probably not as low as twenty-four thousand dollars. It would depend on variable things; it might run somewhat above thirty thousand dollars.

Q. And might it run to thirty-two thousand dollars, as you said?

A. I said maybe \$32,000 or maybe thirty-three.

Q. Those things cannot be ascertained, Mr. Temple, can they, until contracts are actually let, isn't that so?

A. Oh, yes; they can be ascertained only after all changes that may seem desirable, none of which can be entirely foreseen, have been made, and bids have been asked for and definite figures obtained with the proper securities—I mean from contractors furnishing the proper security. That is the first point in your whole procedure that you have reached a definite set of figures, not until that. The rest of it, of course, is based on previous costs and that is the first place where you get figures which a contractor will submit you, based on the conditions on the ground upon which you propose to have this constructed. Up to that time you cannot get definite figures. That is the reason I state these as variable. 10

Q. Mr. Temple, before the Finance Committee of Council took action touching the amount of the bond issue of \$35,000 provided for by Ordinance No. 117, they had some consultation with you, didn't they? 20

A. They did.

Q. And you advised that the issue be made as in the ordinance for \$35,000 or so much thereof as may be necessary, didn't you?

A. I advised that they make it \$35,000, my advice being based upon the current practice in such matters, which is that the bond issue covered fully the construction that is in view, plus five or ten per cent. more, and then the actual sale of bonds be made to meet the conditions as they appear after the contractors' bids are received. That is the common procedure in such matters. 30

Q. And it was in pursuance to your advice that

they provided for the issue of \$35,000 of bonds or so much thereof as might be necessary, is that so?

A. It appears to be, yes, sir; at all events, it is certainly in accordance with my advice, and probably in pursuance to it. I will add this: The Chairman of your Finance Committee also asked me definitely, called me up personally for that. The Chairman of your Finance Committee is Mr. Horton; he called me up and I said, "If you will wait a little bit I will tell you," and after a few minutes I said, "You
10 had better make that thing \$33,000, and if you want to get it in round numbers, since you don't have to sell every one of your bonds just because you have the privilege of doing so, you had better make it \$35,000."

By Mr. Bartlett:

Q. Under the plans and specifications referred to the scheme is to purchase the current and not to
20 build a power house or to install boilers or dynamos, isn't it?

Mr. Miller:

I object to that because the witness is not competent to state what the scheme is except as disclosed by the records of Council, as shown by their resolutions and ordinances.

A. What the scheme is I am not in a position to say, but as to what is covered by my plans, I am
30 in a position to say what is covered by my plans.

Q. And no arrangement was made for the purchase of boilers?

A. Sure.

Q. Then under your plans no arrangement was made for the purchase of dynamos, boilers, land or buildings for power house?

A. Not my plans, no sir.

Q. In other words, they contemplated the pur-

chase of the current by the City of Millville, and not the creation of it?

Mr. Miller:

I object to that because the witness cannot state what is in the minds of the City of Millville.

Mr. Bartlett:

I am asking him what his plans provide for. 10

Mr. Miller:

It might well be that the City of Millville intends first to erect a distributing plant and purchase current for one month, one year or five years, and they might intend that as soon as they conveniently could at some time to erect a power station and supply their own current. I don't know and the witness don't know what the City Council of Millville intends to do or contemplates doing. 20

(Question repeated).

Q. Under your plans?

A. My plans do not involve the purchase of boilers at all. In other words, it all involved the purchase of equipment required to supply current to the street lighting plant.

Q. But not the building and erection of a power house?

A. Not the building, no, sir. 30

NEW JERSEY SUPREME COURT.

NELSON G. LIVERMORE,
Prosecutor,

vs.

THE MAYOR AND COM-
MON COUNCIL OF THE
CITY OF MILLVILLE,
Et. Al.,

Defendants.

On Certiorari.
Notice.

10

Sir:—

Take notice that I shall apply to the Supreme Court on Friday, December Twentieth, Nineteen Hundred and Twelve, at ten-thirty o'clock in the forenoon, at the State House, Trenton, New Jersey, for a rule that the above stated cause be set down for argument at the present November term of the Supreme Court.

20

Dated Millville, N. J., December 5, 1912.

J. F. SMITH,
Attorney of Defendants.

To HERBERT C. BARTLETT, Esq.,
Attorney of Prosecutor.

30

Notice of Argument.

Filed January 18, 1913.

NEW JERSEY SUPREME COURT.

NELSON G. LIVERMORE,
Prosecutor, }
vs. } On Certiorari.
THE MAYOR AND COM- } Ordinance No. 10
MON COUNCIL OF THE } 117.
CITY OF MILLVILLE, } Notice of Argu-
Respondents. } ment.

Sir:—

Take notice of the argument of the writ of certiorari issued in the above entitled cause before the Supreme Court of New Jersey, on Tuesday, the Eighteenth Day of February, Nineteen Hundred and Thirteen, at the State House, in the City of Trenton, New Jersey, at eleven o'clock in the forenoon, of said day, or as soon thereafter as counsel can be heard thereon. 20

Dated January 14th, 1913.

HERBERT C. BARTLETT,
Attorney of Prosecutor.

To JOSEPH F. SMITH and LOUIS H. MILLER,
Attorneys of Respondents.

Service of a copy of the above notice acknowledged 30
Jan. 14th, 1913.

JOSEPH F. SMITH,
LOUIS H. MILLER,
Attorneys of Respondents.

OPINION OF NEW JERSEY SUPREME COURT.
[Filed June 19, 1913].

NEW JERSEY SUPREME COURT.
February Term, 1913.

NELSON G. LIVERMORE,
vs.
MAYOR AND COMMON
COUNCIL OF THE CITY
10 OF MILLVILLE, Et al.

Argued February Term, 1913. Decided June Term, 1913.

Herbert C. Bartlett and Joseph H. Gaskill, for Prosecutors.

Joseph F. Smith and Louis H. Miller, for Defendants.

Argued before Garrison, Swayze and Minturn, J. J.

20 Per Curiam:

In anticipation of the resolution involved in the case of Wood vs. Millville being pronounced invalid, under the adjudication of this court in re Jaegle, 85 Atl. 215, the city proceeded to arrange for lighting its streets under the act of 1894 (P. L. 1894, p. 477 C. S. p. 3548).

30 The contention urged against this proceeding is that the act of 1894 provides only for payment of the indebtedness incurred by annual appropriation, and contains no provision for the issue of bonds. The defendant concedes this point but takes the ground that under the provisions of the act of 1902 (L. 1902 p. 782 1 C. P. 938) it is empowered to issue bonds for any purpose for which it is authorized by law to raise money by taxation.

Such in our opinion is the effect of the latter act, and for that reason conclude that the resolution in question should be affirmed with costs.

Ordinance 117.

NEW JERSEY SUPREME COURT

February Term, 1913

NELSON G. LIVERMORE,

vs.

MAYOR AND COMMON COUNCIL OF THE CITY 10
OF MILLVILLE, Et. Al.

PER CURIAM

Filed June 19, 1913

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WM. C. GEBHARDT,
Clerk.

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NEW JERSEY SUPREME COURT.

10 NELSON G. LIVERMORE,
(Walter Wood substituted
as prosecutor by order of
Court)
(Prosecutor),
Plaintiff in Error,
vs.
THE MAYOR AND COM-
MON COUNCIL of the
CITY of MILLVILLE and
WORRALL E. S. TEM-
PLE,
(Respondents),
Defendants in Error.

On Certiorari.
Notice of Appeal.

20 To Joseph F. Smith and Louis H. Miller, At-
torneys of Respondents, (Defts. in Error).

Take notice that the Prosecutor appeals from
the whole of the judgment entered in this cause in
the New Jersey Supreme Court, affirming ordinance
117 and the resolutions and proceedings thereunder
heretofore certioraried by the prosecutor. The Su-
preme Court erred in affirming said ordinance known
as Ordinance No. 117 and all resolutions and pro-
ceedings thereunder for the following reasons:—

30 1. The said Ordinance known as Ordinance No.
117 and all proceedings had thereunder are illegal
and void for the reason that they are dependent upon
the proceedings looking to the establishment of an
electric lighting plant or distributing system in the
City of Millville, the legality of which is attacked in
the proceedings now pending in this Court in a case
entitled "Walter Wod, prosecutor, against The

Mayor and Common Council of the City of Millville and Worrall E. S. Temple," for reasons set forth in that case.

2. Because said Ordinance No. 117 proposes to construct "forthwith" and to advertise "forthwith" for proposals for the work to be done in erecting or constructing an electric light distributing system when no appropriation has been made to meet the expense of the same and no funds are on hand for that purpose.

3. The power to issue bonds under Ordinance No. 117 is dependent upon an election held in the City of Millville on the Seventh Day of November, 1911, which election prosecutor maintains is illegal. 10

4. Under the election held November Seventh, 1911, the vote to issue Bonds failed of a necessary majority.

5. Prosecutor maintains that the voters at that election voted to purchase a distributing system and not to erect such a system.

6. The plans under Ordinance No. 117 provide for the furnishing of electric current and power to private consumers, which prosecutor maintains the City of Millville has no power to do. 20

7. That under the Act of 1894 the Mayor and Common Council of the City of Millville have no power to issue Bonds for the construction of a Distributing Plant, the Act providing the expenses of such a plant to be raised by taxation.

8. That the city has no power to issue Bonds under Ordinance 117 by virtue of any power given to it under the Acts of 1895 or 1904, said Acts either not relating to proceedings of this nature or providing a different method of raising funds for work of this kind. 30

9. The \$35,000 issue of Bonds referred to in Ordinance No. 117 are the bonds the validity of which is attacked in the certiorari case of Wood against the Mayor and Common Council of the City of Mill-

ville and Worrall E. S. Temple for the reasons set forth therein.

10. Because no vote has been taken for the issue of Bonds under Ordinance No. 117 except the vote taken November Seventh, 1911, under the Act of 1911, which vote and election is challenged in the case of Wood against the Mayor and Common Council of Millville and Worrall E. S. Temple, for reasons therein set forth.

11. The ordinance is invalid especially in so far as the bond issue is concerned for the reason that the city is attempting to tack together four acts of the Legislature of New Jersey to sanction the issue of such bonds, by reason of which it cannot be ascertained under which of these acts it relies for its bond issue, and furthermore it has no power under any of the acts above mentioned to issue bonds.

12. Because no referendum or vote of the people has been had for the issue of bonds as provided for in Ordinance No. 117, except under the Act of 1911, which is challenged in Wood against the City of Millville, &c., and a bonded indebtedness cannot be created for the purpose of establishing an electric lighting distributing system without a vote of the people.

13. Because the Act of 1911 has been declared to be invalid by the Supreme Court, said act being entitled "An Act to authorize and empower any municipality to acquire or construct, to maintain and to operate a plant or plants for the production and distribution (or either) of light, heat and power for its own public purposes, of selling and supplying the same to its own inhabitants or to any other municipality (or both) and to acquire all necessary real estate and works and machinery for supplying light, heat and power for such purposes and to purchase light, heat and power produced by any other municipality."

Chapter 325, Laws of 1911, page 690.

14. Because the said judgment of the Supreme Court in dismissing the writ of certiorari of Ordinance 117 and the resolutions and proceedings thereunder is in divers other respects illegal and should be set aside and for nothing holden.

HERBERT C. BARTLETT,
Attorney of Prosecutor.

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NEW JERSEY SUPREME COURT.

NELSON G. LIVERMORE,

(Walter Wood Substituted as Prosecutor by Order
of Court)

(Prosecutor)

Plaintiff in Error,

vs.

10 THE MAYOR AND COMMON COUNCIL OF THE
CITY OF MILLVILLE AND WORRALL

E. S. TEMPLE,

(Respondents)

Defendants in Error.

ON CERTIORARI.

20

NOTICE OF APPEAL.

HERBERT C. BARTLETT,

Attorney of Prosecutor, Vineland, N. J.

30

Notice of Argument—Filed September 10, 1913.

**NEW JERSEY COURT OF ERRORS AND
APPEALS.**

NELSON G. LIVERMORE,
(Walter Wood substituted
by order of Court)
(Prosecutor)
Plaintiff in Error,
vs.
THE MAYOR AND COM-
MON COUNCIL of the
CITY OF MILLVILLE and
WORRALL E. S. TEMPLE,
(Respondents)
Defendants in Error.

On Error to
Supreme Court.
Notice of Argu-
ment.
Ordinance No. 117

10

Gentlemen:—

Take notice of the argument of the issue joined
in this cause, before the New Jersey Court of Errors
and Appeals at the State House, in the City of Tren-
ton, State of New Jersey, on the Third Tuesday of
November, 1913, at eleven o'clock in the forenoon of
said day, or as soon thereafter as said Court can at-
tend to the same.

Dated September 8, 1913.

Yours respectfully,

HERBERT C. BARTLETT,
Attorney of (Prosecutor),
Plaintiff in Error.

To LOUIS H. MILLER and JOSEPH H. SMITH,
Attorneys of (Respondents) Defendants in Error.

NEW JERSEY COURT OF ERRORS AND
APPEALS.

NELSON G. LIVERMORE,
(Walter Wood Substituted by Order of the Court)
(Prosecutor)
Plaintiff in Error,

vs.

10 THE MAYOR AND COMMON COUNCIL OF THE
CITY OF MILLVILLE AND
WORRALL E. S. TEMPLE,
(Respondents)
Defendants in Error.

On Error to Supreme Court.

20 NOTICE OF ARGUMENT.

HERBERT C. BARTLETT,
Atty of (Prosecutor)
Plaintiff in Error,

Service of the within notice on respondents is
hereby acknowledged September 9, 1913.

30 And the Clerk of the Court is hereby notified
that the within is a municipal case entitled to be
advanced under the provisions of Chapter 304 of the
Laws of 1913.

LOUIS H. MILLER,
Atty. of Respondents.