

INDEX.

PLEADINGS, ETC.

Writ of certiorari	1
Amendment to writ	3
Affidavit of service	4
Return to writ	5
Order to take affidavits	6
Reasons	90
Opinion of Supreme Court	93
Judgment of Supreme Court	100
Notice of Appeal	101
Grounds of Appeal	102

TESTIMONY.

Richard Rossiter, direct	11
Cross	19
Re-direct	29
John H. Cook, direct	34, 71
Cross	35, 73
Re-direct	73
Edmund LeB. Gardner, direct	44
Cross	46

EXHIBITS.

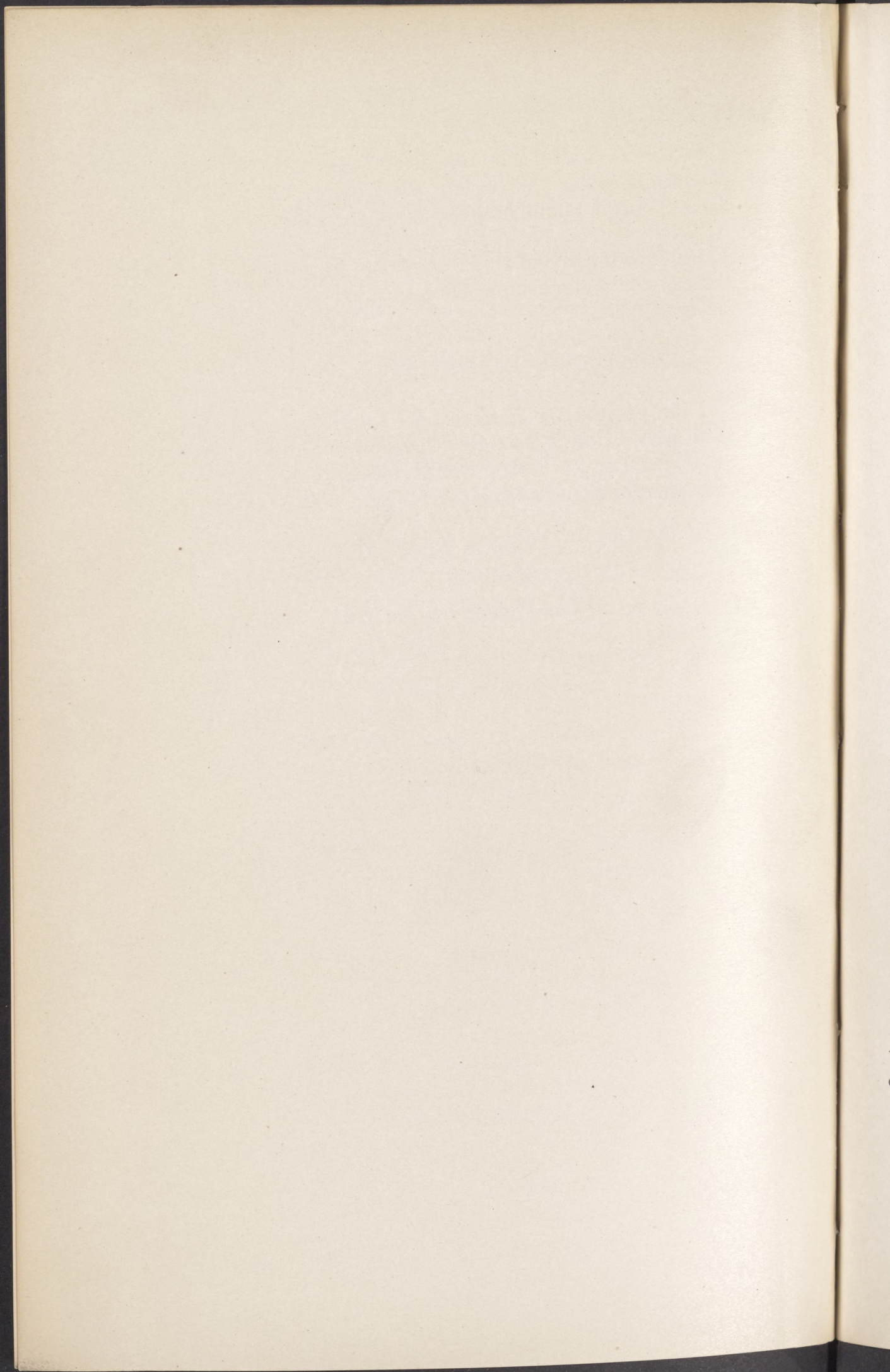
(Figures in parentheses indicate the page on which the exhibit was marked in evidence.)

P-1—Charter of the Society for Establishing Useful Manufactures (8)	8
P-2—Tax bills in suit (12)	77
P-3—Tax bills for 1914, paid (13)	83
P-4—Map of property of the Society for Establishing Useful Manufactures on which power plant has been erected (14) facing	86
P-5—Deed, dated July 3, 1792, from Anthony Van Blarcom and wife to the Society for Establishing Useful Manufactures (15)	15
P-6—Deed, dated June 27, 1792, from John I. Post to the Society for Establishing Useful Manufactures (16)	16
P-7—Map of 1914 made from deeds and actual surveys (16) facing	86
P-8—Deed, dated December 8, 1834, from John Colt to the Society for Establishing Useful Manufactures (16)	16
P-9—Deed, dated July 19, 1869, from Richard Van Houten to the Society for Establishing Useful Manufactures (30)	30
P-10—Deed, dated July 19, 1869, from Adrian Van Houten to the Society for Establishing Useful Manufactures (31)	31
P-11—Deed, dated July 29, 1869, from Richard Benson and wife to the Society for Establishing Useful Manufactures (32)	32

P-12—Appraisal of property of the Society for Establishing Useful Manufactures (48)..	87
P-13—Balance sheet of the Society for Estab- lishing Useful Manufactures (55)	88
P-14—Paper showing sale of water power by the Society for Establishing Useful Manu- factures (55)	89

DEFENDANTS' EXHIBITS.

Answer of the Society for Establishing Useful Manufactures in a suit in Chancery in which the Lehigh Valley Railroad Com- pany was complaint (58)	59
Tax levy of the City of Paterson for the year 1914 (61)	62
Tax levy of the county of Passaic for the year 1914 (61)	67



New Jersey Supreme Court.

SOCIETY FOR ESTABLISHING
USEFUL MANUFACTURES,
Prosecutor,

vs.

CITY OF PATERSON, and
EUGENE WICKHAM, Collec-
tor of Taxes in the City
of Paterson,
Defendants.

10

Ret'ble Feb. 12, 1915.

Humphreys & Summer, Attys.

1st Nat'l. Bank Bldg.

Paterson, N. J.

This writ is allowed; let it be sealed. Jan 23, 20
1915.

JAMES F. MINTURN,

Justice of the Supreme Court.

Writ of Certiorari.

New Jersey, To-Wit : State of New Jersey to the
City of Paterson, and to Eugene
Wickham, Collector of Taxes in
the City of Paterson, Greeting :

30

We being willing, for certain
reasons, to be certified of certain
assessments of taxes made against
the Society for Establishing Useful Manufactures
for the year Nineteen Hundred and Fourteen, by the
Assessor of Taxes of the said City of Paterson, to-
wit, on certain property situate in the taxing district
of the City of Paterson, in the County of Passaic and

State of New Jersey, consisting of land and a steam power plant and hydro-power plant thereon located, on Spruce Street (or McBride Avenue) and Ellison Street, in the Sixth Ward of the said City of Paterson, and known as Lots Nos. 42, 44, 46, 48, 50, 52, 54, 56, 58, 60, 62 and 64 McBride Avenue, fronts and
 10 rears; 66, 68, 70 and 72 McBride Avenue; 74 and 76 McBride Avenue; 78, 80, 82, 84, 86, 88 and 90 McBride Avenue, and 92 to 106 McBride Avenue, all in the Sixth Ward in the said City of Paterson, and assessed under six separate tax bills as Ticket Part No. 1831, Ticket No. 1832, Ticket No. 1833, Ticket No. 1834, Ticket No. 1835 and Ticket No. 1836.

We do command you, that the said assessments of taxes so made by the Assessor of Taxes, together with all things touching and concerning the same, as
 20 fully and entirely as before you they remain, to our Justices of our Supreme Court of Judicature, at Trenton, on the Twelfth day of February next, you certify and send, together with this writ, that therein may be done what of right and according to the laws of this State should be done.

Witness William S. Gummere, Esquire, Chief Justice of our Supreme Court, at Trenton, this twenty-third day of January, Nineteen Hundred and Fifteen.

30

HUMPHREYS & SUMNER,

Attorneys.

WILLIAM C. GEBHARDT,

Clerk.

A true copy, of original.

WM. C. GEBHARDT,

Clerk.

Order Amending Writ.

NEW JERSEY SUPREME COURT.

SOCIETY FOR ESTABLISHING
USEFUL MANUFACTURES,
Prosecutor,

vs.

CITY OF PATERSON, and
EUGENE WICKHAM, Collec-
tor of Taxes in the City
of Paterson,

Defendants.

10

Order to Amend Writ.

Upon motion of Humphreys & Sumner, Attor-
neys of Prosecutor, and upon reading the consent at
foot hereof it is ordered that the writ of certiorari in
the above entitled cause be, and the same is, hereby
amended by changing the return day of said writ
from the twelfth day of February instant, which is
a legal holiday, until the thirteenth day of Febru-
ary, instant.

20

And it is further ordered that the said writ be
further amended by designating the defendant Eu-
gene Wickham as Receiver of Taxes and Assessments
of the City of Paterson, his true official name, instead
of Collector of Taxes in the City of Paterson.

And it is further ordered that the argument of
said writ be extended until the June Term of this
Court and that the plaintiff shall be at liberty to
bring on the argument at said June Term.

30

Entered February 16, 1915.

On motion of

Humphreys & Sumner, Attys.

We hereby consent to the entry of the above
order.

EDWARD F. MERREY,
Attorney for the City of Paterson and for
Eugene Wickham, Receiver of Taxes and
Assessments of the City of Paterson.

A true copy,

WM. C. GEBHARDT,
Clerk.

NEW JERSEY SUPREME COURT.

SOCIETY FOR ESTABLISHING
USEFUL MANUFACTURES,
Prosecutor,

vs.

10 CITY OF PATERSON, and
EUGENE WICKHAM, Collec-
tor of Taxes in the City
of Paterson,
Defendants.

State of New Jersey, }
County of Passaic. } ss. :

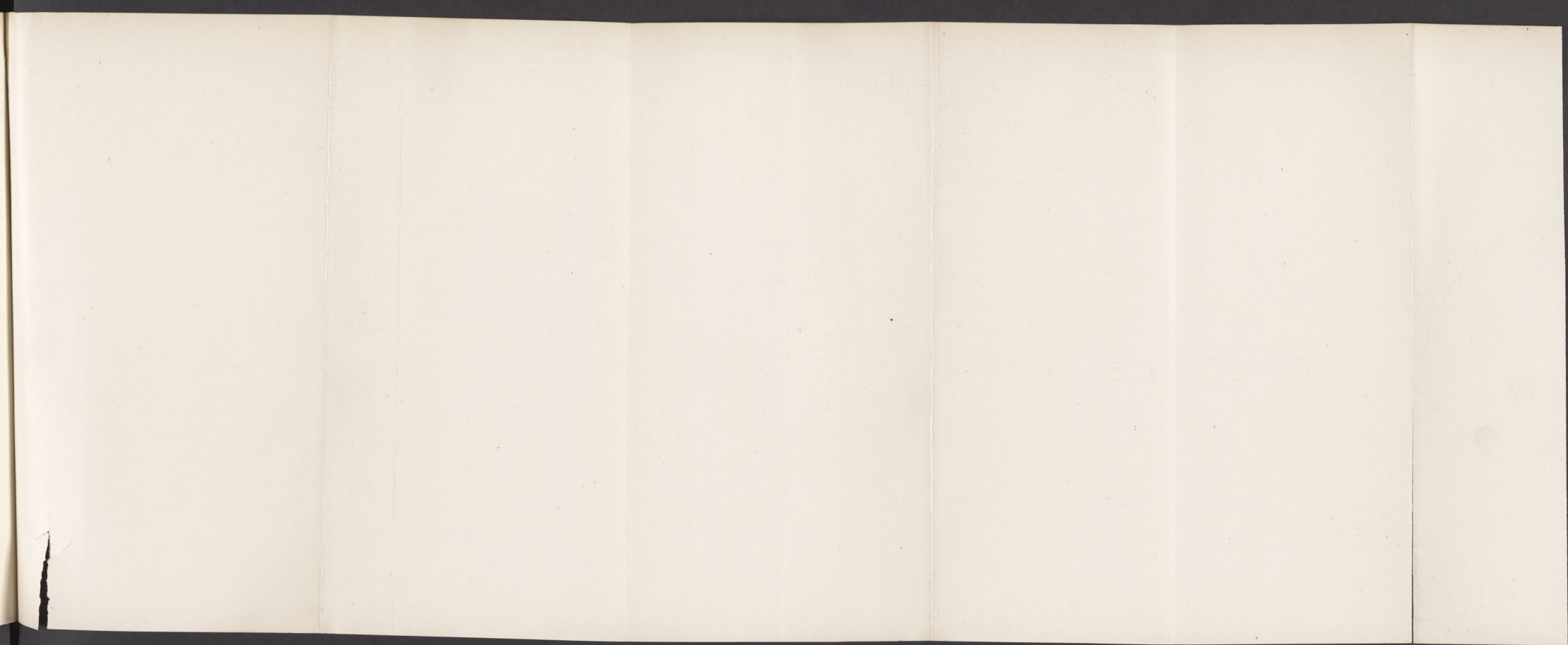
Affidavit.

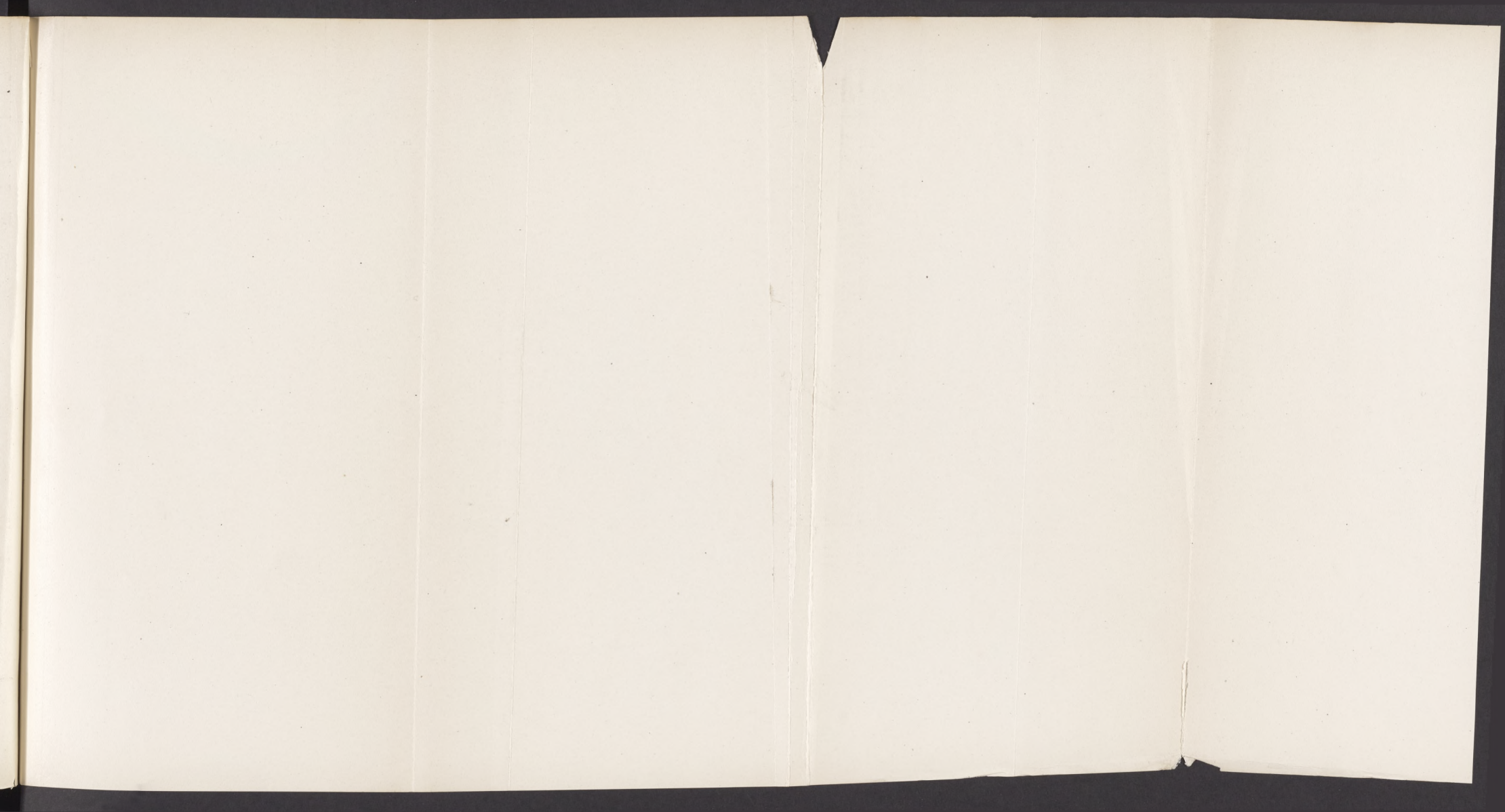
20 William A. Sumner being duly sworn ac-
cording to law, on his oath desposes and says that on
the twenty-seventh day of January, Nineteen Hun-
dred and Fifteen, he served the within writ of certi-
orari in the above entitled cause, personally upon
Eugene Wickham, the Receiver of Taxes and Assess-
ments of the City of Paterson, and that at the same
time deponent also served a certified copy of the or-
der to take affidavits in the said cause personally up-
on the said Eugene Wickham; and that deponent on
30 the same day served certified copies of the said writ
and of the said order to take affidavits in the said
cause personally upon T. Simpson Standeven, Clerk
of the said City of Paterson.

Sworn to and subscribed
before me this 29th day
of January, 1915.

WILLIAM A. SUMNER

WILLIAM H. WILLIAMS,
Master in Chancery of New Jersey.





SIXTH WARD, 1914.

McBRIDE AVENUE.

Ticket No.	Street No.	NAME	POLL	Real Estate Hrs.	Value of Land	Value of Buildings	Personal Property	Total Valuation	Poll	City Tax	Total Tax	Valuation of Exempt Property
1831	Fronts 22-64	S. U. M. Co.		22	6,600.			6,600.		126.06	126.06	
1832	Rears 22-64	S. U. M. Co.		22	1,650.			1,650.		31.51	31.51	Fronts 22-40
1833	66-72	S. U. M. Co.		21 1/2	1,000.			1,000.		19.10	19.10	Rears 22-40
1834	74-76	S. U. M. Co.		2	800.			800.		15.28	15.28	
1835	78-90	S. U. M. Co.		17	700.	167,285		167,985.		3,208.51	3,208.51	
1836	92-106	S. U. M. Co.		15 3/4	4,700.			4,700.		89.77	89.77	

State of New Jersey }
County of Passaic } ss.:

I, Timothy Delaney, Assessor of the Fifth Assessment District of the City of Paterson, known as the Sixth, Eighth and Tenth Wards, do swear that the foregoing list contains the valuations made by me to the best of my ability of all the property liable to taxation in the aforesaid taxing district and that I have valued the same without favor or partiality at its true and fair value at such price as in my judgment it would sell for at a fair sale by private contract on the 20th day of May last.

Sworn and subscribed
before me this 21st
day of October, 1914.

(Signed) TIMOTHY DELANEY,

(Signed) BERNARD L. STAFFORD,

Attorney at Law of New Jersey.

SIXTH WARD, 1914.

WHEN COLLECTED	Added by County Board of Taxation	Deducted by County Board of Taxation	Interest	Amount Tax	Remarks
Dec. 22, 1914, \$57.30					
Dec. 22, 1914, \$14.33					

CERTIFICATION.

We, the undersigned, The Passaic County Board of Taxation, hereby certify the foregoing to be a true copy of the Tax List as returned by Timothy Delaney, Assessor of the Sixth Ward, City of Paterson, for the year 1914 as shown on Tax List of said Assessor for said Taxing District and filed in this office on the eighth day of October, A. D., 1914.

Dated : Oct. 16th, 1914.

(Signed) WM. L. DILL

(Signed) W. GRAFTON BATEMAN

Commissioners.

Return to Writ.

I, Eugene Wickham, Receiver of Taxes and Assessments of the City of Paterson referred to in the writ hereto annexed as the Collector of Taxes in the City of Paterson, do hereby certify to the Justices of the Supreme Court at Trenton that the following is the assessment of taxes made against the Society for Establishing Useful Manufactures for the year nineteen hundred and fourteen by the Assessor of Taxes of the City of Paterson on certain property situate in the taxing district of the City of Paterson, in the County of Passaic and State of New Jersey, consisting of land and a steam power plant and hydro-power plant thereon located on Spruce Street (or Mc Bride Avenue) and Ellison Street, in the Sixth Ward of the City of Paterson and known as Lots No. 42, 44, 46, 48, 50, 52, 54, 56, 58, 60, 62, 64 McBride Avenue, fronts and rears, 66, 68, 70 and 72 McBride Avenue; 74 and 76 McBride Ave.; 78, 80, 82, 84, 86, 88 and 90 McBride Avenue and 96 to 106 McBride Avenue, in the City of Paterson, together with all things touching and concerning the same as fully and entirely as before me they remain as by the within writ I am commanded.

EUGENE WICKHAM,
*Receiver of Taxes and Assessments of
 the City of Paterson.*

Order to take Depositions.

NEW JERSEY SUPREME COURT.

10 SOCIETY FOR ESTABLISHING
USEFUL MANUFACTURES,
Prosecutor,

vs.

10 CITY OF PATERSON, and
EUGENE WICKHAM, Collec-
tor of Taxes in the City
of Paterson,
Defendants.

On Writ of Certiorari.

Order to take Affidavits.

20 Upon reading the affidavit of Richard Rossiter
filed in this cause, it is ordered that the said prosecu-
tor be at liberty to take affidavits to prove the facts
set forth in said affidavit, and that the defendants be
at liberty to take affidavits in answer thereto.

On motion of

HUMPHREYS & SUMNER,

Prosecutor's Attorneys.

Let the above rule be entered.

JAMES F. MINTURN,

Justice of the Supreme Court.

NEW JERSEY SUPREME COURT.

SOCIETY FOR ESTABLISHING
USEFUL MANUFACTURES,

Prosecutor,

vs.

CITY OF PATERSON, and
EUGENE WICKHAM, Collec-
tor of Taxes in the City
of Paterson,

Defendants.

On Writ of Certiorari.

10

Depositions.

Depositions and Examination of Witnesses taken before Edward O'Byrne, Supreme Court Examiner, at the office of Humphreys and Sumner, First National Bank Building, in the City of Paterson, on the twenty-sixth day of March, nineteen hundred and fifteen, at eleven o'clock in the forenoon, in the above stated cause, by virtue of a rule of the said Court made in the above entitled cause on the twenty-third day of January, nineteen hundred and fifteen, in the presence of Humphreys & Sumner, of counsel with the prosecutor, and Edward F. Merrey, Esquire, of counsel with the defendants, notice of the taking of said depositions being hereby waived by counsel of the said defendants, and it being stipulated that the said depositions be taken down in shorthand notes by the examiner and that the signatures of the witnesses be waived.

20

30

Supreme Court Examiner.

DEPOSITIONS ON THE PART OF THE PROSECUTOR.

10 *Mr. Humphreys.*—I offer in evidence the charter of the Society for Establishing Useful Manufactures, passed November 22, 1791, and I will ask the Examiner to set forth in the record the title of the act, the preamble of the act, and the first, fourth, thirty-seventh and first part of the thirty-eighth sections of the act.

(Marked Exhibit P—1.)

(The following are the portions of the act referred to as requested to be set forth by counsel for the prosecutor.)

20 An Act to Incorporate the Contributors to the Society for Establishing Useful Manufactures, and for the further encouragement of the said Society.

30 Whereas it is represented to this legislature, passed the 22nd Nov., 1791, that a subscription has been made, for the purpose of introducing and establishing useful manufactures, to an amount which already exceeds two hundred thousand dollars; and whereas the State of New Jersey, having been deemed by the contributors the most suitable for carrying the same into effect, the aid of the legislature has been requested, in promotion of the views of the said contributors; and whereas it appears to this legislature, that the granting such aid will be conducive to the public interest; therefore

1. Be it enacted, by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same, that all

those persons who have already subscribed, and who, according to the terms hereafter mentioned, shall subscribe for the purpose of establishing a company, for carrying on the business of manufactures in this state, their successors, and assigns, shall be, and they are hereby incorporated, by the name of "The Society for Establishing Useful Manufactures"; and by the same name they and their successors, and assigns, are hereby constituted a body politic and corporate, in law, and shall be able and capable to acquire, purchase, receive, have, hold and enjoy any lands, tenements, hereditaments, goods and chattels, of what kind or quality soever, to an amount in value, not exceeding four millions of dollars, and the same, or any part thereof, to sell, grant, demise, alien, and dispose of; also to sue or be sued, implead and be impleaded, in courts of justice, or any other place whatsoever, to make and use a common seal, and the same to alter and renew at their pleasure; and also to ordain, establish, and put in execution, such bylaws, ordinances, and regulations, as shall seem necessary and convenient, for the government of said corporation, provided the same are not contrary to the laws and constitution of the United States, or of this state.

10

20

4. And the more effectually to encourage so useful and beneficial an establishment; be it further enacted by the authority aforesaid, That all the lands, tenements, hereditaments, goods and chattels, to the said society belonging, shall be, and they are hereby declared to be free and exempt, from all taxes, charges and impositions whatsoever, under the authority of this state, whether for state or for county uses, or for any

30

10 other use whatsoever, provided always, that the said exemption shall not be construed to extend to the private or separate property of any member of the said corporation, in his or her individual capacity; and as touching the lands, tenements, and hereditaments, of the said society, shall continue in force for the term of ten years only, after which term it shall be lawful to lay such taxes, for the use of the state upon the said lands, tenements, and hereditaments, as shall be laid upon other lands, tenements and hereditaments, of like value, nature or description; provided nevertheless, That in case the said taxes shall be laid by way of assessment, it shall be according to a certain rate per centum, to be prescribed in the law, keeping such taxes of the true and absolute value of the lands, tenements or hereditaments, whereupon the same shall be laid or assessed, and shall not extend directly or indirectly to the moneys, goods, or chattels, whether in possession or action, or to the profits, real or supposed, of the said society.

20

30 37. And be it further enacted by the authority aforesaid, That this act shall in all things be construed in the most favorable manner for the said respective corporations, nor shall any non-user of the privileges hereby to the said corporations respectively granted, create any forfeiture of the same; and notwithstanding the members of the said respective corporations should fail to meet and hold their elections as is hereby specified, the said elections may be afterwards holden and made in such manner, as shall have been prescribed by the laws and ordinances of the said respective corporations and the officers for the time being shall continue to hold and exer-

cise their office, until others shall be duly elected to succeed them at some subsequent meeting.

38. And be it further enacted by the authority aforesaid, That this act shall be deemed and taken to be a public act, and as such to be taken notice of by all persons and courts of justice whatsoever within this state.

10

RICHARD ROSSITER, sworn as a witness on the part of the Prosecutor, testifies as follows :

Direct Examination by Mr. Humphreys :

Q. Where do you reside ?

A. City of Paterson.

Q. You are the secretary, I believe, of the Society for Establishing Useful Manufactures ?

20

A. I am.

Q. And have been since when ?

A. Since 1868. I went with the Society in 1866. I became Secretary in 1868.

Q. Were you familiar with the property of the Society before you were in its employ ?

A. I knew generally the property of the Society, especially along the raceway.

Q. What raceways did it own when you first became acquainted with it ?

30

A. It owned the raceways that are operated at the present time,—the same raceways.

Q. Did it own any mills ?

A. It did.

Q. And any city lots ?

A. And a great many city lots.

Q. You know where the Great Falls are situated ?

A. I do.

Q. Did it own property above the Great Falls when you entered its employment, on both sides of the river ?

A. The Passaic Falls.

Q. The Passaic Falls ?

A. It owned property at the Passaic Falls.

10 Q. That is the Great Falls ?

A. Well, yes.

Q. How far above the Falls did its property extend, roughly speaking ?

A. It owned property on both sides of the river, — on the south side for probably a mile and a half, and on the other side for three-quarters of a mile.

Q. Where the dam was situated, it owned property on both sides of the river at that point ?

A. It did; yes.

20 Q. And does it to-day ?

A. It does.

Q. (Showing witness) I show you these tax bills and I ask you whether these are bills for the taxes from which you are appealing by these certiorari proceedings ?

A. Yes. Nos. 42 to 64 McBride avenue and the rears of 42 to 64 McBride avenue; 66 to 72 McBride avenue; 74 and 76 McBride avenue; 78 to 90 McBride avenue; 92 to 106 McBride avenue.

30

Mr. Humphreys.—I offer these tax bills in evidence.

Mr. Merrey.—No objection.

(Tax Bills are marked Exhibit P-2.)

Q. (Showing witness) I show you two other tax bills, one covering the rears of Lots Nos. 22 to 40 McBride avenue and the other covering the fronts

of Nos. 22 to 40 McBride avenue, and I ask you if the Society has paid those taxes.

A. Those bills are paid for the year 1914.

Mr. Humphreys.—I offer these tax bills in evidence.

Mr. Merrey.—I have no objection.

(Tax Bills for year 1914 referred to in last answer are marked Exhibit P-3.)

10

Q. I show you this map of property of the Society for Establishing Useful Manufactures traced from Assessment Map of the City of Paterson, December 10, 1914, and I ask you what this map represents.

A. This map shows, colored in red, the property of the Society for Establishing Useful Manufactures, on which the Hydro and Power Plants are located.

20

Q. And the taxes on which are now in question ?

A. The taxes on which are now in question.

Q. And these lots Nos. 22 to 40 to the north of that plot colored red are the lots upon which you have paid taxes; is that right ?

A. Yes.

Q. This is a copy from the assessment map of the City of Paterson ?

A. It is.

30

Q. I see that on these tax bills all of the lots are described as on McBride avenue and on the map there appears McBride avenue and Ellison street. Is that all known now as McBride avenue ?

A. The street is now known as McBride avenue.

Mr. Humphreys.—I offer this map in evidence.

(Map is marked Exhibit P-4.)

10 Q. Have you had a map made or plotted out from deeds and actual surveys to show from what sources this property upon which this tax was laid was derived ?

A. We have.

Q. (Showing witness) I show you this map entitled "Map showing Property of the S. U. M. in the City of Paterson, New Jersey, 1914, Plotted from Deeds and Actual Surveys, Made by Andrew N. Bardner, Civil Engineer and Surveyor," and I ask you if this is the map.

A. It is.

20 Q. Now, coming, first of all, to the Steam Power Plant which is located, according to the map Exhibit P-4, on Lots Nos. 48, 50, 52, 54, 56, 58 and 60 McBride avenue, can you tell from this second map from what source title to that property was acquired ?

A. The title was acquired by the Society from Anthony Van Blarcom on the third of July, 1792.

Q. It was contained in a tract of what size ?

A. In a tract of twenty-eight and eight hundredth acres.

30 Q. Did that cover the whole of the steam power plant ?

A. No. There was a little corner which is covered by another deed.

Q. From whom ?

A. From John I. Post to the Society for Establishing Useful Manufactures on the twenty-seventh of June, 1792.

Q. Containing how many acres ?

A. Containing one hundred and twenty-two and twenty-two hundredths acres.

Q. Both of these plots are shown on this map ?

A. Both plots are shown on the map.

Mr. Humphreys.—I offer in evidence deed dated July 3d, 1792, from Anthony Van Blarcom and wife to the Society for Establishing Useful Manufactures, which, in consideration of the sum of two hundred and eighty pounds and sixteen shillings, conveys to the Society for Establishing Useful Manufactures the tract which has been plotted on this map by metes and bounds, containing 28.08 acres, by warranty deed; deed is acknowledged July 4th, 1792, before John Benson, one of the Judges of the Inferior Court of Common Pleas in and for the County of Bergen; recorded in the Clerk's Office of the County of Essex on page 154; also recorded in the Clerk's Office of the County of Passaic on the sixteenth day of June, 1859, in Book F-2 of Deeds in that County, page 100. 10 20

Mr. Merrey.—I have no objection.
(Deed is marked Exhibit P—5.)

Mr. Humphreys. — I also offer in evidence deed bearing date June 27th, 1792, from John I. Post to the Society for Establishing Useful Manufactures, conveying a tract of land then situate in the Township of Acquackanonk, describing it by metes and bounds, containing one hundred and twenty-two acres and twenty-two hundredths of an acre; which deed was duly acknowledged and recorded in the Clerk's Office of Essex County, in Book A of deeds, page 472. 30

and also recorded in the Clerk's office of the County of Passaic, on the sixteenth day of June, 1859, in Book F-2 of Deeds for said County, on page 109.

10 *Mr. Merrey.*—No objection.
(Deed is marked Exhibit P—6.)

Mr. Humphreys.—I also offer in evidence the map secondly referred to, plotted from deeds and actual surveys, dated 1914.

Mr. Merrey.—No objection.
(Map is marked Exhibit P—7.)

20 Q. Will you please turn to this map Exhibit P—7 and tell me from what sources the hydro-electric power plant and the property on which it is erected came ?

A. That part of the property was conveyed to the Society for Establishing Useful Manufactures by John Colt on the eighth of December, 1834.

Q. Contained in a tract of what size ?

30 A. Ten acres. The deed is recorded in Liber N—3 of Deeds for Bergen County, on page 28, and is transcribed in Book W, page 194, in the Passaic County Register's Office. We have not got this deed among our records.

Mr. Humphreys.—I offer in evidence the deed referred to.

(Exhibit P—8.)

Q. Has the Society for Establishing Useful Manufactures owned the properties conveyed by these three deeds ever since ?

A. As far as I know they have owned it ever since. I went to the office in 1866, and so far as I know they owned it before that.

Q. Especially with reference to the property enclosed in red on the map Exhibit P—4, has that property always been owned by the Society for Establishing Useful Manufactures as long as you can remember? 10

A. As long as I remember it has been owned by the Society.

Q. When was the hydro power plant erected upon that land?

A. In 1913.

Q. It was commenced to be erected then?

A. In 1913.

Q. When was it completed?

A. In 1914.

Q. What month in 1914? 20

A. The latter part of the year.

Q. The first assessment upon the building was in the year 1914?

A. Yes.

Q. And when was the steam power plant first commenced to be erected?

A. In 1914.

Q. And when was it completed?

A. It is not yet completed.

Q. When was that building first assessed? 30

A. In 1914.

Q. Is the assessment on the hydro plant a complete assessment?

A. I think not.

Q. How far were the buildings completed on May 20, 1914?

A. The hydro plant was nearly completed and the steam power plant was only partly built.

Q. Will you turn to the tax bill and tell us how much the hydro plant is assessed for for the year 1914 ?

A. The hydro plant is assessed at \$167,285, and the land is assessed at \$700. in 1914.

10 Q. I see that the building, the hydro-electric plant, is assessed together with Lots Nos. 78 to 90. That is not correct, is it ?

A. No.

Q. It really stands upon other lots as well ?

A. Yes.

Mr. Humphreys.—I will state here that the Society makes no point upon that ground.

20 Q. Then, there is no assessment laid upon the steam power plant, is there, but only upon the lots ?

A. The assessment where the steam power plant is located is only upon the land. The building had not been completed in 1914 when the assessment was made.

30 Q. I see by the first paragraph of the charter of the Society that they were constituted a body politic and corporate in law, with these powers, to wit, that they "shall be able and capable to acquire, purchase, receive, have, hold and enjoy any lands, tenements, hereditaments, goods and chattels, of what kind or quality soever, to an amount in value not exceeding four millions of dollars, and the same or any part thereof, to sell, grant, demise, alien and dispose of." I ask you if the Society for Establishing Useful Manufactures has at any one time ever owned any property, real and personal, in excess of four millions of dollars.

Mr. Merrey.—I ask that the witness be instructed to answer only so far as he knows. He does not know beyond 1866.

A. During my time the Society never owned property to any such extent, and from the records I do not believe that they ever have.

Q. Well, from the records, comparing the records with your own personal knowledge, the Society was more prosperous and owned more property during your connection with it than it did previously, did it not? 10

A. Decidedly more.

Q. I see that the charter gives the Society the right to create navigable canals, and to open and clear the river for navigation, and to condemn land for that purpose. Did the Society ever open any canals or make the river navigable under that clause of its charter?

A. I think not — not during my time, and I never heard that they had done anything in that line before. 20

Q. Drawing your attention to a statute which was passed on March 30, 1868, entitled "An Act to develop and improve the water power of the Passaic River," and which gave the Society the power to condemn lands, I ask you if the Society ever condemned any lands, to your knowledge, under that act?

A. It did not.

Q. Would you have known of its so doing, if it had done so?

A. I would. 30

Cross Examination by Mr. Merrey :

Q. Do you know what is the value of the lands, tenements, hereditaments, goods and chattels, that the Society for Establishing Useful Manufactures has acquired, purchased or received since its incorporation in 1791?

A. I do not.

Q. You cannot tell us, then, whether they amount to more than four million of dollars ?

Mr. Humphreys.—Objected to as immaterial.

10

A. I do not think it would amount to more than that.

Q. Do you know ?

A. As far as I know, I do not think it would.

Q. You do not know ? You do not know what it was worth, do you ?

A. I do not think it would —

Q. I would like you to answer the question. The question is : Do you know ? I do not want to know what you think. Do you know or don't you know ?

20

A. I do not know just the amount.

Q. What was the value of the lands, tenements, hereditaments, goods and chattels, of every kind and quality, that the Society for Establishing Useful Manufactures held and enjoyed in 1866 when you first went to work for the Society ?

Mr. Humphreys.—Approximately .

30

A. Approximately, I should think —

Q. Pardon me, if you don't know, say so. Try to answer these questions closely because I am asking them closely. If you don't know, say that you don't know.

A. The property, I think, was worth a million of dollars.

Q. Do you know what it was worth ?

A. As near as I could judge, from the records of the Society and from its property, —

Q. Have you any schedule to show what the property consisted of ?

A. I know from the records, from the books; I have no schedule here.

Q. Did you have a schedule at that time ?

A. We have maps and the books to show the land.

Q. Did the company have any inventory and appraisal of its property in 1868 showing the exact value of the property held by it ? 10

A. No.

Q. Has it got such a schedule showing the real and personal property held by it to-day ?

A. It has, on its books.

Q. It has an inventory and appraisal of all of the property, real and personal, held by it ?

A. It has no appraisal. It has a statement on the books of the company. 20

Q. That is, it has a statement showing what ?

A. A statement showing the different properties the Society owns and the value, what they paid for some of the property, and the capital stock represents the other.

Q. You have, then, at the present time no inventory or appraisal showing the value of the property held by this Society at this time ?

A. We have not.

Q. How can you say now, under oath, what the value of all of the Society's property is to-day ? 30

A. I said approximately, from the figures that we have.

Q. What is the approximate value of the property to-day ?

A. I would estimate it at about two millions.

Q. What does it consist of ?

A. It consists of its water power.

Q. How much is that worth ?

A. The water power is included in the capital stock.

Q. You mentioned one particular item "water power." Now, I ask you how much is that water power — how much of that two millions is represented by water power ?

10

A. The water power of the Society comprises the most of its value.

Q. How much are its buildings worth ?

A. I don't think that its buildings, outside of the raceways and water power, would be worth one hundred thousand dollars.

Q. How much is the hydro plant worth that is taxed in this suit ?

A. I could not say how much it is worth.

20

Q. How much is the steam plant worth ?

A. I could not say that.

Q. How much did it cost you to build the hydro plant ?

A. The amount expended is about five hundred thousand dollars together on the two plants.

Q. On the two plants ?

A. Yes.

Q. Does that include the cleaning of the bed of the river ?

30

A. Yes.
Q. You mean that five hundred thousand dollars is about the amount expended on the whole operation of building the hydro plant and the steam plant and the changes of the river bed necessary to use them efficiently ?

A. Up to about the first of the month, yes.

Q. Has the Society any other buildings ?

A. Yes.

Q. How much are they worth ?

A. Fifty or sixty thousand dollars.

Q. Has the Company any other lots of lands other than the lots of lands on which the two plants are located ?

A. Yes; it has adjoining property.

Q. How much land does the company own ?

A. Very little now, outside of the raceways. 10

Q. Can you give us roughly the amount of it ?

A. About eight acres.

Q. How much are the raceways worth ?

A. That is, the water power we call the raceway.

Q. How much are the raceways themselves worth ?

A. I don't know.

Q. How are you able to base your estimate that the property of the company is worth two millions of dollars unless you know the component parts ?

20

A. I call the raceways where the water runs through and the water a part of the power and the water power—I call them together—I don't separate the channel or the banks from the power; I include that in my estimate with the power.

Q. Well, how do you arrive at the valuation on the power plant or the water power ?

A. I take it from the capital stock of the company; it is worth the capital stock.

Q. It is worth the capital stock; that is the idea ? 30

A. Yes.

Q. How much is the capital stock ?

A. One million of dollars.

Q. Then, it is worth more than the capital stock ? It is worth twice the capital stock, from your own statement ?

A. Everything, together with it, yes.

Q. Is there any way at all by which you can appraise the value of these plants, or get at their true value ?

A. I don't know, unless —

Q. Is the amount of two millions of dollars the amount at which it is carried on the books of the Society ?

10 A. No; it is carried at a million only — the capital stock.

Q. Has the company paid any dividends ?

A. No.

Q. Has it ever paid any dividends ?

A. Yes.

Q. How long ago ?

A. I think the last was 1887 or 1888.

Q. What was the capital stock outstanding at that time ?

20 A. The capital stock at the time of the last dividend was a million dollars.

Q. What was that dividend in amount ?

A. I don't remember what it was, I know there was a dividend, but I don't remember the amount.

Q. Since 1887 has the Company made a profit ?

A. Yes.

Q. How large a profit ?

A. I could not say just how much.

Q. Enough to pay for all these new improvements ?

30 A. Yes.

Q. So that this half million of dollars that you have expended has been the surplus profits of the company ?

A. Yes.

Q. Made since 1887 ?

A. Yes.

Q. Has the company had any trouble since 1887 with its water power from diversion of the water ?

A. No.

Q. Have not companies on the Passaic river above the company's plant been diverting water in great quantities from the river since 1887 ?

A. Yes.

10

Q. And has not that diminished the supply at the Company's plant ?

A. It has to some extent.

Q. And has not the Company consented to that diversion ?

A. It has.

Q. And received pay for it ?

A. Yes.

Q. Large sums of money ?

A. It received sums of money; I don't remember how much.

20

Q. Do you know who built these plants for the diversion of water ?

A. The East Jersey Water Company.

Q. Is the East Jersey Water Company a large stockholder in the Society for Establishing Useful Manufactures ?

A. The members of the East Jersey Water Company own stock in the Society.

Q. Large quantities of it, do they not ?

A. No; not so much.

30

Q. Is it not practically controlled by the same men who control the East Jersey Water Company ?

Mr. Humphreys.—I object to that as immaterial.

A. Not altogether; no.

Q. But in some part ?

A. In some part; yes.

Q. Who is the president of the East Jersey Water Company ?

A. I have forgotten now.

Q. Mr. Gardner is, is he not ?

A. Mr. Gardner; yes.

10 Q. Who is president of the Society ?

A. The Society has a governor.

Q. Who is the governor ?

A. Mr. Gardner.

Q. The same man ?

A. Yes, sir.

Q. Have you a board of directors ?

A. Yes.

Q. How many members ?

A. Seven.

20

Mr. Humphreys.—This is all subject to my objection.

Mr. Merrey.—I understand that.

Q. Has the East Jersey Water Company a board of directors ?

A. I don't know.

Q. You are not connected with the East Jersey Water Company ?

A. No.

30

Q. When you went with the Society in 1866 was it having considerable trouble with a man named Van Houten and another man named Benson concerning the flooding back of water on their lands ?

A. It was negotiating for a settlement with them for raising the dam.

Q. I understand that about two years before you went with the Society, that is, about 1864, the Society raised its dam temporarily about three feet ?

A. The dam had been raised in 1864 by putting planking on top of the old stone dam, but I do not think it was more than two feet.

Q. In about 1864 the Society raised the dam near the Great Falls about two feet by means of planking ?

A. Yes.

10

Q. That flooded the water back on the lands of Van Houten and some other upper proprietors, did it not ?

A. Yes.

Q. These upper proprietors started suit against the Society for damages, did they not ?

A. Yes; one of them did.

Q. And they obtained judgment against the Society ?

A. Yes; one of them did.

20

Q. One of them obtained judgment ?

A. Yes.

Q. And the others were making claims for damages, were they not ?

A. The others had made no claims for damages, but they were negotiating for a grant.

Q. In 1868 did the Society apply to the legislature for a new act giving it power to condemn these lands ?

Mr. Humphreys.—If Mr. Rossiter knows that.

30

A. Yes.

Q. And the act was passed ?

A. It was.

Q. And then the Society was able to settle with these upper proprietors ?

A. The Society did settle.

Q. The Society did settle with them ?

A. Yes.

Q. After the act of 1868 was passed, — that is true, is it not ?

A. Yes.

10 Q. And then the Society raised its dam in a permanent way, that is, they made it of stone ?

A. Yes.

Q. That is, in 1868 ?

A. Long after.

Q. Long after 1868, after having settled with these upper proprietors; that is true, is it not ?

A. Yes; they built it in stone by piecemeal in the summer time when the water was low.

Q. This dam stores a great quantity of water, does it not ?

A. It stores some water.

20 Q. It is very apparent that it is a great quantity, too, is it not ?

A. There is quite some water; I don't know how much.

Q. That water is used to operate this present hydro plant ?

A. Yes.

30 Q. You have lived along the Passaic river for a great many years. It is a rather fickle stream, is it not, that is to say, it is flowing full at times and at other times it is practically empty ?

A. It runs down low in summer time, when it is very dry, — when the drought is on.

Q. Are there not times when there is practically no water coming down — some days when that is so ?

A. I have never known of any time when there was not any water coming down.

Q. Are there not some days when there is not suf-

ficient water to operate your hydro plant or to supply your customers with water ?

A. We have not had the hydro plant up long enough to answer that.

Q. The water for these raceways that you spoke about a little while ago is diverted from the river above the dam, is it not ?

10

A. Yes.

Q. The water is carried along in these raceways and delivered to the various customers of the Society ?

A. Yes.

Q. Your customers take the water and pay for it at so much per square foot of opening ?

A. Yes.

Q. Are there not frequent times when you have to shut down your raceways because of the lack of water supply ?

20

A. We reduce the supply.

Q. Very materially ?

A. In the drought, in summer.

Q. Would not the number of times that you have to shut down your raceways be increased very much if it was not for the increased height of your dam ?

A. I don't know how much.

Q. But very much — some ?

A. Some; yes; I think so.

30

Re-Direct Examination by Mr. Humphreys.

Q. When you say that the hydro plant and the steam plant together cost five hundred thousand dollars, do you mean by that that the price did not exceed that amount, to your knowledge ?

A. That is about what has been paid out to the first of the month, the first of last month.

10 Q. You stated to Mr. Merrey that you did not keep any inventory of the various properties of the Society for Establishing Useful Manufactures, either at the time you entered its employ or at the present time. I ask you whether, notwithstanding that fact, you are able to say positively whether or not the property owned by the S. U. M., at any time during your connection with it, approached anything like four million dollars ?

A. Not half of it.

Q. When you settled with these upper proprietors did you obtain from them any use or easement ?

A. We obtained grants.

Q. Grants of what ?

A. Grants for the right to back the water in the river.

20 Q. Have you got any of those grants here ?

A. I have.

(Witness produces paper.)

Q. Is this deed from Richard Van Houten to the Society for Establishing Useful Manufactures, dated July 19, 1869, a copy of the grant that you obtained from him in settlement of his claim and judgment against the Society that you have testified about ?

A. Yes.

30 *Mr. Humphreys.*—I offer this paper in evidence, and I would ask to have the following portions appear upon the record :

“This indenture made this nineteenth day of July, A. D., 1869, between Richard Van Houten and Eliza, his wife, of the City of Paterson in the County of Passaic and State of New Jersey, of the first part, and the Society for Establishing Useful Manufactures party of the second part. Witnesseth, that the said party of the first part,

for and in consideration of the sum of ten thousand dollars,
 haven given, granted,
 to the said party of the second part, their successors and assigns forever, the right, power and privilege to raise the said Society's stone dam near the great falls of the Passaic river to a height not exceeding thirty-two inches above the level of the top of the old stone dam or the projecting top of the old coping thereof and to erect a new dam at that place to the height aforesaid and to keep up, repair and maintain such dams and structures and by means thereof to raise the water in the said Passaic river and its tributaries and to back and flow the same on the lands of the said parties of the first part forever." 10

(Marked Exhibit P—9.) 20

Q. Was this deed obtained from Richard Van Houten as the result of condemnation proceedings under the Act of 1868, or as the result of private agreement?

A. It was the result of a private agreement.

Mr. Humphreys.—I also offer in evidence deed dated July 19th, 1869, from Adrian Van Houten to the Society for Establishing Useful Manufactures, duly acknowledged on August 23rd, 1869, and recorded in the register's office of the County of Passaic, in Book R—3 of Deeds, page 616; which deed was made for a consideration of \$4650, and recites that the said party of the first part has given, granted, bargained and sold, and by these presents do give, grant, bargain and sell to the said party of the second part, their successors and assigns forever, the 30

10 right, power and privilege to raise the said Society's stone dam near the great falls of the Passaic river to a height not exceeding thirty-two inches above the level of the top of the old stone dam or the projecting top of the old coping thereof and to erect a new dam at that place to the height aforesaid and to keep up, repair and maintain such dams and structures and by means thereof to raise the water in the said Passaic river and its tributaries and to back and flow the same on the lands of the said parties of the first part forever.

(Marked Exhibit P—10.)

20 *Mr. Humphreys.*—I also offer in evidence deed dated July 29, 1869, from Richard Benson and Anna, his wife, to the Society for Establishing Useful Manufactures, duly acknowledged July 22, 1869, and recorded in the register's office of the County of Passaic, in Book R—3 of Deeds, page 466, the consideration mentioned therein being \$5600, and containing a grant of the same privilege and in the same language as the two last mentioned exhibits.

(Marked Exhibit P—11.)

30 Q. Were there any other grants that the Society received than those ?

A. There were one or two.

Q. Were they all in that form ?

A. All in the same form. Several of them, I think, were simply receipts.

Q. What has become of them ?

A. I think they were burned up in the fire, in 1902.

Q. When your office was burned ?

A. Yes.

Q. Did any of those papers that you refer to convey any title to any land to the Society for Establishing Useful Manufactures ?

A. Not at all.

Q. Do you know whether Richard Van Houten, after he gave you the agreement which has been offered in evidence, continued to pay taxes upon his lands ? 10

A. He did.

Q. How do you know that ?

A. I know from the fact that our lands adjoined and we compared the valuation, and they were about the same.

Q. He told you that he paid the taxes ?

A. I saw it on the books in the office.

Q. Do you know whether Mr. Benson continued to pay his taxes ? 20

A. He did.

Q. How do you know that ?

A. Mr. Benson complained to me often about his taxes; he thought they were too high.

By Mr. Merrey.

Q. In regard to the five hundred thousand dollars that has been stated by you to have been paid out on the hydro plant, that was in the improvement of the plant and does not include the value of the property that was on there before 1912, the value of the property as it stood in 1912 ? It does not include the land. In other words, the five hundred thousand dollars is the money that has been expended on this plant in the last two years ? 30

A. Yes; two years or more.

JOHN H. COOK, sworn as a witness on the part of the prosecutor, testifies as follows :

Direct Examination by Mr. Humphreys.

- 10 Q. Where do you reside ?
A. Passaic, New Jersey.
Q. What is your occupation ?
A. Hydraulic engineer.
Q. Are you employed, among others, by the Society for Establishing Useful Manufactures ?
A. I am.
Q. As their hydraulic engineer ?
A. Yes.
Q. Have you charge of all of their properties ?
A. I have in that respect.
- 20 Q. Do you know about this hydro-power plant and auxiliary steam power plant that has been recently erected by that society ?
A. I do.
Q. Will you tell us where the hydro plant is located with reference to the geography of the society's property ?
A. The hydro plant is located on the edge of the cliff just across the tongue of land that goes out from Spruce Street to the chasm bridge, which is just about opposite the end of the society's dam.
- 30 Q. Is it built upon the bed of the Passaic river ?
A. It is built upon the bed of the river.
Q. For what purpose is that hydro plant used ?
A. It is used and to be used to effect a more economic operation and use of the water power of the society.
Q. By doing what ?
A. By bringing the use of all the water into one station, thus effecting economies of operation and

construction. It is the present custom, if possible, to unite all the power development in one station for the sake of economy and more efficient operation.

Q. What form of power do you create from the use of the hydro power plant ?

A. Electric power.

10

Q. How is that created ?

A. It is created by means of water wheels and direct connected electric generators and from the station is distributed to the mills along the raceways and to other parties.

Q. You sell the electricity which you yourselves generate to various manufacturers in the City of Paterson ?

A. We will do so and we do so to some extent at present.

20

Q. Are these customers or expected customers located along the raceway ?

A. They are located along the Society's present raceways ?

Q. Where is the steam power plant located ?

A. Just east of the hydro plant, across the pool, and I should say about two hundred feet distant.

Q. And the steam power and the hydro power plant are correctly designated on these two maps, Exhibit P—4 and Exhibit P—7 ?

A. They are.

30

Cross Examination by Mr. Merrey.

Q. You say that the hydro plant is located right at the end of the Society's dam ?

A. Opposite the Society's dam across that tongue of land that comes from Spruce Street to the chasm bridge.

Q. It uses the water that is backed up in the river by that dam ?

A. It does.

Q. To what extent is the plant now used ?

10 A. At the present time, owing to the flow of water in the river, the plant is not being operated to its full capacity, and owing to the fact that we have not completed our arrangements with mill owners along the raceway, there is less power being distributed along the raceways than will be distributed when we have perfected those arrangements with the mill owners.

Q. Do you mean that at the present time the flow of water is too little to operate the plant to its full capacity ?

20 A. To-day, the flow of water is too small to operate that plant at its full capacity.

Q. Great quantities of water are being diverted from the river by cities and water companies, are there not ?

30 A. That would not affect the overflow to-day for this reason, that the storage reservoirs of the different companies and municipalities that divert water up the stream, are, I think, full, and the water is spilling over the spillways of the different dams. The storage of the water and the consumption of water by these municipalities would doubtless affect the power at the Falls at this stage of the river to some slight extent.

Q. It would reduce it ?

A. It would reduce it.

Q. Well, then, even in the spring, in the month of March, water does not come down the river in sufficient quantities to operate your plant ?

A. Generally speaking, it does. At this particular time there is a long continued spell of dry weath-

er, which is very uncommon at this season of the year. I do not recollect, in my experience of seventeen years, when we have had such a continued run of low water in the reservoir. We have had now about five weeks, I think, with only one rain fall of any account, and that is rather uncommon for this season.

Q. But is it very common in other seasons ?

A. In the summer time, Oh, yes.

Q. So that there are many, many days when water sufficient to operate this plant does not come down the river to operate this plant during the day ?

A. That is a fact or will be a fact.

Q. And, therefore, there is considerable value in a high dam at this point to store the water during the night so that you can operate in the day time ?

A. The quantity of water required to operate this station to its full capacity is so great that the storage in the mill pond is not particularly valuable because it is so small in proportion to the quantity of water that is required. The storage in that mill pond, we will say two feet in depth, I think, would only permit the operation of the power plant for an hour and a half or something like that.

Q. How would it be when it is three feet in depth ?

A. It would give a somewhat longer length of time in proportion because, as the water is drawn down, the storage is less as it is drawn, because the area that is flooded is not so great.

Q. There is very little difference ?

A. Well, there is some considerable difference.

Q. How high is the dam at present about the condition of 1864, if you know ?

A. I only know from hearsay and from some

10

20

30

measurements that I have taken. It is somewhere in the vicinity of thirty inches.

Q. You have on top of the stone dam some flash boards ?

A. At the present time we have flash boards on top of that stone dam.

10 Q. How high are they ?

A. When they are on to the full height they are about one foot high.

Q. So that you have got about forty-two inches more in height over what you had in 1866 ?

A. Somewhat; but, if you will permit me to continue, the storage in that dam is only of value above a certain point, because the elevation of the water in the Society's raceway is such that after the river is drawn down below a certain point there is not sufficient capacity in the raceway to permit the water
20 to flow into it.

Q. I am talking about the hydro plant ?

A. Well, ask the question again.

Q. You have not answered the question. Under present conditions you have the use of about forty-two inches in height of water over what you had in 1864 ?

A. Of storage over what the Society had in 1864.

30 Q. The hydro plant you say would be run by two feet of water for an hour and a half ? How long would it run with these forty-two inches of water ?

A. It is like this : When the river comes to the stage where that storage would be of any value to the hydro plant, the flow of the river is generally so low that the operation of the plant would not be continued to be employed for full power for any great length of time. When that time comes, when the water gets as low as that, why, the chances are that the steam plant will be thrown in to help take care

of the load, and therefore, the time that storage would be available would not cut so much figure; but on the basis that you perhaps have in your mind — how long it would run the plant — I should suppose that forty-two inches might run the thing for, we will say, perhaps the total might be two hours and a half; but, of course, it is a question of the power that could be developed from the water that is the advantage to the plant and not the number of hours that you could carry on full running because it might be much more desirable to continue the draft through a longer period; you would get the same number of horse power hours whether you drew it to the full capacity or whether you drew it with less than full capacity and made the drought continue for a longer time.

10

Q. As I understand, the raising of this dam to its present height gives you about two and a half more hours per day service than you would have had under the old conditions?

20

A. No; only when you draw on that storage. When there is water wasted the storage is of no account. So far as the storage goes it is of no account when water is wasted.

Q. Have you a chart or table showing the number of days when water is wasted?

A. Nobody can tell that, but the chances are that there will be water enough to operate that hydro plant in an average year, judging by past experiences, somewhere between one hundred and eighty and two hundred days.

30

Q. And the rest of the year you must draw on storage?

A. The storage will be utilized either there or in the old system of canals.

Q. The Society, at the present time, has not customers for the full amount of power that may be developed by this hydro plant ?

A. It has.

Q. It has ?

10 A. In this way : We are now selling some power to the Security Company which owns some mills along the raceway, and we also sell some current to the Public Service Electric Company.

Q. That is the electric company which lights the City of Paterson, is it not ?

A. I believe it is.

Q. How much current are you selling to the Public Service Electric Company as compared with the amount of current that you are selling to the Security Company ?

20 A. At the present time, we are selling to the Security Company, possibly —

Q. (interrupting) What I would like to know is this — I don't know just what terms to express it in, — what is the comparison between the quantity that you are now selling to the Security Company and the quantity that you are selling to the Public Service Electric Company ?

30 A. I will try to put it this way : Just at the present time we are selling very much more current to the Public Service Electric Company than we are selling to the mills.

Q. Can you give us the proportion ?

A. I should say that the proportion might be perhaps one-tenth of the power that was going to the Public Service was going to the mills on the raceway.

Q. That is one-tenth is going to the mills and nine-tenths to the Public Service Electric Company ?

A. Yes.

Q.. I understand that in the future you expect to change that and sell more to the mills in proportion and less to the Public Service Electric Company ?

A. The Public Service is only to get the surplus beyond the requirements of the mills along the raceways.

Q. At the present time, however, you are giving 10
nine-tenths to the Public Service Electric Company ?

A. Because our mills are not yet equipped with motors.

Q. By the expression "our mills" you mean the mills of your customers ?

A. I mean the mills of our customers along the raceways.

Q. You do not intend to use any of the power developed here for your own purposes, but you intend 20
to sell the whole of it ?

A. How do you mean our "own purposes" ?

Q. You do not intend to use it for mills which you have erected and operate yourselves ?

A. Yes; we do. We hope to be able to operate any mills that belong to the Society with electric current from that plant as well as to sell current to others.

Q. Do you operate any mills ?

A. The Society ?

Q. Yes.

30

A. Yes; we do, but not on the raceway. The mill I have in mind is the Pope Mill which we own down along the river.

Q. How do you operate that ?

A. We operate that at the present time by steam, but I hope to operate it by electric current.

Q. Do you manufacture there ?

A. It is a rented mill.

Q. I asked you : Do you manufacture there ?

A. Do we do any manufacturing, do you mean ?

Q. Yes.

A. The Society is not engaged in any manufacturing, except to manufacture power. That is all.

Q. It manufactures power ?

10 A. That is it.

Q. And develops electricity ?

A. That is it.

Q. And sells the electricity to persons who use it as they see fit ?

A. Well, yes; generally speaking.

By Mr. Humphreys.

Q. Do I understand that the intention of the Society is to sell its power to manufacturers, and that
20 the Public Service Electric Company is to take only any surplus power that you may not succeed in selling for manufacturing purposes ?

A. For manufacturing purposes to substitute for the water power that is now taken from the raceways.

Q. When were these additional flash boards that you speak of put on ?

A. I can only speak of my own knowledge. I understand the flash boards were there previous to my
30 time. I have been with the Society since 1897 and ever since I have been here there have been flash boards on the dam a greater part of the year; they have never been down unless they were knocked off temporarily by ice or so on.

Q. Has the result of these boards been to flood somebody's land ?

A. I don't know that as a fact, but the presumption is that it does, as far as it goes.

By Mr. Merrey.

Q. Is it not a fact that you intend to sell your electric power to the person or corporation that will pay you the highest price for it ?

A. Primarily, no. Our intention is to substitute that electric power for the power that is now taken from the raceways, and that is the primary purpose of the plant, to effect a better administration and operation and economy in the use of the water power of the Passaic river at the great falls. 10

Q. Do you mean to say that if somebody comes along and offers to give more for this power than the mill owners, you won't sell it to that person or corporation ?

A. We are bound to sell it to the mill owners within reasonable limitations.

Q. That is, subject to your contracts ? 20

A. Subject to our contracts.

Q. The object of the Society is to get the highest price for its current that it can get ?

A. I presume that, in the final analysis, is what we are after. That is only natural.

Q. And it will be subject to whatever contracts it has on hand at the present time ?

A. That is right.

Q. And if by any circumstance it could rid itself of these contracts which require it to furnish power to the manufacturers along its raceway, it might sell this electric current to any other concern that offered it a better price, for instance, to a light-making concern ? 30

A. It might, if it could do so justly and lawfully.

(At this point an adjournment is taken, date to be agreed upon between counsel.)

NEW JERSEY SUPREME COURT.

	SOCIETY FOR ESTABLISHING USEFUL MANUFACTURES, <i>Prosecutor,</i>	}	<i>On Writ of Certiorari.</i>
10	vs.		
	CITY OF PATERSON, and EUGENE WICKHAM, Re- ceiver of Taxes and Assess- ments of the City of Pa- terson, <i>Defendants.</i>		

Continuation of depositions and examination of witnesses in the above entitled cause taken before
 20 Edward O'Byrne, Supreme Court Examiner, at the office of Humphreys & Sumner, First National Bank Building, in the City of Paterson, on the fifteenth day of April, Nineteen Hundred and Fifteen, at eleven o'clock in the forenoon, in the presence of Humphreys & Sumner, of counsel with the prosecutor, and Edward F. Merrey, Esquire, of counsel with the defendants, it being stipulated that the said depositions be taken down in shorthand notes by the
 30 examiner and that the signatures of the witnesses be waived.

Supreme Court Examiner.

EDMUND LE B. GARDNER, sworn as a witness on the part of the prosecutor, testifies as follows :

Direct Examination by Mr. Humphreys.

Q. You live in Ridgewood ?

A. Yes, sir.

Q. You are a civil engineer ?

A. Yes.

Q. And you are Governor of the Society for Establishing Useful Manufactures ?

A. I am.

10

Q. How long have you held that position ?

A. I became Governor in 1911.

Q. And previous to that what had been your association with the Society ?

A. I was a director for many years, and since Mr. Hobart went to Washington I have been the power running the company.

Q. As a result of your connection with the company, are you familiar with its possessions ?

A. Yes; I am.

20

Q. That is to say, its real estate and personal property ?

A. Yes, sir.

Q. Can you testify as to the approximate value of those possessions ?

A. I can testify in detail, or I can state that the value is less than two millions of dollars, on any basis.

Q. You can state that positively ?

A. Yes, sir, on any basis that you can take. I would be willing to sell them for two millions of dollars.

30

Q. Are you familiar with the history of the company previous to your connection with it ?

A. Well, to some extent but not closely. I know since we came in control. Since the Security Company bought the stock I know very closely about what has been done since then.

Q. Do you know, or do you not know, whether

the company's possessions, during your regime, have been greater than its possessions previous to that time ?

A. Yes. Oh, yes, we have been more successful since, especially in the last few years.

10 Q. You say you bought up the capital stock of the company ?

A. I did not buy it. It was bought up by Mr. Hobart, by the Security Company.

Q. Can you state what was paid for it ?

A. Yes; we gave a million dollars, partly in cash and partly in bonds, and I arranged and took up and paid the bonds during my time.

Q. Mr. Cook testified at a previous hearing that the Pope Mill belonged to the Society. What do you know about that ?

20 A. Yes; we bought the Pope Mill.

Q. For what purpose is it used ?

A. It is rented out for a factory, for factory purposes.

Q. You rent it out to tenants ?

A. Yes. We bought it because there was formerly a dam at that point, and while they were not using any water, we got it at a price, that would give us perhaps interest on our investment — about interest — and I thought it was advisable to buy it and save perhaps a law suit for diversion of water.

30 Q. You rent it ?

A. Yes; we get a very low rental for it. We do not get a substantial return, but I thought it wise to buy it.

Cross Examination by Mr. Merrey.

Q. Have you appraised the property of the Society ?

A. You mean what kind of property ?

Q. All of the property ?

A. Well, the water rights I have appraised. In the first place I have accepted the appraisal made by the State as to the water rights of the permanent water, and as to the surplus water, I know now what we can get from it in cash, and that is a pretty good measurement of its value.

Q. I ask you if you have made an inventory and appraisal of all the property, real and personal, owned by the Society itself? 10

A. I don't see just what you mean by real and personal.

Q. You said that all of the property was not worth two millions of dollars?

A. Yes. I have a list of the property now.

Q. You said the property is worth less than two millions of dollars?

A. Yes; I said it was worth less than two millions of dollars. 20

Q. In order to find that, have you appraised the property?

A. Yes; I appraised the property. I told you that I accepted the appraisal made by the engineers appointed by the State.

Q. The engineers appointed by the State never appraised the property of the Society for Establishing Useful Manufactures?

A. They appraised the water, the present water power, for purposes of diversion. 30

Q. That was in connection with the appraisal of the properties owned by the East Jersey Water Company and its allied companies?

A. Yes, but that was as perfect and complete an appraisal of that sort as any which could be made. It was the basis on which they proposed to pay the Society for the diversion.

Q. Have you a list made up of that property, —

I mean all the property, — owned by the Society ?

A. Yes.

Q. Would you mind putting it in evidence ?

10 A. Not at all. I want to say that the figure put on what you call the water power, is very much in excess. I have the list as it stands on the books. I want to explain this. I found the books of the company showing a big deficit when I took charge, and in order to straighten out that deficit I elevated — you know what that is, — I elevated the prices as they appeared on the books of the company, of certain things — for instance, the water power, I jacked that up. I jacked this (indicating) up.

Q. What I wanted to get, was a list of the property owned by the company with values ?

20 A. Yes, but I want to explain that I took these values off the books of the company, and I want to tell you that they are excessive; I am perfectly willing to have you take them; to save your soul you cannot get two millions of dollars out of them. They are excessive, and I will tell you why they are excessive. I jacked them up in order to make the books come out and show that there was not a deficit. The books showed a deficit, and I did not want the company to stand with a deficit on its books, with profit and loss on the wrong side, and in order to do that I jacked up these things.

30

Mr. Humphreys.—The witness is now referring to a paper, which I will offer in evidence.

Mr. Merrey.—I have no objection.
(Marked Exhibit P—12.)

Q. Have you any thing further to say ?

A. The raceways : \$204,300, — why that is more than they are really worth. New Stone Dam : \$5142— that is what the New Stone Dam cost. It could be built again today for that sum. That is what it cost. Item for Overflowed Lands, \$34,278. that is what it cost. I did not change that at all.

10

Q. The paper that you have now shown me which has been offered in evidence and Marked Exhibit P—12 shows that the power plant of the company is worth \$500,000 ?

A. Yes.

Q. Riparian Lands, \$5000; Water Power, \$450,000; Raceways, \$204,300; New Stone Dam, \$5142 and Overflowed Lands, \$34,278 ?

A. That is what I wanted to explain to you. These are the values as they stand on the books of the company and in my opinion they are too large. In my opinion, they are too large, and they are too large because the water power and the raceways were raised above their cost materially in order to do away with the deficit that appears in the books of the company.

20

Q. I notice also on this paper Marked Exhibit P—12, a number of pieces of real estate, all of which together are valued at \$129,110.

A. That includes all our real estate outside of the raceways and the dam and our submerged lands and our riparian lands.

30

Q. Who made the appraisement on these ?

A. The appraisement was made by Mr. Rossiter; and this Pope Mill and lots figure was what we paid for them and what they cost us in the present shape; I guess we paid enough; I don't think there is any doubt about that. And the same way with this — for instance, the Manchester and Wayne Avenue

lots, that is what we paid for them. We sold the island and took a mortgage for \$7500.00, and the balance in cash. North Fifteenth Street we have just paid for that and the coal yard, we have just paid for that.

10 Q. I notice you have a figure of \$5000 for Riparian Lands. You said that assessment was made by Mr. Rossiter ?

A. No. That stands on the books. I don't know what that represents.

Q. You don't know what it represents ?

A. It must mean some land, possibly along the shore as you travel up that river.

Q. You owned the whole bed of that Passaic river up above the falls for a considerable distance, do you not ?

20 A. Yes. I fancy that might come under "Submerged Lands" or "Overflowed Lands."

Q. You have the overflowed lands in this statement placed at \$34,278. Is that what you paid for them ?

A. Yes.

Q. That payment was made about 1868 ?

A. That I cannot say positively. . Possibly these Overflowed Lands were lands that were overflowed above.

30 Q. In other words when you raised your dam, persons who owned lands above the dam and which were affected by the rising of the water in the river caused by the raising of the dam, sued you, and you finally made some sort of a settlement ?

A. Yes.

Q. You paid them \$34,278 ?

A. No; not as much as that. No. There were overflowed lands before that, in the beginning.

Q. As a matter of fact you do not know exactly what that item for overflowed land represents ?

A. No. I know that it represents all our property in that connection. These two sums would represent all our property in that connection.

Q. You do not know what the item, "Riparian Lands" represents, or whether that amount, \$5000, is right or not ? 10

A. It represents all the value there is for that.

Q. In the item, "Water Power, \$450,000", you have included what the state appraisers, who were appraising the property of the water companies placed on —

A. (Interrupting) No, I have not done that at all. That is a different thing. That is just the value. That shows the result of what was done. I raised it.

Q. What does the item of \$450,000 for Water Power mean; what does that represent ? 20

A. If we owned a lot of permanent water, it would mean the value of that permanent water. It would mean as it stands there the value of the surplus water, because we had sold our permanent water. That is to say, we have no permanent water, we do not get any income for permanent water, because it was sold by the Colts and others with the land in fee, and we have to provide the water and we do not get the income. 30

Q. When they sold water rights, they made the sale subject —

A. (Interrupting) I believe that they were a hard living lot of fellows, and when they wanted money they would get a fellow to buy a few feet of water, and they would capitalize it and sell it and take the money and blow it in.

Q. I don't notice in your list of properties or among your assets the value of any contracts that you may have with water companies for the diversion of water above your dam ?

10 A. No — for this reason : that value is the value given to our properties for that purpose by the State, and that would be included in that \$450,000.

Q. How much do you receive per year for the privilege of diverting water above your dam ?

A. Why, we are receiving at the present time — our annual income of every sort was \$119,000, and, less expenses, was \$97,000 last year. We got \$97,000 net last year. Of course, I don't hesitate to tell you that the water companies paid us too large a sum for diverting water compared with the values which are put upon it by the State Water Supply Commission.

20 Q. It would be worth a great deal more on the basis on which you are paid; if it was capitalized on the basis on which you are paid it would be worth a great deal more ?

A. It would, probably,—no, not any more, either, because \$97,000 is only five percent on the entire property of the company.

Q. The company to which the stock the Society for Establishing Useful Manufactures was sold is the—

30 A. (Interrupting) The Security Company owns all the stock.

Q. That is the company known as the New Jersey General Security Company ?

A. New Jersey General Security Company.

Q. That company owns all of the property of the Society for Establishing Useful Manufactures ?

A. It does.

Q. And of the Passaic Water Company ?

A. The Passaic Water Company.

Q. And the East Jersey Water Company ?

A. It owns it all, and I am the managing man, — the Vice-President and Executive of that company.

Q. And the amounts which you receive for diversion are paid from one company to the other ?

10

A. From one company to the other.

Q. The City of Newark also diverts water ?

A. Yes.

Q. How are you paid for that ?

A. They paid a gross amount, amounting to, I think, \$150,000, but the Society got that, and that is in the accumulation of money; the Security Company got quite a lot of that because the Security Company had bought up and owned a lot of these feet of water what I told you of, that had been sold by the Colts previously, and they turned over these feet of water to the City of Newark, and the City of Newark owns these feet of water in the raceway; they don't use it there, but they divert that water up above.

20

Q. The water plant of the City of Newark, which we refer to, was built by the East Jersey Water Company ?

A. Yes. The East Jersey Water Company was created for the purpose of building that plant.

Q. The payment of that sum over \$100,000 which was paid to the Society for the right to divert this water was really paid by the East Jersey Water Company ?

30

A. Yes; it was paid by the East Jersey Water Company.

Q. So that, both companies being owned by the one company, it was paid out of one pocket into the other practically ?

A. It might be that way.

Q. It was not a transaction between two independent companies, bargaining in the matter ?

A. I don't know how you mean that. We try to keep them apart as much as we can.

10 Q. The Society for Establishing Useful Manufactures was organized for the purpose of establishing useful manufactures ?

A. Yes.

Q. And the criticism that is now made against it is that instead of using its capital for that purpose, through its ownership by the New Jersey Security Company and its alliance with the East Jersey Water Company, it has been engaged in building water plants ?

20 *Mr. Humphreys.*—Objected to on the grounds that it is not cross examination.

A. The Society never has had anything to do with building water plants.

Q. But it has permitted without objection its owners to build these plants ?

A. Yes. I don't see how it could oppose it if it had wanted to. There is no question but that the City of Newark would have condemned if there had been any refusal.

30 Q. You lately, then, have spent something like \$500,000 in improving the water power on the river ?

A. I recognized that there was a lot of water in season of rain fall like the present going to waste; and I also recognized that the method of using water in our raceways was wasteful, going through twenty-two foot heads, over those imperfect wheels, — a waste of water, — and I judged it was to the interest for the Society, as well as to the whole com-

munity here, to build a modern up-to-date plant and to deliver this power electrically to those various mills; and I also mean to deliver steam to them. I hope eventually to have all the factories located on these raceways provided with steam from one central station and provided with light and power from one station.

Q. In these proceedings taxes have been levied on the hydro plant ?

10

A. Yes.

Q. I ask you if that hydro plant, in connection with the water power that you have, and with the dam that you have in the river, was built to develop, increase and improve the water power of the river ?

A. It was built to use more of the water than we had been able to use before.

Q. It does improve and increase the water power of the Passaic river at the Great Falls ?

20

A. Yes; we get more use of it.

Q. You have here a balance sheet showing the assets and liabilities of the Society for Establishing Useful Manufactures ?

A. Yes, that is, on the first of January of this year.

Mr. Humphreys.—I will offer that in evidence, if you wish.

Mr. Merrey.—I would like it to be offered.
(Marked Exhibit P—13.)

30

Mr. Humphreys.—I will also offer in evidence this other sheet produced by the witness.

(Marked Exhibit P—14.)

10 Q. Here is another sheet of paper, which has just been marked Exhibit P—14, which reads as follows: "In years gone by The Society for Establishing Useful Manufactures has sold in fee — First race twelve and one-half feet which equals, sixty-two and one-half M. G." sixty-two and one-half million gallons, is that right ?

A. Yes.

Q. "Second Race twenty and one-half feet and nine inches which equals, One hundred and five million gallons ?"

A. Yes.

Q. "Third Race sixteen and one-half feet and eighteen inches which equals eighty-five million gallons ?"

A. Yes.

20 Q. You also say you have only eighty million gallons of permanent flow ?

A. Yes; in dry season.

Q. Does that mean after taking out water which is diverted above ?

A. Yes; that is now in the river.

Q. How much water is diverted by water companies and cities above here ?

A. There is diverted out of the low flow, which is the measure here of course, about forty-five million gallons to day, — out of the low flow.

30 Q. How much do you take at Little Falls ?

A. We take about thirty million gallons at Little Falls; Newark takes five, and Jersey City takes ten.

Q. Of the low flow ?

A. Yes; the other water they get out of water stored when there is a big supply.

Q. When they have it ?

A. They get it in the winter. You will find now

that the reservoirs are all full, and it is only low flow of the stream.

Q. So that the Society for Establishing Useful Manufactures in the past has sold practically all the low flow of the river and more ?

A. Sold all the low flow to tenants here, to tenants on the raceway.

10

Q. If you had not your dam you would not have been able to supply all the water that was required ?

A. I don't know that they were able to supply all the water that was required. Raising the dam you mean ?

Q. Yes.

A. Raising the dam did not mean more than a few hours a day. In fact, I don't see what they wanted to do it for, because it didn't make a difference of over two hours.

20

Q. It did make a difference of two hours ?

A. Yes; it might for a few days. For a few days it might make a difference of a couple of hours a day when they could continue, before the mills would have to go without water.

Q. If it had not been that they raised this dam, the mills would have shut down for two hours a day ?

A. They would shut down.

Q. They were able to run two hours longer because the dam was raised ?

A. Yes; somewhat in that neighborhood.

30

Q. That is only for a few days ?

A. That would be only during the time when it was able to fill up to the top of the dam during the night. The minute it was not able to do that, why, —

Q. (Interrupting) Then your Society had made contracts to deliver more water than they could store ?

A. They sold more water than they had.

Q. It was very important, then, to have these two hours extra ?

10 A. I don't think they cared a continental about that. When I came here it was hardly known by any one how much water they were entitled to. They would all shut down at eleven o'clock. I have seen them shut down at eleven o'clock, everybody out of water.

Prosecutor rests.

DEPOSITIONS ON THE PART OF THE DEFENDANTS.

20 *Mr. Merrey.*—I offer in evidence copy of answer filed in the Court of Chancery in a certain cause wherein the Lehigh Valley Railroad Company was complainant and the Society for Establishing Useful Manufactures was defendant; which answer was filed April 30th, 1878, and is found on page 504 of Docket 8 in the office of the Clerk in Chancery, and I want to insert in this record just part of one paragraph.

30 *Mr. Humphreys.*—I object to the offer upon the ground that the answer is immaterial, and upon the ground that unless it is read in connection with the other pleadings it cannot throw any light upon its true meaning, and that it is non-evidentiary in this matter as against the Society for Establishing Useful Manufactures, certainly in the absence of the whole record.

Mr. Merrey.—I offer the whole record in evidence.

Mr. Humphreys.—I object to its evidential character, even if the whole record were produced.

Mr. Merrey.—I wish extended for the purpose of this case the latter part of paragraph 31.

Mr. Humphreys.—I object to the answer unless it is accompanied by the affidavits purporting to verify it, inasmuch as whether these verifications are given on information and belief or given absolutely may be very important as to the evidential character of the answer.

10

Mr. Merrey.—I don't rely upon the affidavits but upon the answer itself which it signed and sealed by the corporation itself. Of course, it is understood that the whole record is and can be used by either side, but I feel that the part I refer to is of importance, and I wish to have it extended now on the record for convenience. It is as follows :

20

“And it says that in the year eighteen hundred and sixty-four (1864), it at great expense increased the height of the dam across the Passaic by it built shortly after the execution of the agreement of eighteen hundred and thirty-six (1836) by an addition thereto of nearly three feet, and acquired at great expense the right of flowage along the banks of said river incident to much increase of height, and by means thereof did create a large reservoir for the saving of water during the night time, such reservoir covering an area of seventy-three acres, and containing six millions seven hundred and forty thousand (6,740,000) cubic feet of water, and resulting in a very material increase of the available water power of this defendant at Paterson, sub-

30

stantially doubling the quantity of available power."

Mr. Humphreys.—I would like to have the eleventh paragraph of the answer extended on the record. It is as follows :

10 "And defendant admits, that at the term of
January, eighteen hundred and twenty-nine,
(1829) an argument was had on said bill and
answer before the Honorable Isaac H. William-
son, Governor and Chancellor, on a motion for
an injunction in pursuance of the prayer of said
bill, and that said Chancellor afterward de-
livered an elaborate written opinion upon said
motion — an original manuscript copy whereof,
as well as several in print, is now in possession
of this defendant; but this defendant denies
20 that the same is correctly abstracted in Com-
plainant's bill of complaint, and says that said
Chancellor did, in and by his said opinion, de-
clare and decide several matters, among which
are the following : First, That the defendant
herein had not so abandoned the objects of its
incorporation, or departed from the purposes to
which it was incorporated, as to forfeit its char-
ter or to be deprived of a favorable standing in
a court of equity. Second, That the abandon-
30 ing of the business of direct manufacturing and
leasing out its water power for that purpose to
others, was not unauthorized by its charter, or
a violation thereof. Third, That this defendant,
as owner of the bed and banks of said Passaic
river at Paterson, was entitled absolutely, inde-
pendently of its charter, to the full and natural
flow of the waters of that river at that point,
without diminution or alteration. Fourth, That
having been especially incorporated for the pur-

pose of developing and applying that water power to manufacturing purposes, the Legislature had no power afterwards to authorize the Canal Company to take any of the water of the Passaic, or its tributaries, for its purpose, even upon compensation made. Fifth, That it did not sufficiently appear upon the pleadings and proofs then before the Court, that any such diversion or diminution would necessarily result from the use of the canal, and therefore the injunction was refused." 10

At the foot of the answer appears the following certificate :

New Jersey, } ss. :
Passaic County.

Be it Remembered, That on the twenty-seventh day of April, Eighteen Hundred and Seventy-eight, "The Society for Establishing Useful Manufactures," the defendant in the foregoing answer named, verifies the same by affixing thereto its common corporate seal attested by the hands of its Governor and Secretary. 20

Attest :

E. BOUDINOT COLT,
Gov. S. U. M. (L. S.)

RICHARD ROSSITER,
Secretary. 30

Mr. Merrey.—I also offer in evidence copy of the tax levy of the City of Paterson for the year 1914 as passed by the Board of Finance of the City of Paterson; and I also offer in evidence the County budget of the County of Passaic for the year 1914.

Mr. Humphreys.—What is your purpose ?

Mr. Merrey.—I offer it for the purpose of

showing what portions are for state use and what portions are for county use, and what portions for city use.

10 *Mr. Humphreys.*—I do not object to the mode of proof; but I do object to the offer of these papers upon the ground that their contents are immaterial, incompetent and irrelevant, and of no evidential value in this cause.

Mr. Merrey.—I will ask the examiner to copy them into the record.

(The papers so offered are as follows :)

AN ORDINANCE CONCERNING TAXES

For The Year 1914.

The Board of Finance of the City of Paterson Do Ordain as Follows :

20 1. That there shall be raised for defraying the expenses of the City of Paterson for the fiscal year commencing July 1st, 1914, and ending June 30th, 1915, and for all other objects and purposes authorized by law, not including state school and county tax, the sum of one million five hundred seventy-five thousand one hundred twenty dollars and fourteen cents. (\$1,575,120.-14.)

30 2. Of the sum mentioned each of the various departments of the city may expend the sums mentioned below for the purpose mentioned. No department may expend any money for any purpose except out of the fund hereby created for that particular purpose without the consent of this board.

Defendants' Exhibits.

For current expenses of public instruction	\$ 208,234.77	
For manual training	5,366.68	
For deficiency account, board of education	17,282.43	
To Board of Fire and Police Commission, as follows :		
For fire dept. salaries	170,000.00	10
For fire dept. regular	16,000.00	
For fire dept. pension fund	550.00	
For fire dept. special	5,000.00	
For fire dept. apparatus and all repairs	10,000.00	
For pension fund, paid fire dept.....	1,500.00	
For police dept. salaries	193,000.00	
For police dept. regular	7,500.00	
For police dept. pension fund	7,000.00	20
For building inspector's office	250.00	
For indoor relief	19,000.00	
For outdoor relief	10,000.00	
For all repairs and improvements at almshouse	1,500.00	
sealer of weights and measures)..	6,890.00	
To Board of Public Works, as follows :		
For city engineer's assistants.....	5,000.00	
For fire hydrants	45,450.00	
For lamps, wells and pumps	75,000.00	30
For public buildings	3,000.00	
For street general, repairing and cleaning	23,000.00	
For cleaning pavements	25,000.00	
For crosswalks	1,000.00	
For Sewer repairs and cleaning	14,000.00	
For drains and sewers for sanitary purposes	500.00	

Defendants' Exhibits.

	For receiving basins	500.00
	For disposal of garbage	42,000.00
	For oiled streets	7,500.00
	For dept. of board of works payroll	15,000.00
10	For destructor plant maintenance....	9,000.00
	For repairing pavements	5,000.00
	For public pound	1,000.00
	For Falls road improvement	3,532.69
	For carting clinker from de- structor plant	2,000.00
	To Trustees of Free Public Library as follows :	
	For public libraries	32,000.00
	To Board of Health as follows :	
20	For fire and police commissioners' pay roll, (no salary included for	
	For board of health, general	4,000.00
	For board of health, Isolation hospital	5,000.00
	To Park Commission, as follows:	
	For parks general	24,500.00
	For shade trees	1,000.00
	For band concerts	504.00
	For wall at Westside Park	2,000.00
	For public baths	500.00
30	For care of indigent sick	25,000.00
	To Department of Finance, as follows :	
	For dept. of finance, pay roll	24,500.00
	For dept. of board of aldermen pay roll	20,700.00
	For allowance additional work of tax assessors	1,500.00
	For printing and stationery	4,500.00

Defendants' Exhibits.

For printing and stationery as- sessors	1,000.00	
For contingencies	20,000.00	
For fire insurance	2,500.00	
For special fund	2,300.00	
To Sinking Fund, Debt and In- terest, as follows :		10
For interest on city's debt	225,000.00	
For delinquent taxpayers	10,000.00	
For new city hall bonds	10,000.00	
For Doremus pollution judgment....	14,608.29	
For renewal bonds	26,090.00	
For funded debt bonds	10,000.00	
For \$100,000 school bonds	4,000.00	
For city hall repairs bonds	1,520.00	
For school bonds	22,730.00	
For police station bonds	2,000.00	20
For high school bonds	10,000.00	
For fire headquarters bonds	1,000.00	
For fire department bonds	1,750.00	
For destructor plant bonds	3,000.00	
For new park bonds	4,500.00	
For trunk sewer bonds	18,000.00	
For repavement bonds	2,500.00	
For market bonds	600.00	
For city's share of permt. streets 1905	4,537.15	30
For city's share permt. streets 1908	2,873.08	
For city's share permt. streets 1909	2,985.06	
For city's share permt. streets 1910	3,756.80	
For city's share of street assess- ments No. 1	16,157.10	

Defendants' Exhibits.

	For city's share of street assessments No. 1 (City property)	4,198.17
	For city's share of sewer assessments No. 1 for 1913	332.82
	For city's share of sewer assessments No. 1 for school prop.	221.32
10	For city's share of sewer assessments No. 1 for parks 1914	3,984.64
	For city's share of sewer assessments No. 1 for 1914	2,046.83
	For city's share of sidewalks assessments	452.45
	For city's share of pavements 1912..	4,242.37
	For city's share of pavements, city property	3,973.49
		\$1,575,120.14

20

30

3. That the above sum, less two hundred thousand dollars (\$200,000) to be deducted therefrom by reason of estimated receipts from licenses and unexpended balances of the preceding fiscal year, shall be certified to the Passaic County Board of Taxation as to the amount to be raised by taxation for the purposes of the City of Paterson for the year beginning July 1st, 1914, of \$1,375,120.14, together with whatever sum may hereafter be apportioned by the City of Paterson by the said County Board of Taxation as its share of the State School and County Tax, shall be assessed by the Commissioners of Assessment of Taxes and received and collected by the Receiver of Taxes and Assessments according to law.

Defendants' Exhibits.

4. There shall be a poll tax of One Dollar assessed upon and collected from all persons liable by law to pay the same.

Passed June 4th, 1914.

(Signed) WILLIAM BERDAN,
President of Board of Finance.

Approved June 6th, 1914.

(Signed) ROBERT H. FORDYCE,
Mayor.

10

Attest :

JOHN J. BROPHY,
Clerk.

Paterson, N. J., May 27th, 1914.

Pursuant to adjournment the Board of Chosen Freeholders of Passaic County met this day at the Board Rooms.

20

All members present.

Director Wollenberg presiding.

REPORT OF FINANCE AND AUDITING COMMITTEE.

Your Committee on Finance and Auditing respectfully recommend that the following resolution be adopted :

30

“Resolved, that the sum of Seven Hundred and Five Thousand Eighty Seven Dollars and Forty-eight cents (\$705,087.48) be raised during the present year for items of expenses specified below :

Defendants' Exhibits.

FOR COUNTY PURPOSES.

1—Current Expenses.

1—For Courts :		Appropriations 1914	Amount Avail.
	1. For Salaries, Fees, and Per Diem of Officials, Jurors and Officers Courts.....	\$ 82,000.00	\$82,000.00
	2. For Fees of Justices and Constables....	6,500.00	6,500.00
	3. Sheriff		8.90
10	4. For salaries of County Clerk and Em- ployees, in his office and incidentals....	3,000.00	3,012.62
	5. For salaries of Register of Deeds and Employees in his office and for Records and incidentals	5,000.00	5,056.59
	6. For Salaries of Surrogate and Em- ployees in his office and for records and incidentals	3,000.00	6,010.81
	7. For county Board of Taxation and sal- aries and incidentals	3,500.00	3,513.16
	8. For Law Library	1,000.00	1,000.00
	9. For Miscellaneous Expenses, including Janitor's salaries	8,200.00	8,430.23
	10. For Widows' Pensions	7,000.00	7,000.00
	2—For County Jail and Workhouse	25,500.00	25,512.00
	3—For Support of Lunatics :		
20	1. In State Asylum	65,000.00	65,000.10
	2. In County Asylum	11,000.00	11,000.00
	3. Support of Epileptics	4,000.00	4,027.20
	4—For Chosen Freeholders and Officers :		
	1. Chosen Freeholders	10,500.00	10,500.00
	2. Chosen Freeholders	24,100.00	24,100.00
	3. Bridge Tenders	3,970.50	4,500.00
	5—For Fees of Coroners and Morgue Keepers	1,300.00	1,424.50
	6—For Elections	70,000.00	70,000.00
	7—For Stationery	1,100.00	1,100.00
	8—For Advertising and Printing	2,500.00	2,502.73
	9—For Incidental Expenses :		
	1. For Hospital	14,500.00	14,500.00
	2. For Fuel, Light and Water	7,500.00	7,801.52
	3. For Sundries and Ins.	7,000.00	7,000.00
30	4. For Care and Maintenance of Grounds around Fifth Regiment Armory	350.00	350.00
	5. For rent of Armory, Co. A. of Passaic	400.00	400.00
	6. For Decorating Graves of Soldiers	150.00	150.00
	7. For Support of Tubercular Patients....	16,000.00	16,000.00
	8. For Mosquito Extermination		
	Total	\$384,070.50	384,070.50

2.—Debt and Interest.

1.—For Payment of Principal on Bonded Debt	50,000.00	50,000.00
2.—For Payment of Interest on Bonded Debt	48,257.50	48,257.50
3.—For Payment of Bank Discounts	18,000.00	18,000.00
4.—For Surplus Revenue	1,168.38	1,168.38

Defendants' Exhibits.

5.—For Special Deficiency :		
1.	Fallen Bridges	2,500.00 2,500.00
2.	Roads Suddenly destroyed	20,450.05 20,450.05
3.	State Aid Roads	10,000.00 10,000.00
Total		\$150,375.93 150,375.93

3.—Public Work.

1.	For the Permanent Improvement and Repair of Public Buildings and Grounds	5,000.00 5,000.71	
2.	For Erection and Repair of Bridges and Culverts	40,000.00 40,962.73	10
3.	For the Improvement and Repair of Public Highways :		
1.	Repair and Oiling of Roads	125,000.00 126,395.94	
2.	Road Extension	690.11	
3.	Electric Lighting of Roads	17,000.00 17,000.00	
Total		\$187,000.00 187,000.00	

Recapitulation of Appropriations.

1.—For County Purposes.

1.	Current Expenses	\$ 384,070.50	
2.	Debt and Interest	150,375.93	
3.	Public Works	187,000.00	
* Total for County		\$ 721,446.43	
making an aggregate for county purposes of		\$ 721,446.43	20

WHEREAS, The cash on hand at the end of the fiscal year amounts to \$16,358.95, therefore,

Be it Resolved, that the assessors of the respective cities, townships and boroughs in the County of Passaic be and they are hereby directed to assess for county purposes the sum of \$705,087.48 upon the inhabitants of such cities, townships and boroughs and upon their estates.

ROGER C. TURNER,
ISAAC WOLLENBERG,
JOS. MAC DONALD,

Committee.

Report received and unanimously adopted.

REPORT OF FINANCE AND AUDITING
COMMITTEE.

10 Your Committee on Finance and Auditing respectfully report that the State Comptroller has certified to the County Collector that Passaic County's apportionment of State School Tax is \$477,183.40 which amount your Committee recommend the assessors of the several municipalities be directed to levy.

ROGER C. TURNER,
JOS. MAC DONALD,
ISAAC WOLLENBERG,

Committee.

Report received and unanimously adopted.

20 Paterson, N. J., June 26th, 1914.

Pursuant to the following call a Special Meeting of the Board of Chosen Freeholders of Passaic County was held this day at the Board Rooms :

30 "I have been directed by the Director of the Board of Chosen Freeholders of Passaic County to call a special meeting of the Board on Friday, June 26th, 1914 at 7.30 P. M., at the Board Rooms to take action on the Alternative Writ of Mandamus issued to the Board to make appropriation for Mosquito Commission.

Yours truly,

GEO. W. BOTBYL,
Clerk."

All members present except Messrs. Sloan, Van Kirk and Wheeler.

Director Wollenberg presiding.

The following resolution was unanimously agreed to :

By Finance Auditing Committee.

Whereas, an alternative writ of mandamus has been issued out of the Supreme Court of the State of New Jersey, directed to the Board of Chosen Freeholders of the County of Passaic, commanding and strictly enjoining said Board immediately on the receipt of said writ to include or cause to be included in the annual tax levy of the County of Passaic for the year Nineteen Hundred and Fourteen, the sum of \$14,720, to be appropriated for and paid to the Passaic County Mosquito Extermination Commission.

10

Resolved, that in compliance with said writ, the sum of \$14,720 be appropriated for the Passaic County Mosquito Extermination Commission, and that said amount be added to the appropriations of this Board for the ensuing fiscal year, and raised as the other moneys required to be raised for said appropriations passed at a meeting of this Board on the twenty-seventh day of May, 1914.

20

Upon motion the meeting adjourned.

GEO. W. BOTBYL,
Clerk.

REBUTTAL.

30

JOHN H. COOK, a witness already sworn on the part of the Prosecutor, recalled in rebuttal and further testifies as follows :

Direct Examination by Mr. Humphreys.

Q. Mr. Merrey has offered in evidence an answer filed in the Court of Chancery in the case of the Le-

high Valley Railroad Company against the Society for Establishing Useful Manufactures, part of which he has read into the record. You have already testified your views as to the result of the raising of the dam in your examination in chief, but I would like you to state what you have to say as to the accuracy of that statement contained in that answer, as offered
10 by Mr. Merrey.

A. The accuracy of that last statement ?

Q. Yes, as to its doubling the capacity of the pond ?

A. Why, that is perfectly absurd. It didn't do anything of the kind. Do you want me to go further with that ?

Q. Yes. Explain your views about it ?

A. From the time that it was so made up to, say,
20 six months ago, the additional head which would be created by that dam was of no avail to the Society; that did nothing with it; never made any use of it. Now, at the present time, the increase of head due to the raising of that dam is made available and is at the present time being used. Whenever the dam is even full and the water is not overflowing, they get the benefit of head at the hydro-plant which is due to the raising of that dam, but to the water which is supplied to the raceways there is still no advantage due to this raising.

30 Q. How much advantage would that give in head to the hydro-plant ?

Mr. Merrey.—I object to that because Mr. Cook has gone all over that in his former examination.

A. It would be an advantage of about somewhat over five percent.

Q. It would not double the power ?

A. Not at all; nothing like it.

Cross Examination by Mr. Merrey.

Q. You talk about advantage in head. You don't include in that the advantage of stored water ?

10

A. He didn't ask me that. Do you want to ask me about that ?

Q. There is a distinction between the advantage from the increased head and the advantage from the amount of water stored, is there not ?

A. Yes, there is, but —

Q. That is all. I have no further question.

A. Maybe Mr. Humphreys has.

Re-direct Examination by Mr. Humphreys.

20

Q. They are altogether different things, are they not ?

A. Yes.

Q. Explain ?

A. The increased head gives, with the same amount of water, certain advantage; and the storage due to the increase in height of the dam gives an advantage which permits of a holding back of a certain part of the water that is used, so that in times of low water, when there is not sufficient to supply the requirements of the S. U. M. and the waste in water besides, the advantage of the head is lost to a certain considerable extent because as the water is drained down in the pond, then that advantage of head which is created by the raising of the dam is lost.

30

Q. Will you define what you mean by head ?

A. The head that is available. There is a difference between the surface of the water above the

Society's dam and the surface of the water which will rise below the hydro-plant.

Q. Why was there no advantage in head to the water in the raceway as a result of the raising of the dam ?

10 A. Because the level of the water in the raceway was still held at the elevation that it was when the works were designed and the dam was about thirty inches lower than it is now.

Q. Was the head measured from the raceway ?

A. On the raceways the head now is as it has been during all my experience and must have been practically since the beginning. There has been no change.

Q. What would you define as the head in the raceway ?

20 A. Well, the head in the raceway is the difference in level between the water in the raceway above the mill and the water in the raceway into which the tail water of the mill is discharged.

By Mr. Merrey.

Q. When you say that the raceways are now about the same height as they were in the beginning, you do not mean the beginning, do you; you mean about 1833, do you not ?

30 A. Well, about 1833, and I should suppose before that, although I do not know anything about it. I know of no reason why they were not always of the same level.

Q. The dam was not at its present location in 1833 ?

A. Not as I understand.

Q. It was further up the river ?

A. Yes.

Q. And the raceways were fed through the gully which has since been filled up ?

A. Yes.

Q. Around 1833 there was a change made in the height of the raceways ?

A. Presumably not. Presumably the elevation of the dam was the same as the elevation of the dam which was further up stream. 10

Depositions closed.

20

30

Exhibits.

EXHIBIT P-1.

Charter of the Society for Establishment of Useful Manufactures. Parts pertinent to the issue printed in record on page 8.

10

EXHIBIT P-2.

Six unpaid tax bills, forming the basis of these proceedings.

20

30

RECEIVERS OFFICE—City Hall, Rooms 7 and 8
 Open from 9 A. M., to 4 P. M., Saturdays, 9 A. M. to 12
 M., and Saturdays, December 5th, 12th, and 19th, 9 A. M.
 to 4 P. M. and Saturday, December 19th, will be open in the
 evening from 7 to 9 P. M.

IMPORTANT—Be particular to see that this Tax Bill cover PROPER street and PROPER lot
 NUMBER or NUMBERS. Should you pay taxes on the wrong property you cannot recover
 from the City. Consult Tax Receiver's Books so as to be sure that all PRIOR TAXES and
 ASSESSMENTS have been paid and credited.

SIXTH WARD 1914, PATERSON, N. J.

TICKET NO. Part 1831
 Taxes Due and payable on or before
 DECEMBER 20th, 1914
 LOT. NO. 42 64 Fronts
 McBride Ave
 M. S. U. M.
 Upon all Taxes paid prior to the first day of
 December, 1914, a discount of 1/2 of 1 per cent
 will be allowed
 Rate of Taxation \$1.91 per \$100.00

Your Real Estate in said Ward is valued at \$ 3600
 Value of Buildings \$
 Your Personal Estate in said Ward is valued at \$

Total Valuation, \$
 Your Poll Tax for 1914 is \$
 Your State School, County and City Tax for 1914 is \$ 68.76
 Total, \$
 Discount, \$
 Interest, \$
 Received Payment \$
 Receiver of Taxes and Assessments

SIXTH WARD, 1914.

All checks in payment of Taxes must
 be certified by a National Bank or Le-
 gally Authorized Trust Co. and drawn
 payable to the 'CITY OF PATERSON'
 otherwise they will not be accepted.

TICKET NO. Part 1831
 AMOUNT \$68.76
 DISCOUNT \$
 INTEREST \$
 TOTAL \$

If you want your receipted bill re-
 turned by mail, put your address here.
 Name
 Street
 Town

Open from 9 A. M., to 4 P. M., Saturdays, 9 A. M. to 12 M., and Saturdays, December 5th, 12th, and 19th, 9 A. M. to 4 P. M. and Saturday, December 19th, will be open in the evening from 7 to 9 P. M.

IMPORTANT.—Be particular to see that this Tax Bill cover PROPER street and PROPER lot NUMBER or NUMBERS. Should you pay taxes on the wrong property you cannot recover from the City. Consult Tax Receiver's Books so as to be sure that all PRIOR TAXES and ASSESSMENTS have been paid and credited.

SIXTH WARD 1914, PATERSON, N. J.

TICKET NO. Part 1832

LOT NO. Rears 42 - 64

..... McBride Ave

M. S. U. M.

Your Real Estate in said Ward is valued at - - - - - \$...900.....

Value of Buildings - - - - - \$.....

Your Personal Estate in said Ward is valued at - - - - - \$.....

Total Valuation, \$.....

Your Poll Tax for 1914 is - - - - - \$.....

Your State School, County and City Tax for 1914 is - - - - - \$..... 17.19

Total, \$.....

Discount, \$.....

Interest, \$.....

\$.....

Received Payment

Receiver of Taxes and Assessments

Taxes Due and payable on or before
DECEMBER 20th, 1914

Upon all Taxes paid prior to the first day of
December, 1914, a discount of 1/2 of 1 per cent
will be allowed

Rate of Taxation \$1.91 per \$100.00

SIXTH WARD, 1914.

All checks in payment of Taxes must be certified by a National Bank or Legally Authorized Trust Co. and drawn payable to the "CITY OF PATERSON" otherwise they will not be accepted.

TICKET NO. Part 1832

AMOUNT \$ 17.19

DISCOUNT \$

INTEREST \$

TOTAL \$

If you want your receipted bill returned by mail, put your address here.

Name

Street

Town

Exhibit P-2

RECEIVERS OFFICE—City Hall, Rooms 7 and 8

Open from 9 A. M., to 4 P. M., Saturdays, 9 A. M. to 12 M., and Saturdays, December 5th, 12th, and 19th, 9 A. M. to 4 P. M. and Saturday, December 19th, will be open in the evening from 7 to 9 P. M.

IMPORTANT.—Be particular to see that this Tax Bill cover PROPER street and PROPER lot NUMBER or NUMBERS. Should you pay taxes on the wrong property you cannot recover from the City. Consult Tax Receiver's Books so as to be sure that all PRIOR TAXES and ASSESSMENTS have been paid and credited.

SIXTH WARD 1914, PATERSON, N. J.

Taxes Due and payable on or before
DECEMBER 20th, 1914

TICKET No. 1833

LOT NO. 66 - 72

.....McBride Ave

M. S. U. M.

Upon all Taxes paid prior to the first day of
December, 1914, a discount of 1/2 of 1 per cent
will be allowed

Rate of Taxation \$1.91 per \$100.00

Your Real Estate in said Ward is valued at

\$.....1000.....

Value of Buildings

\$.....

Your Personal Estate in said Ward is valued at

\$.....

Total Valuation,

\$.....

Your Poll Tax for 1914 is

\$.....

Your State School, County and City Tax for 1914 is

\$..... 19.10

Total, \$.....

Discount, \$.....

Interest, \$.....

\$.....

Received Payment

Receiver of Taxes and Assessments

SIXTH WARD, 1914.

All checks in payment of Taxes must be certified by a National Bank or Legally Authorized Trust Co. and drawn payable to the "CITY OF PATERSON" otherwise they will not be accepted.

TICKET NO. 1833

AMOUNT \$ 19.10

DISCOUNT \$

INTEREST \$

TOTAL \$

If you want your receipted bill returned by mail, put your address here.

Name

Street

Town

Exhibit P-2

Open from 9 A. M., to 4 P. M., Saturdays, 9 A. M. to 12 M., and Saturdays, December 5th, 12th, and 19th, 9 A. M. to 4 P. M. and Saturday, December 19th, will be open in the evening from 7 to 9 P. M.

IMPORTANT.—Be particular to see that this Tax Bill cover PROPER street and PROPER lot NUMBER or NUMBERS. Should you pay taxes on the wrong property you cannot recover from the City. Consult Tax Receiver's Books so as to be sure that all PRIOR TAXES and ASSESSMENTS have been paid and credited.

SIXTH WARD 1914, PATERSON, N. J.

TICKET No. 1834

LOT NO. 74 - 76

.....McBride Ave

M. S. U. M.

Your Real Estate in said Ward is valued at

Value of Buildings

Your Personal Estate in said Ward is valued at

Total Valuation,

Your Poll Tax for 1914 is

Your State School, County and City Tax for 1914 is

Received Payment

Receiver of Taxes and Assessments

Taxes Due and payable on or before
DECEMBER 20th, 1914

Upon all Taxes paid prior to the first day of
December, 1914, a discount of ½ of 1 per cent
will be allowed

Rate of Taxation \$1.91 per \$100.00

\$...800.....

\$.....

\$.....

\$.....

\$.....

15.28

Total, \$.....

Discount, \$.....

Discount, \$.....

\$.....

SIXTH WARD, 1914.

All checks in payment of Taxes must be certified by a National Bank or Legally Authorized Trust Co. and drawn payable to the "CITY OF PATERSON" otherwise they will not be accepted.

TICKET NO. 1834

AMOUNT \$ 15.28

DISCOUNT \$

INTEREST \$

TOTAL \$

If you want your receipted bill returned by mail, put your address here.

Name

Street

Town

Exhibit P-2

Open from 9 A. M., to 4 P. M., Saturdays, 9 A. M. to 12 M., and Saturdays, December 5th, 12th, and 19th, 9 A. M. to P. M. and Saturday, December 19th, will be open in the evening from 7 to 9 P. M.

IMPORTANT.—Be particular to see that this Tax Bill cover PROPER street and PROPER lot NUMBER or NUMBERS. Should you pay taxes on the wrong property you cannot recover from the City. Consult Tax Receiver's Books so as to be sure that all PRIOR TAXES and ASSESSMENTS have been paid and credited.

SIXTH WARD 1914, PATERSON, N. J.

TICKET NO. 1835

LOT NO. 78 - 90

.....McBride Ave

M. S. U. M.

Taxes Due and payable on or before
DECEMBER 20th, 1914

Upon all Taxes paid prior to the first day of
December, 1914, a discount of 1/2 of 1 per cent
will be allowed

Rate of Taxation \$1.91 per \$100.00

Your Real Estate in said Ward is valued at \$.....700.....

Value of Buildings \$167285.....

Your Personal Estate in said Ward is valued at \$.....

Total Valuation, \$167985.....

Your Poll Tax for 1914 is \$.....

Your State School, County and City Tax for 1914 is \$..... 3208.51

Total, \$.....

Discount, \$.....

Interest, \$.....

\$.....

Received Payment

Receiver of Taxes and Assessments

SIXTH WARD, 1914.

All checks in payment of Taxes must be certified by a National Bank or Legally Authorized Trust Co. and drawn payable to the "CITY OF PATERSON" otherwise they will not be accepted.

TICKET NO. 1835

AMOUNT \$ 3,208.51

DISCOUNT \$

INTEREST \$

If you want your receipted bill returned by mail, put your address here.

TOTAL \$

Name

Street

Town

Exhibit P-2

Open from 9 A. M., to 4 P. M., Saturdays, 9 A. M. to 12 M., and Saturdays, December 5th, 12th, and 19th, 9 A. M. to 4 P. M. and Saturday, December 19th, will be open in the evening from 7 to 9 P. M.

IMPORTANT.—Be particular to see that this Tax Bill cover PROPER street and PROPER lot NUMBER or NUMBERS. Should you pay taxes on the wrong property you cannot recover from the City. Consult Tax Receiver's Books so as to be sure that all PRIOR TAXES and ASSESSMENTS have been paid and credited.

SIXTH WARD 1914, PATERSON, N. J.

TICKET NO. 1836

LOT NO. 92 - 106

.....McBride Ave

M. S. U. M.

Your Real Estate in said Ward is valued at

Value of Buildings

Your Personal Estate in said Ward is valued at

Your Poll Tax for 1914 is

Your State School, County and City Tax for 1914 is

Received Payment

Receiver of Taxes and Assessments

Taxes Due and payable on or before
DECEMBER 20th, 1914

Upon all Taxes paid prior to the first day of
December, 1914, a discount of ½ of 1 per cent
will be allowed

Rate of Taxation \$1.91 per \$100.00

-\$4700.....

\$.....

\$.....

Total Valuation, \$.....

\$.....

89.77

Total, \$.....

Discount, \$.....

Interest, \$.....

\$.....

SIXTH WARD, 1914.

All checks in payment of Taxes must be certified by a National Bank or Legally Authorized Trust Co. and drawn payable to the "CITY OF PATERSON" otherwise they will not be accepted.

TICKET NO. 1836

AMOUNT \$ 89.77

DISCOUNT \$

INTEREST \$

TOTAL \$

If you want your receipted bill returned by mail, put your address here.

Name

Street

Town

RECEIVERS OFFICE—City Hall, Rooms 7 and 8

Open from 9 A. M., to 4 P. M., Saturdays, 9 A. M. to 12 M., and Saturdays, December 5th, 12th, and 19th, 9 A. M. to 4 P. M. and Saturday, December 19th, will be open in the evening from 7 to 9 P. M.

IMPORTANT.—Be particular to see that this Tax Bill cover PROPER street and PROPER lot NUMBER or NUMBERS. Should you pay taxes on the wrong property you cannot recover from the City. Consult Tax Receiver's Books so as to be sure that all PRIOR TAXES and ASSESSMENTS have been paid and credited.

SIXTH WARD 1914, PATERSON, N. J.

TICKET NO. Part 1831

LOT NO. Rears 22 - 40

.....McBride Ave

M. S. U. M.

Your Real Estate in said Ward is valued at \$...750.....

Value of Buildings \$.....

Your Personal Estate in said Ward is valued at \$.....

Total Valuation, \$.....

Your Poll Tax for 1914 is \$.....

Your State School, County and City Tax for 1914 is \$..... 14.33

Total, \$.....

Discount, \$.....

Interest, \$.....

Received Payment, EUGENE WICKHAM
S.

Receiver of Taxes and Assessments

Taxes Due and payable on or before
DECEMBER 20th, 1914

Upon all Taxes paid prior to the first day of
December, 1914, a discount of 1/2 of 1 per cent
will be allowed

Rate of Taxation \$1.91 per \$100.00

Useful Manufactures.
Two tax bills paid by the Society for Establishing

Exhibit P-3.

Exhibit P-3

RECEIVERS OFFICE—City Hall, Rooms 7 and 8

Open from 9 A. M., to 4 P. M., Saturdays, 9 A. M. to 12 M., and Saturdays, December 5th, 12th, and 19th, 9 A. M. to 4 P. M. and Saturday, December 19th, will be open in the evening from 7 to 9 P. M.

IMPORTANT.—Be particular to see that this Tax Bill cover PROPER street and PROPER lot NUMBER or NUMBERS. Should you pay taxes on the wrong property you cannot recover from the City. Consult Tax Receiver's Books so as to be sure that all PRIOR TAXES and ASSESSMENTS have been paid and credited.

SIXTH WARD 1914, PATERSON, N. J.

Taxes Due and payable on or before
DECEMBER 20th, 1914

TICKET NO. Part 1831

LOT NO. Fronts 22 - 40

.....Mcbride Ave

M. S. U. M.

Upon all Taxes paid prior to the first day of
December, 1914, a discount of ½ of 1 per cent
will be allowed

Rate of Taxation \$1.91 per \$100.00

Your Real Estate in said Ward is valued at - - - - - \$...3000.....

Value of Buildings - - - - - \$.....

Your Personal Estate in said Ward is valued at - - - - - \$.....

Total Valuation, \$.....

Your Poll Tax for 1914 is - - - - - \$.....

Your State School, County and City Tax for 1914 is - - - - - \$..... 57.30

Total, \$.....

Interest, \$.....

Interest, \$.....

Received Payment, EUGENE WICKHAM
S.

Receiver of Taxes and Assessments

Exhibit P-3

EXHIBIT P-5.

Deed, dated July 3, 1792, from Anthony Van Blarcom and wife to the Society for Establishing Useful Manufactures. See page 15 of record.

EXHIBIT P-6.

Deed, dated July 27, 1792, from John I. Post to the Society for Establishing Useful Manufactures. See page 16 of record.

EXHIBIT P-8.

Deed, dated December 8, 1834, from John Colt to the Society for Establishing Useful Manufactures. See page 16 of record.

EXHIBIT P-9.

Deed, dated July 19, 1869, from Richard Van Houten to the Society for Establishing Useful Manufactures. See page 31 of record.

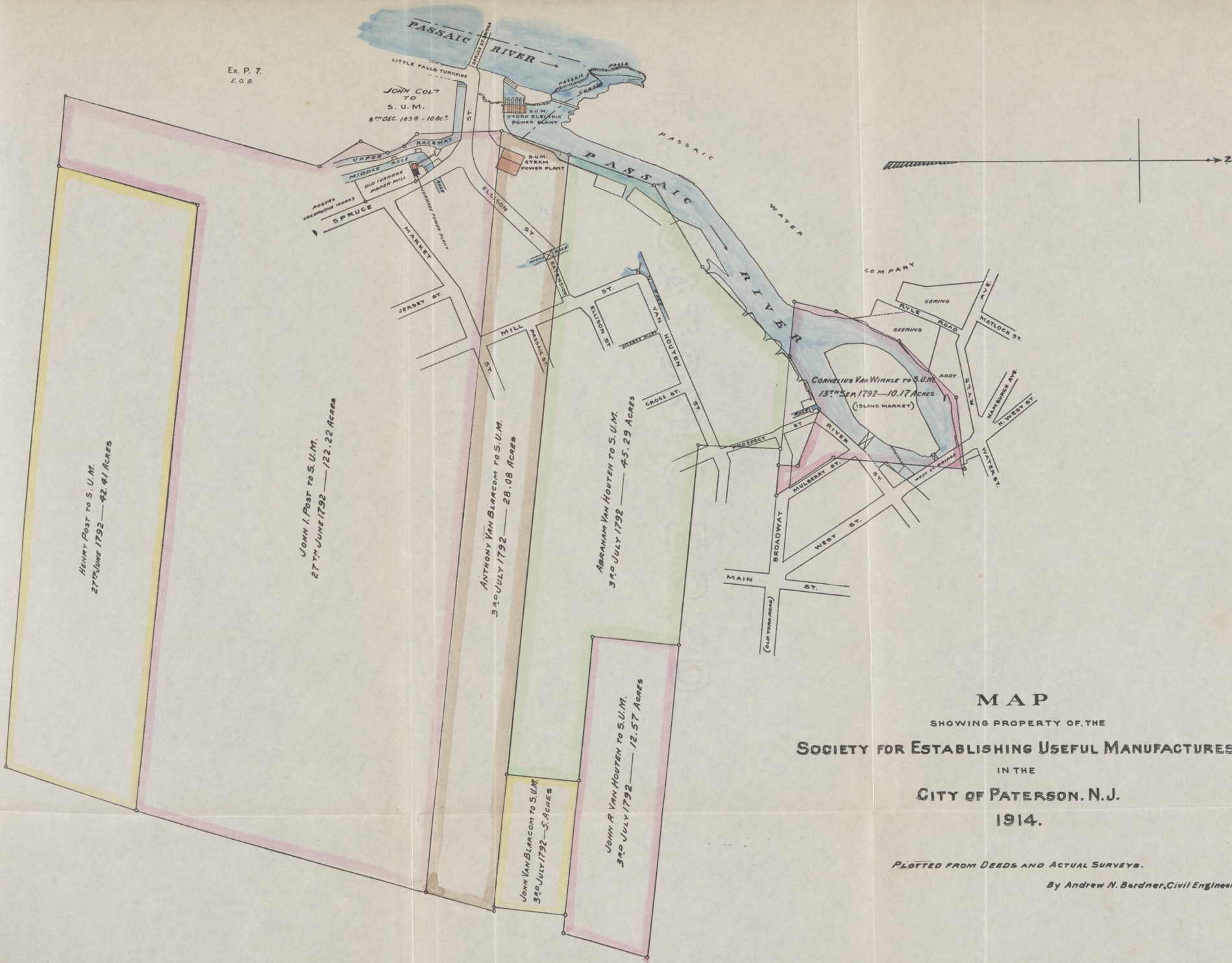
EXHIBIT P-10.

Deed, dated July 19, 1869, from Adrian Van Houten to the Society for Establishing Useful Manufactures. See page 32 of record.

EXHIBIT P-11.

Deed, dated July 29, 1869, from Richard Benson and wife to the Society for Establishing Useful Manufactures. See page 32 of record.

Ex. P. 7.
E.O.B.



MAP
 SHOWING PROPERTY OF THE
SOCIETY FOR ESTABLISHING USEFUL MANUFACTURES
 IN THE
CITY OF PATERSON, N.J.
 1914.

PLOTTED FROM DEEDS AND ACTUAL SURVEYS.
 By Andrew N. Gardner, Civil Engineer & Surveyor.

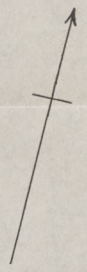
PROBATION DEPT

1

SOCIETY FOR STATE AND FEDERAL COURTS

1000 ...

EX. P. 4.
E. O. B.



EXPLANATION



C. F. Loxley

East Security Co.
East Lorton

John Kyle
Real Estate
Association

STREET

VAN HOUTEN

ELLISON

Geo. T. Baker
Machinery Co.

EXTENSION

PASSAIC

STREET

ELLISON STREET

SPRUCE

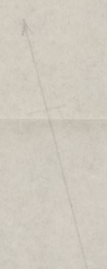


Exhibit P-12.

April 15, 1915

S. U. M.

ASSETS.

Power Plant	\$500,000.00
Riparian Lands	\$ 5,000.00
Water Power	450,000.00
Raceways	204,300.00
New Stone Dam	5,142.00
Overflowed Lands	34,278.00
	<hr/>
	\$698,720.00
Mill Lot No. 1	\$ 24,354.00
Waverly Lot	24,000.00
Pope Mill and Lots	27,096.00
Coal Yard	11,000.00
North 15th Street	350.00
Manchester and Wayne	1,400.00
Mill Sites, McBride Ave.	33,410.00
Island Mortgages	7,500.00
	<hr/>
	\$129,110.00
Accumulation of earnings since 1887	\$477,105.00
Cash	382,834.00
Accounts Receivable	31,018.00
	<hr/>
	\$890,957.00

—31,000.00 yearly, 28 years.

Exhibit P-13.

SOCIETY FOR ESTABLISHING USEFUL MANUFACTURES.
BALANCE, JANUARY 1st, 1915.

Liabilities.	
Capital Stock	1,000,000.00
Depreciation Account	25,480.00
Profit and Loss (Surplus)	689,104.11
Assets.	
Power Plant, Great Falls	\$477,105.44
Riparian Lands	5,000.00
Water Power	450,000.00
Morris Mt. Stone Quarry	2,690.00
Raceways and Appurtenances	204,300.00
Waverly Mill Lot	24,000.00
Mill Lot No. 1 Spruce Street	24,354.44
New Stone Dam	5,142.04
Overflowed Lands	34,278.04
Pope Mill	27,096.61
Property No. 105—107 River St.	15,526.18
Property North 15th St., Totowa	350.00
Manchester and Wayne Ave. property	1,400.00
A. M. Smethurst Coal Yard property	11,000.00
Accounts Receivable	31,018.26
Michael Cortese Island Mortgage	7,500.00
N. J. General Security Company	382,834.66
Cash	10,988.44
	\$1,714,584.11 1,714,584.11

Exhibit P-14.

April 15, 1915.

State's Value for diverting 50 M. G.\$312,849.00
 We have only 80 M. G. Permanent — Total Value 500,559.00
 In years gone by, the S. U. M. has sold in fee —

First Race 12½ feet — 62½ M. G.
 Second Race 20½ Ft. & 9 in. — 105 M. G.
 Third Race 16½ Ft. & 18 in. — 85 M. G.

Second Race controls.

Gross Income		\$119,000.00
Expense	\$14,422.00	
Repairs	1,043.00	
Mill Expenses	2,674.00	
Taxes	2,040.00	
Water Rents	69.00	
U. S. Government	30.00	
Operation	804.00	21,082.00

\$ 97,918.00

Non-permanent and Surplus Water —		\$20,000.00
Water Rents		9,450.00

Expect 80,000 — 20,000 —		\$ 60,000.00
--------------------------	--	--------------

DEFENDANTS' EXHIBITS.

Answer of the Society for Establishing Useful Manufactures in a suit in Chancery in which the Lehigh Valley Railroad Company was complainant. See page 59 of record.

Tax levy of the city of Paterson for 1914. See page 62 of record.

Tax levy of the County of Passaic for 1914. See page 67 of record.

NEW JERSEY SUPREME COURT.

SOCIETY FOR ESTABLISHING
USEFUL MANUFACTURES,
Prosecutor,

vs.

10 CITY OF PATERSON, and
EUGENE WICKHAM, Re-
ceiver of Taxes and Assess-
ments of the City of Pa-
terson,
Defendants.

On Certiorari.

Reasons.

20 The prosecutor presents the following reasons
for setting aside the proceedings and assessment of
taxes brought before this Honorable Court by the
writ of certiorari in the above entitled cause :

30 *First* : Because the prosecutor is by its charter
exempted from all taxes, except for the use of the
State, upon all real estate held by it for the purposes
of its incorporation, and the said real estate upon
which the assessment of taxes complained of is laid
is held by the prosecutor for the purposes of its in-
corporation so that no city or county tax may be as-
sessed upon said lands.

Second : Because the prosecutor is by its charter
exempted from all taxes, except for the use of the
State, upon all real estate held by it for the purposes
of its incorporation, and the said real estate upon
which the assessment of taxes complained of is laid
is held by the prosecutor for the purposes of its incor-
poration so that no school tax may be assessed upon
said lands.

Third : Because the prosecutor was incorporated November 22, 1791, by special act of the legislature, entitled, "An Act to Incorporate the Contributors to the Society for Establishing Useful Manufactures and for the further encouragement of the said Society", and by the fourth paragraph of said Act, which is the charter of the prosecutor, it is provided, 10
as follows : "And the more effectually to encourage so useful and beneficial an establishment; be it further enacted by the authority aforesaid, That all the lands, tenements, hereditaments, goods and chattels, to the said society belonging, shall be, and they are hereby declared to be free and exempt, from all taxes, charges and impositions whatsoever, under the authority of this state, whether for state or for county uses, or for any other use whatsoever, provided always, that the said exemption shall not be construed 20
to extend to the private or separate property of any member of the said corporation, in his or her individual capacity; and as touching the lands, tenements, and hereditaments, of the said society, shall continue in force for the term of ten years only, after which term it shall be lawful to lay such taxes, for the use of the state upon the said lands, tenements, and hereditaments, as shall be laid upon other lands, tenements, and hereditaments of like value, nature or description; provided nevertheless, That in case the said taxes shall be laid by way of assessment, it shall 30
be according to a certain rate per centum, to be prescribed in the law, laying such taxes, of the true and absolute value of the lands, tenements, or hereditaments, whereupon the same shall be laid or assessed, and shall not extend directly or indirectly to the moneys, goods, or chattels, whether in possession or action, or to the profits, real or supposed, of the said society."

10 *Fourth* : Because the said real estate upon which said assessment of taxes complained of is laid was purchased by the prosecutor under and by virtue of the powers vested in it under its charter, and was not, nor was any part thereof, acquired by it under an Act entitled, "An Act to Develope and Improve the Water Power of the Passaic River", approved March 30th, 1868.

Fifth : Because the fourth clause of the charter of the prosecutor exempting it from taxation, constitutes an irrevocable contract with the State of New Jersey, and has not in fact ever been repealed, or attempted to be repealed.

20 *Sixth* : Because the whole of the tax sought to be vacated is one levied for the use of the county and city, or for uses other than, and in contradistinction to state uses.

Seventh : Because the proceedings are in divers other respects irregular, illegal, unjust and oppressive to the prosecutor.

HUMPHREYS & SUMNER,

Attorneys for the Prosecutor.

(Filed December 15, 1915.)

NEW JERSEY SUPREME COURT.

June Term, 1915.

SOCIETY FOR ESTABLISHING

USEFUL MANUFACTURES

vs.

CITY OF PATERSON, et al.

*Certiorari Removing
Tax Assessments.*

10

Opinion of Supreme Court.

Argued June Term 1915; Decided November Term 1915.

John B. Humphreys, for Prosecutor.

Edward F. Merrey, for Defendants.

20

Argued before Justices Parker, Minturn and Kalisch.

The opinion of the Court was delivered by Minturn, J.

The taxing authorities in the City of Paterson, imposed upon the hydro-power plant of the prosecutor in that City, a tax for the year 1914.

The imposition of the tax is resisted by the prosecutor, upon the ground that the property in question is exempt from taxation, under the provisions of its charter as construed by the decisions of this court.

30

The Society for Establishing Useful Manufactures was incorporated November 22, 1791, by a special legislative act (Paterson Laws, 1800, p. 104), which act after reciting in its preamble that the establishing of the society in this State "will be conducive to the public interest", provided in its fourth section as follows :

10 “And the more effectually to encourage so
useful and beneficial an establishment, be it
further enacted by the authority aforesaid, That
all the lands, tenements, hereditaments, goods
and chattels, to the said society belonging, shall
be and they are hereby declared to be free and
exempt from all taxes, charges and impositions
whatsoever, under the authority of this state,
whether for state or for county uses, or for any
other use whatsoever, provided always, that the
said exemption shall not be construed to extend
to the private or separate property of any mem-
ber of the said corporation in his or her indi-
vidual capacity; and as touching the lands,
tenements and hereditaments of the said socie-
ty, shall continue in force for the term of ten
20 years only, after which term it shall be lawful to
lay such taxes, for the use of the state upon the
said lands, tenements and hereditaments, as
shall be laid upon other lands, tenements and
hereditaments of like value, nature or descrip-
tion; provided nevertheless, That in case the
said taxes shall be laid by way of assessment, it
shall be according to a certain rate percentum,
to be prescribed in the law, laying such taxes, of
the true and absolute value of the lands, tene-
ments or hereditaments, whereupon the same
shall be laid or assessed, and shall not extend
30 directly or indirectly to the moneys, goods, or
chattels whether in possession or action, or to
the profits, real or supposed, of the said society.”

This legislation has frequently been the subject
of judicial construction, with the uniform result of
conceding to the society an exemption from taxation
upon such real estate as is held by it for the purpose
of its incorporation.

In *State v. Flavel et al.* (Feby. Term, 1854) 4 Zab. 370, Chief Justice Green speaking for this court said that "The lands and real estate of the Society for Establishing Useful Manufactures, are by virtue of the fourth section of their charter exempt from all taxes, except those raised for State purposes. The exemption only extends to such real estate as is held by them for the purpose of their incorporation. It concludes their mills, mill lots and water power, but does not include mountain lots, farming lands or buildings lots." 10

In four subsequent cases reported in the same volume, i. e. *City of Paterson vs. The Society etc.*, p. 400; *State v. Powers*, p. 402; *State v. Burdell*, p. 405; and *State v. Powers*, p. 406, this court dealt with the subject of taxation imposed upon the property of the prosecutor, under various contentions, and disposed of the questions there presented in the light of the language of the Chief Justice adverted to, sustaining the exemption. 20

In the Court of Chancery upon the authority of these adjudications, a like conclusion was reached upon an application for an injunction to restrain the corporation from transacting its business, for non-payment of the State tax imposed by the tax act of 1884.

In the same Court in an earlier case, Chancellor Williamson, in an opinion supplied to the reporter in the case, by the late Vice-Chancellor Pitney, reviews the history of the Society, and presents an interesting resume of its powers under its charter and the law. 30

Society v. Morris & Essex Canal Co., 30 Eq., 145.

In the light of this declared status, the defendant imposed the assessment for taxes upon the hydro-electric power plant, and a steam plant located upon

lands of the society which have been in its ownership for many years. These plants are used for generating and distributing electric power for manufacturing purposes to mill owners situated along the banks of the Passaic River.

10 The insistence of the prosecutor is that under the charter of the society, these properties are exempt from taxation as part of the manufacturing system of the society. We see no escape from the conclusion under the testimony that the power plants in question are utilized by the society for the purpose of manufacturing electricity, for use by the mill owners along the Passaic River, and with the further purpose in view of disposing of any surplus product to the Public Service Corporation, for its particular uses, until such surplus shall be taken up
20 by the future adaptation of the machinery of other mills to acquiring their motive power electrically, instead of mechanically, the use by the Public Service Company thus gradually diminishing until it shall be entirely eliminated. Such use of the surplus product is not inconsistent with the charter obligation or limitation of the society, because its failure to so employ the surplus product would result in wanton waste of a commercial product, a condition which we must assume was not contemplated by the legisla-
30 ture in prescribing the charter limitations of the society.

That the production of electricity is a species of manufacturing, and therefore within the charter power of the prosecutor, seems to be abundantly supported by judicial decision, wherein kindred questions have presented the inquiry for determination.

People v. Wemple, 129 N. Y. 543.

Frederick Co. v. Frederick City, 36 Atl. Rep. 362.

If there were an existing doubt as to the interpretation to be given this term in its application under multiform statutes, in which it is employed in various states, the legislative direction contained in the 37th section of the Charter of the society that "This act shall in all things be construed in the most favorable manner for the said respective corporations", would seem in this instance to relieve the situation of all reasonable doubt.

10

It is contended, however, that that part of the tax in question representing the school tax is a tax raised for State purposes, and that under *State v. Flavel*, (*ubi sup.*) the society can claim no exemption against a state tax. The language of that decision adjudged the Society to be liable "to taxes under the authority of the State for the use of the State only."

20

The case of *State v. Riccio*, 40 Vr., 108, is cited as authority for the contention that the present school tax is a state tax for state uses only, and that the prosecutor is subject to assessment therefor. We do not so interpret that adjudication. If it be at all determinative of the question at bar, the history of school legislation in this state, as outlined by Mr. Justice Dixon in his opinion in the case, would lead to the contrary conclusion, for he states that prior to the constitutional amendments of 1875 nothing can be discovered in our legislative history on the subject of public education, "which does not point to the support and management of common schools in cities, and in other municipalities as a matter more or less of local concern". To this it may be added that since the period referred to, while the State has intervened by legislation, as under the present school act, for the purpose of establishing a uniform system of education and supervising the same in its distribu-

30

tion and operation among the school districts, the collection of the tax and its use was primarily for local purposes.

10 The manifest object of state intervention was for the purpose of securing uniformity of legislation, and administration in the management and control of school affairs. Therefore, only in the extremely liberal sense that every tax imposed by law is ex necessitate a state tax, can the tax in question under our legislative treatment of the subject be so construed.

20 We think that the act of 1868 (P. L. 1868, p. 1091) entitled "An act to develop and improve the water power of the Passaic River," even if construed as the prosecutor contends, in no wise militates against the right of exemption claimed by the Society under its charter, which in our judgment constitutes an irrevocable contract with the State.

Singer Man. Co. v. Heppemheimer, 58 L., 633.

Hancock (Comptroller) v. Singer Manfg. Co. 62 L. 289.

State Bd. v. Morris & Essex R. R. 49 L. 193.

Mt. Pleasant Cem'ty. v. Newark, 52 L. 539.

30 But aside from that conclusion we find nothing in the case from which we may conclude, as the defendants insist, that the property in question was acquired by the Society under that act, and consequently became subject to its provisions regarding taxation. The act apparently was designed to empower the prosecutor to condemn lands for the purpose of increasing the efficiency of its plant as a manufacturing concern, by enabling the society to dam the river and thereby create ponds and reservoirs for the storage of additional power.

Our examination of the remaining contentions of the defendants leads us to conclude that they are of no moment.

The result is that the assessments and taxes under review must be vacated.

10

20

30

NEW JERSEY SUPREME COURT.

	SOCIETY FOR ESTABLISHING USEFUL MANUFACTURES, <i>Prosecutor,</i> <i>vs.</i> CITY OF PATERSON et al., <i>Defendants.</i>	}	<i>On Certiorari. Rule.</i>
--	--	---	-----------------------------

Judgment in Supreme Court.

The Court having heard the argument of Counsel and inspected the assessment of taxes removed by the writ in this cause, and duly considered the reasons filed : It is ordered that said assessment of taxes be set aside, made void and for nothing holden, with costs of suit to be taxed.

On motion of

Humphreys & Sumner,

Attorneys of Prosecutor.

Rule entered December 20, 1915.

A true copy,

Wm. C. Gebhardt,

Clerk.

Notice of Appeal

NEW JERSEY SUPREME COURT.

 SOCIETY FOR ESTABLISHING

USEFUL MANUFACTURES,

*Prosecutor-Appellee,**vs.*

CITY OF PATERSON,

*Defendant-Appellant.**On Certiorari.*

10

Notice of Appeal.

Sirs :—

Take Notice that the defendant appeals to the
 Court of Errors and Appeals from the whole of the
 judgment entered in this cause.

Edward F. Merrey,
Attorney of Appellant.

20

To Humphreys & Sumner, Esqs.
Attorneys of Appellee.

30

COURT OF ERRORS AND APPEALS.

10 SOCIETY FOR ESTABLISHING
USEFUL MANUFACTURES,
Prosecutor-Appellee,
vs.
CITY OF PATERSON,
Defendant-Appellant.

Grounds of Appeal.

The appellant states the following grounds of appeal :

20 (1) Because the Supreme Court ordered that the assessment of taxes removed by certiorari to the said court be set aside, made void and for nothing holden with costs of suit to be taxed; whereas the said assessment of taxes is valid and should have been upheld by the Supreme Court.

30 (2) Because the Supreme Court ordered the whole of the assessment of taxes removed by certiorari to the said court be set aside, made void and for nothing holden with costs of suit to be taxed; whereas the Supreme Court should have upheld as valid that part of the said tax known as the "School Tax."

Edward F. Merrey,

Attorney of Defendant-Appellant.

of

the
aid
en
aid
en

he
ti-
for
re-
lid
x."