

N. J. Court of Errors & Appeals.

THE STATE,

DAVID B. SALTER ET ALS.,

Pros. ;

vs.

THE MAYOR AND COUNCIL OF BAY-

ONNE ET AL.,

Defts.

Point & Brief.

POINT.

The application to the Common Council of the city of Bayonne to open Forty-second Street, is shown by the record in this cause to be an utter nullity, because it was not signed by the owners of a majority of lineal feet along the line of the proposed improvement as required by the charter of said city. Hence the whole proceeding to open said street, in respect to the Council of said city, was *coram non judice*, and all acts by said Council on said application against the prosecutors were and are *void*. Yet by the decision of the Supreme Court in this cause, the assessment *only* has been set aside upon grounds of irregularity in the proceedings to lay the assessment subsequent

to the said application and ordinance ordering the improvement, and not on the ground of the radical defect in said application. As a consequence of this error, the Supreme Court in this case on the footing of its decision vacating the assessment and proceedings subsequent to the ordinance approved June 8th, 1874, has vacated the entire assessment and appointed commissioners to make a new assessment for the improvement ordered by said ordinance. (See printed case, pages 5 and 6.)

It is therefore respectfully submitted that there is nothing to reassess; there is no evidence that the city has been to any expense, or that the persons proposed to be reassessed have received any benefit. No street has been or can be legally opened upon the application and ordinance in question, and all proceedings by said commissioners would be *extra judicial*.

And yet, but for this writ of error the decision of the Supreme Court and order appointing commissioners to reassess would be *res adjudicata* as against the prosecutors, and if the assessment should be re-laid they would not be allowed any relief from the objection which they now urge; while all other persons, not parties to this proceeding, would be at liberty to vacate such reassessment by reason of said void application. The prosecutors therefore insist that said application ordinance and all other proceedings of the defendants, brought up by the writ of certiorari, should be set aside by this Court.

B R I E F .

1st. The application (page 3) to the Common Council of the city of Bayonne for the opening of Forty-second Street, and the ordinance of June 8th, 1874, and all proceedings based thereon are null and void, because it nowhere appears on the face of the proceedings to open said street. That the said application was signed by the owners of a majority of lineal feet along the line of the proposed improvement, as the charter of said city (see laws 1874, p. 548, sec. 7) requires, and because *in fact* it

was not signed by the owners of such majority of lineal feet. It was signed by the owners of only 1140 lineal feet along the line of said proposed improvement, whereas the entire number of lineal feet along said line is 4,595. (See Prosecutor's Testimony, pages 28 to 32.)

2d. "The rule is well settled that persons exercising a special delegated authority must show upon the face of their proceedings that they have acted within their prescribed limits."

New Jersey R. R. and Trans. Co. *vs.* Suydam, 2 Harr., 25.

Woodruff, Pros. *vs.* Orange, 3 Vr., 49, 55.

3l. "If a particular jurisdiction does not show the matter to be within its jurisdiction, it must be presumed to be without it."

State *vs.* Shreeve, 3 Gr., 57.

4th. Jurisdiction of a special tribunal should be shown *in limine*. It cannot be presumed on shown *aliunde*.

Perrine *vs.* Farr, 2 Zab., 356, 366.

Woodruff, Pros. *vs.* Orange, 3 Vr., 49, 55.

5th. "If the application be not signed by the requisite number of land holders, there is in judgment of law no application as required by the charter."

Martin *vs.* Carron, 2 Dutch, 228, 232; opinion of Ch. Justice.

6th. "An application signed by the number of land owners required by the charter is necessary to give the Council *jurisdiction*. The power of a corporation to interfere with private property is derived by express grant from the Legislature, and where the grant of power is limited in its terms, the power can only be exercised within the limitation. So where the power to alter a street is limited to a case where three-fourths of all the owners of

land lying on said street apply to the Common Council for the alteration, unless *such* application is made, the Common Council in my judgment have no more power to make the alteration than if the charter were entirely silent on the subject. The want of jurisdiction is fatal, though the proceeding is judicial in its nature ; and such proceeding if void, may be treated as a nullity."

Martin *vs.* Carron, 2 Dutch, 236 ; opinion of Potts, *J.*, dissenting.

7th. "It is different where the Council have jurisdiction, and the defect is in the nature of a mere irregularity in the proceedings then the act done is voidable only."

Ibid, p. 236.

This case was afterwards ~~revised~~ ^{reversed} so as to conform to the opinion of Mr. Justice Potts, 2 Dutch, 594.

8th. A defect of jurisdiction cannot be waived or repaired by consent or act of the parties.

Beach *vs.* Nixon, 9 N. Y., 36.

Dudley *vs.* Mayhew, 3 N. Y., 9.

McMahon *vs.* Raught, 47 N. Y., 72.

Scott *vs.* Sandford, 19 How. U. S., 402.

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Broom's Maxims, 129, 131

9th. "Persons affected by an illegal ordinance are not prejudiced in their rights by not attempting to get the ordinance set aside until after an assessment has been made under it."

The State, Ogden, Pros. *vs.* Hudson City, 5 Dutch, 475.

10th. No *laches* can be charged against prosecutors who seek to set aside proceedings of officials that are entirely *ultra vires*.

Brewster *vs.* Newark, 3 Stock, 114.

Schumm *vs.* Seymour, 9 C. E. Gr., 143, 155.

Bogert *vs.* Elizabeth, 12 *ib.*, 568.

12th. But in this case the prosecutors did protect^s and object before the final confirmation of the assessment.

Testimony, page 25, 26, 27.

12th. "It is not necessary for a person to wait till his liability is fixed before he can have redress. It is enough that he may be effected by an illegal ordinance. or resolution, to entitle him to a hearing before any attempt has been made to enforce it."

The State, N. J. R. R., Pros. vs. Jersey City, 5 Dutch, 170.

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The State, Montgomery, Pros. vs. Trenton, 7 Vr., 79, 85.

13th. No permanent assessment can ever be laid on this application.

The State, Baxter, Pros. vs. Jersey City, 7 Vr., 188.

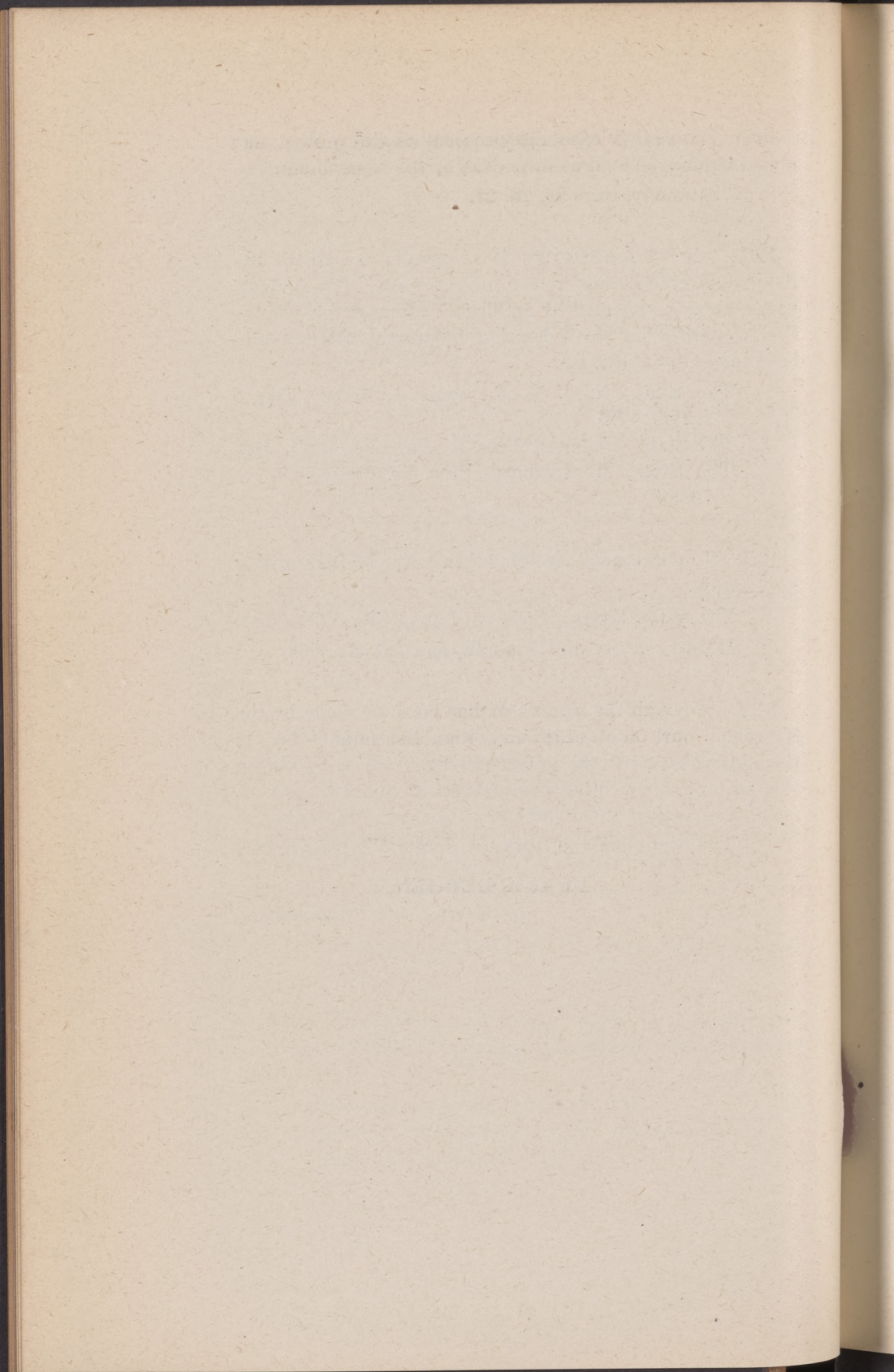
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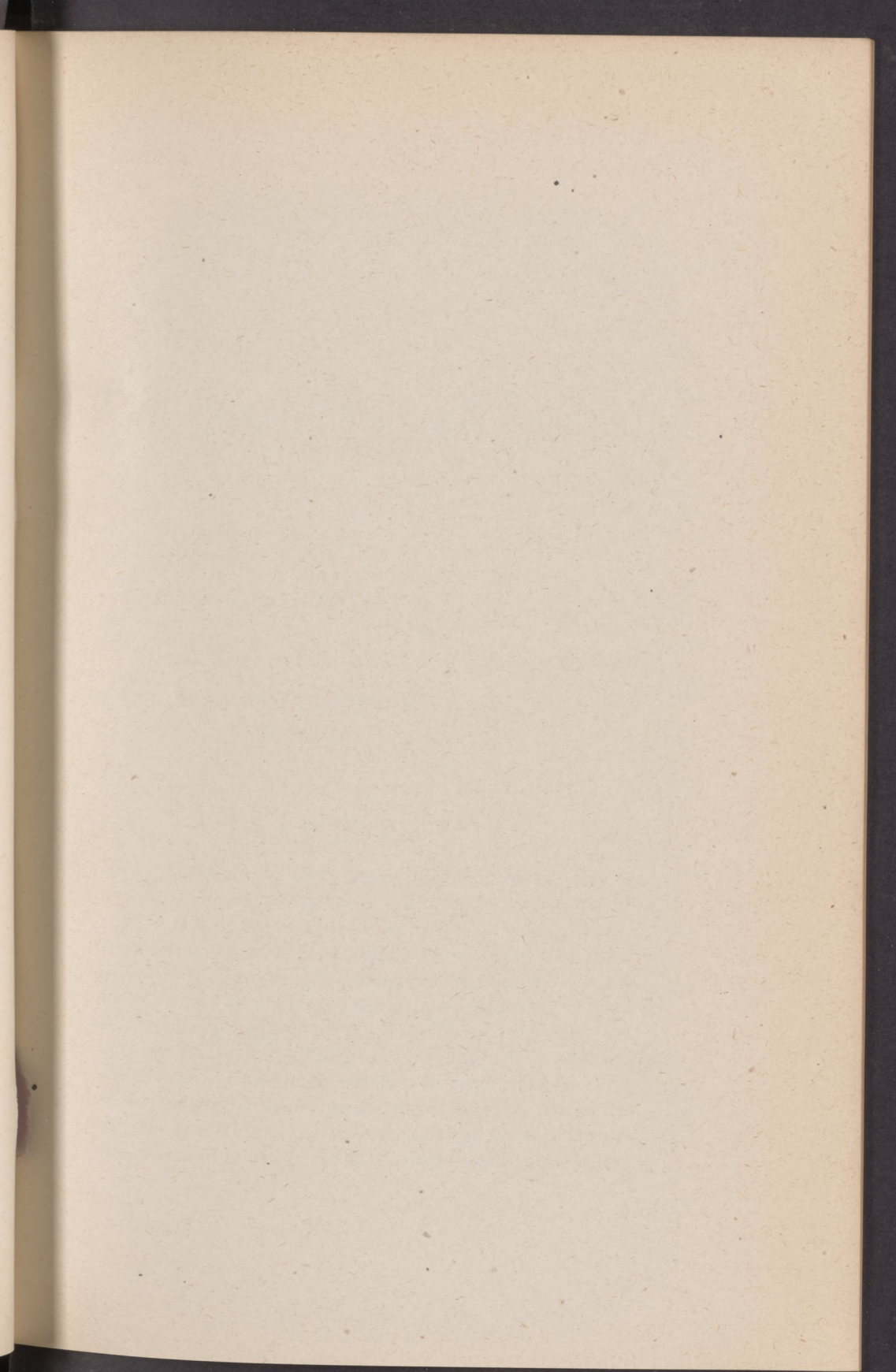
14th. Although the *assessment* has been set aside by the Supreme Court on other grounds than the fatal defect in the application, yet the prosecutors were obliged to bring this writ of error, otherwise the point would be *res adjudicata* as against them and can not be raised hereafter.

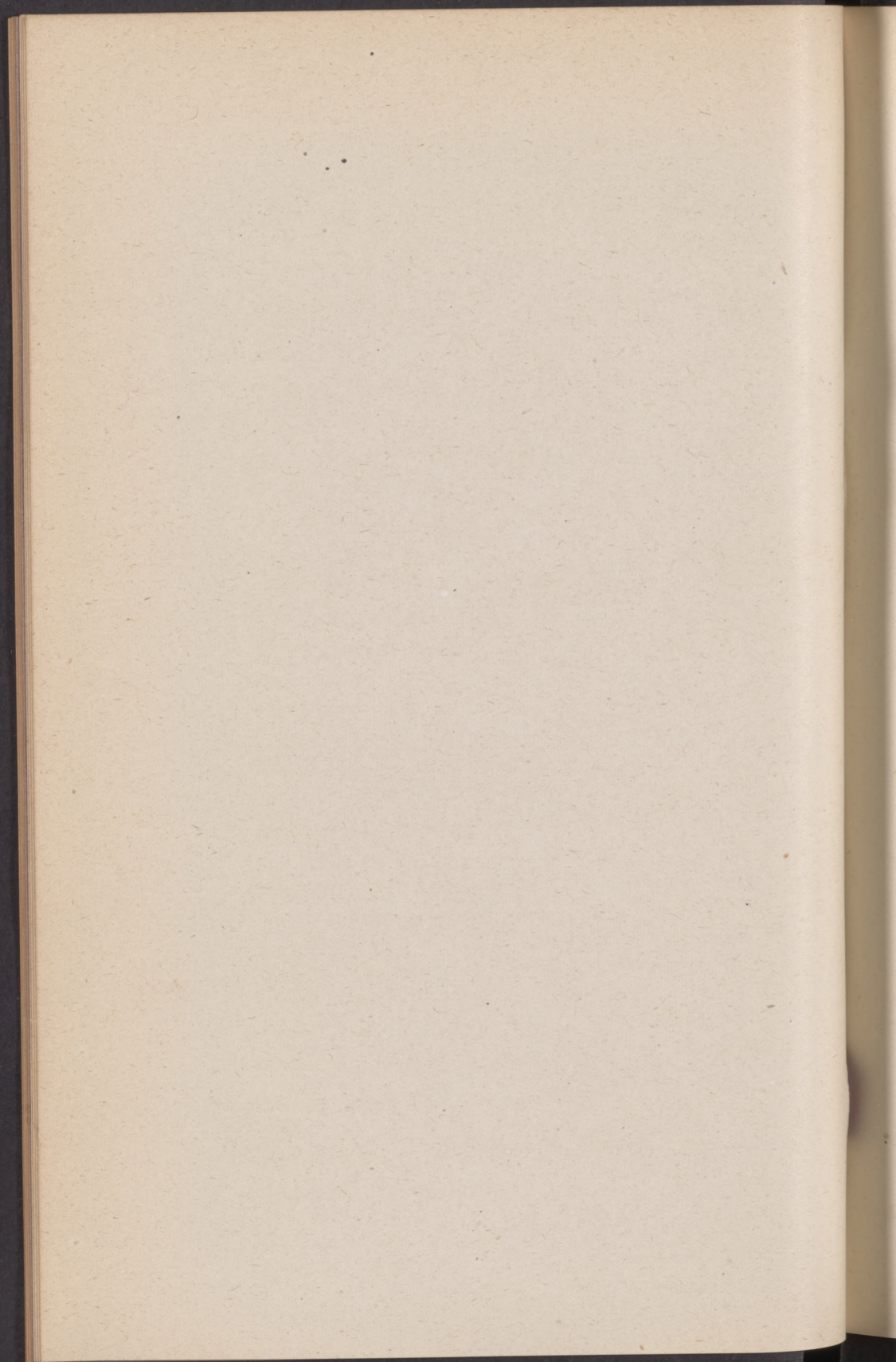
The State, Malone, Pros. vs. Jersey City, 1 Vr., 247.

FRANK BERGEN,

Of Counsel with Prosecutors.







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Point & Brief.

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And yet, but for this writ of error the decision of the Supreme Court and order appointing commissioners to reassess would be *res adjudicata* as against the prosecutors, and if the assessment should be re-laid they would not be allowed any relief from the objection which they now urge; while all other persons, not parties to this proceeding, would be at liberty to vacate such reassessment by reason of said void application. The prosecutors therefore insist that said application ordinance and all other proceedings of the defendants, brought up by the writ of certiorari, should be set aside by this Court.

BRIEF.

1st. The application (page 3) to the Common Council of the city of Bayonne for the opening of Forty-second Street, and the ordinance of June 8th, 1874, and all proceedings based thereon are null and void, because it nowhere appears on the face of the proceedings to open said street. That the said application was signed by the owners of a majority of lineal feet along the line of the proposed improvement, as the charter of said city (see laws 1874, p. 548, sec. 7) requires, and because *in fact* it

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land lying on said street apply to the Common Council for the alteration, unless *such* application is made, the Common Council in my judgment have no more power to make the alteration than if the charter were entirely silent on the subject. The want of jurisdiction is fatal, though the proceeding is judicial in its nature ; and such proceeding if void, may be treated as a nullity."

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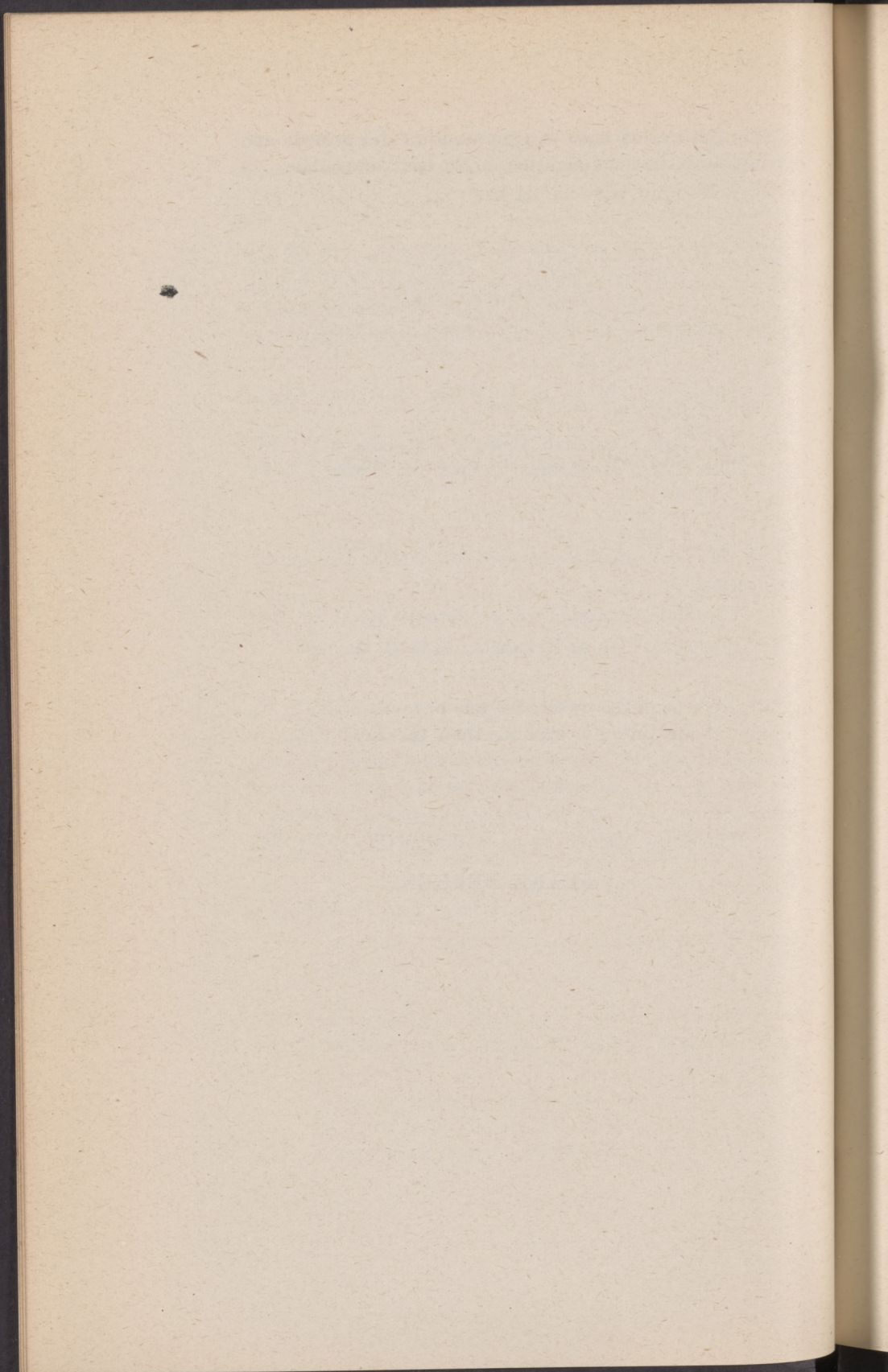
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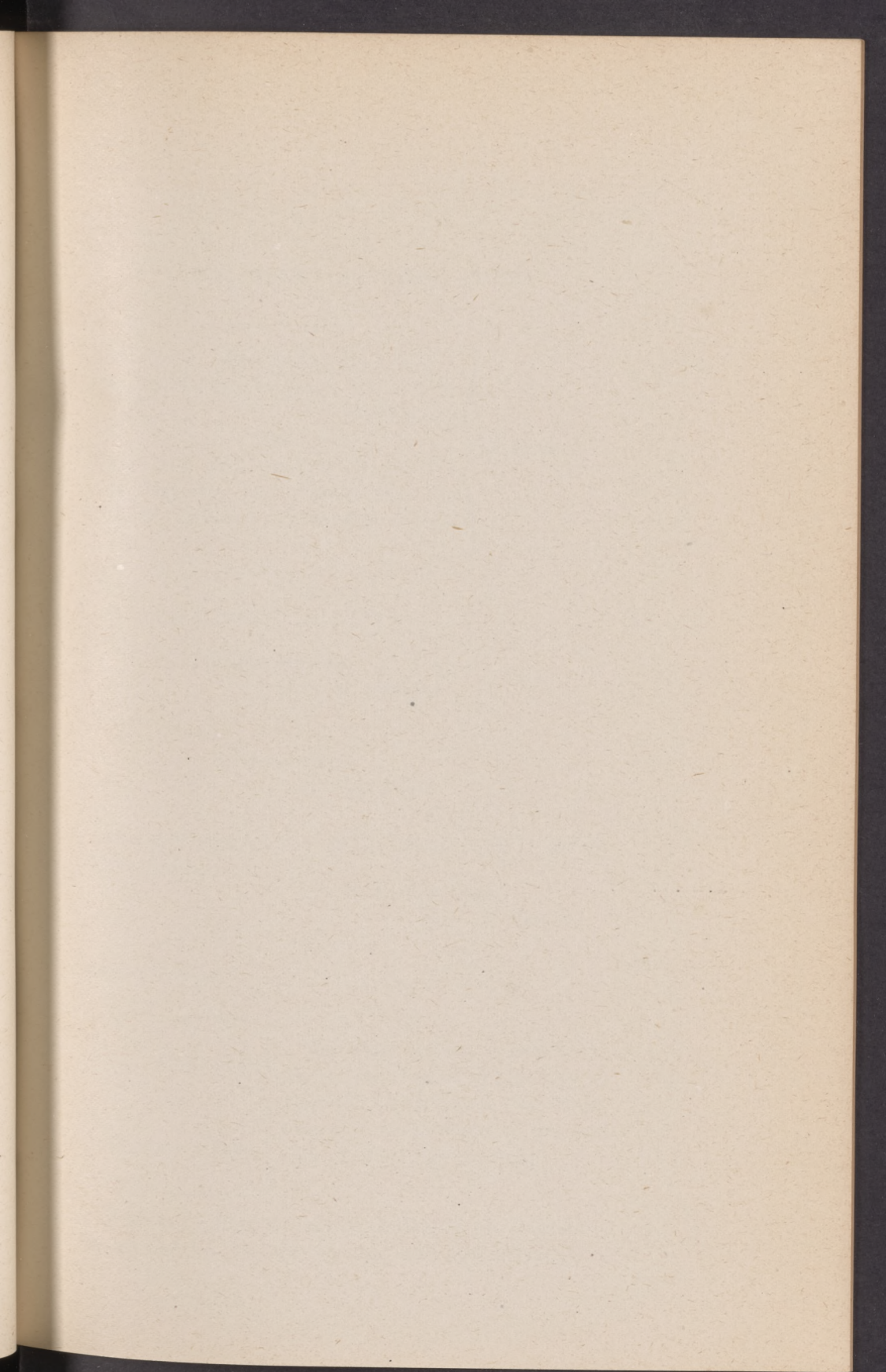
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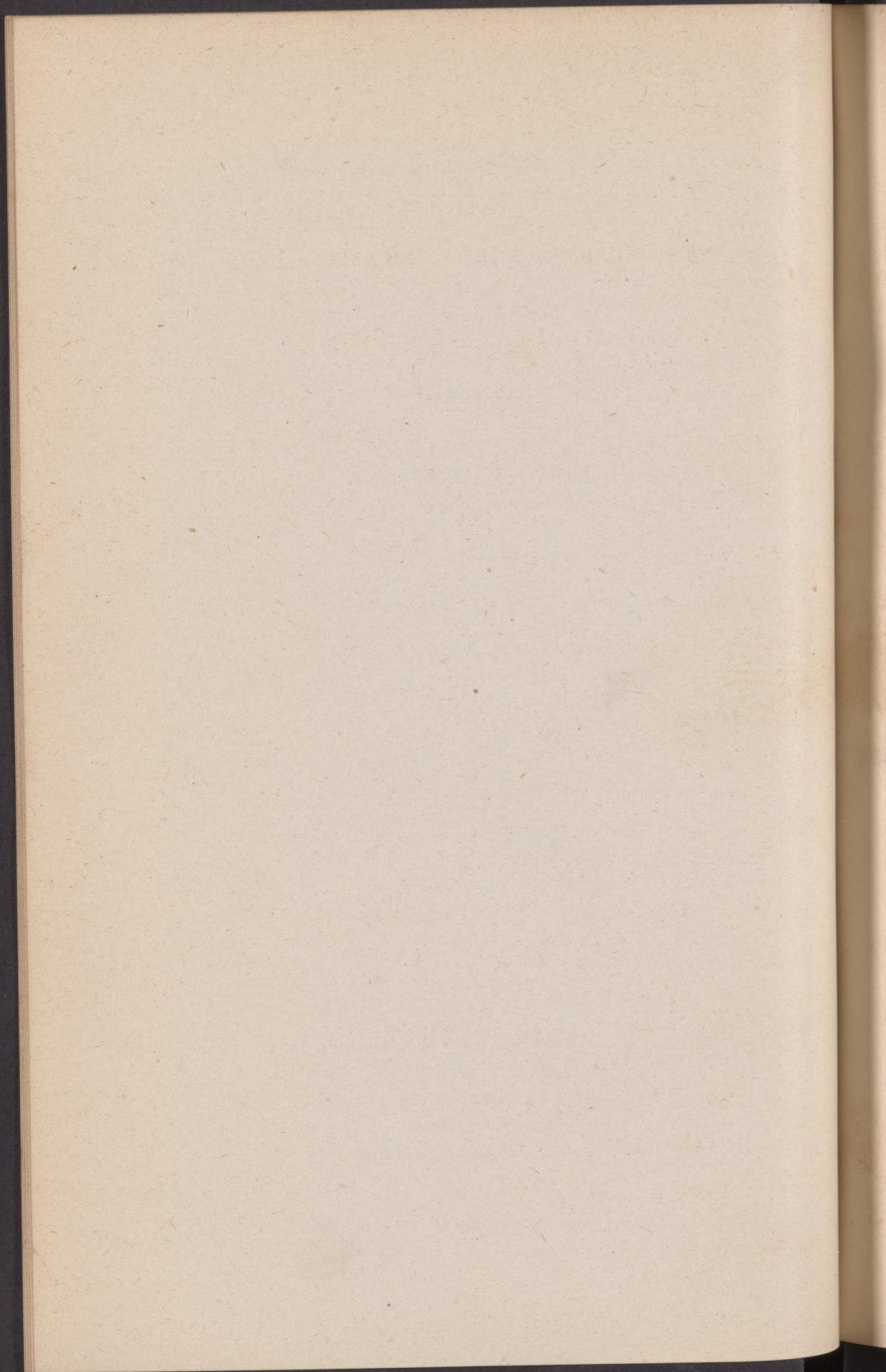
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FRANK BERGEN,

Of Counsel with Prosecutors.







NEW JERSEY SUPREME COURT.

The State,
DAVID B. SALTER, et als.,

Prosecutors,

vs.

The MAYOR and COUNCIL of the City
of Bayonne and HENRY K. VAN
HORN, Collector of Revenue of said
City.

Certiorari.

Returnable June Term, 1876.

10

FRANK BERGEN,
Att'y of Pros'rs.

Allocatur,

B. VAN SYCKEL,
Jus. Sup. Court.

Due and legal service of the within writ is hereby
acknowledged.

H. K. VAN HORN,
Col'r of Revenue.

NEW JERSEY, ss :

20

Seal
of
Supreme Court.

The State of New Jersey to the
Mayor and Council of the City of
Bayonne and Henry K. Van Horn,
Collector of Revenue of the said
City of Bayonne, Greeting:

We being willing for certain reasons to be certified of
an assessment for the opening and improvement of

Forty-second street, in said city, from Avenue D to Newark Bay, made or pretended to have been made under and by virtue of an act entitled "An act to incorporate the City of Bayonne, in the county of Hudson and State of New Jersey," approved March 10, 1869, and the supplements thereto and the revisions thereof, upon the property of David B. Salter, Charles E. Hoe, John D. Harris, Sarah A. J. Allen, and others, within the limits of said city.

- 10 We command you that the said assessment and the petition for said improvement and all the proofs, proceedings, resolutions, orders, and ordinances of said Council, or by their authority made, touching and concerning the said assessment and improvement, by whatever names the said Salter, Hoe, Harris and Allen may be called therein, or howsoever the said assessment may have been made, or may be called, to our Supreme Court at Trenton, the first Tuesday of June next, you certify and send, together with this writ that therein may done,
- 20 what of right, and according to the laws and constitution of this State, ought to be done.

Witness, Mercer Beasley, Esquire, Chief Justice at Trenton, this fourth day of May, eighteen hundred and seventy-six.

BENJ. F. LEE,
Clerk.

FRANK BERGEN,
Attorney.

- 30 Due and legal service is hereby acknowledged on behalf of the Mayor and Council of the City of Bayonne.

W. C. HAMILTON,
City Clerk.

A PPLICATION TO OPEN FORTY-SECOND STREET
in the City of Bayonne.

To the Board of Councilmen of the City of Bayonne :

The undersigned, owners of real estate, in said city, on the line of Forty-second street, between the line of Avenue D and the line of Newark Bay, do apply to your Honorable Board to have said Forty-second street, between said points, opened as a public street, as the same is laid down upon a map made by the Map and Grade Commissioners of said city, and filed in the office 10
of the Clerk of the City of Bayonne.

Dated, Bayonne, April 21st, 1874.

Richard Jonas,	John McPhail,	
Wm. Hague,	Thomas E. Salter,	
William Wilson,	Caroline Cauley,	
Thomas M. Gasque,	P. J. Lignot,	
J. F. Finn, M. D.,	John Smith,	
William H. Keegan,	Thomas McGee,	
Prime Smith,	Peter Girth,	
Alice Salter,	Samuel C. Mount,	20
Chas. A. Davis,	I. L. Allen,	
Hartman M. Vreeland,	James A. Wake,	
George Wilson,	John Wilson,	
A. Cary Smith.		

Application received and granted by the Council April 21, 1874.

STATE OF NEW JERSEY, }
HUDSON COUNTY. }

E. Gardner, being sworn, says that he is editor of the Hudson County Times, a weekly newspaper printed and published in the city of Bayonne, in the county and State aforesaid, and circulating in the city of Bayonne, in said county, and that an application, a copy of which is herewith annexed, was published in said newspaper for the space of ten days, said publication commencing on May 1st., 1874. 30

E. GARDNER.

Sworn and subscribed before me, at Bayonne, this 26th day of May, 1876.

W. C. HAMILTON,
Com'r of Deeds. 40

STATE OF NEW JERSEY, }
 HUDSON COUNTY. }

C. J. Hatch, being sworn, says that he is the editor of the Bayonne Herald, a weekly newspaper printed and published in the city of Bayonne, in the county and State aforesaid, and circulating in the city of Bayonne, in said county, and that an application, a copy of which is herewith annexed, was published in said newspaper for the space of ten days, said publication commencing on May 2nd, 1874.

C. J. HATCH.

10 Sworn and subscribed before me, at Bayonne, this 27th day of May, 1876.

W. C. HAMILTON,
Com'r of Deeds.

An ordinance to open Forty-second Street, from the line of Avenue D to the line of Newark Bay.

The Mayor and Council of the City of Bayonne do ordain as follows :

20 Sec. 1. That Forty-second street, from the line of Avenue D to the line of Newark Bay, be opened as the same is laid down upon a map made by the Map and Grade Commissioners of said city, and filed in the office of the Clerk of the city of Bayonne.

Sec. 2. That the actual net cost of said improvement, after the completion thereof, shall be assessed and paid as directed by the Revised City Charter.

Introduced May 26, 1874.

Passed June 2, 1874.

Approved June 8, 1874.

HENRY MEIGS,

Mayor.

30

Attest: W. C. HAMILTON,

City Clerk.

STATE OF NEW JERSEY, }
 HUDSON COUNTY. }

E. Gardner, being sworn, says that he is editor of the Hudson County Times, a weekly newspaper printed and published in the city of Bayonne, in the county and State aforesaid, and circulating in the city of Bayonne, in said county, and that an ordinance, a copy of which is herewith annexed, was published in said newspaper for the space of ten days, said publication commencing on June 12th, 1874.

E. GARDNER.

Sworn and subscribed before me, at Bayonne, this 10
 26th day of May, 1876.

W. C. HAMILTON,
Com'r of Deeds.

Extracts from minutes of the Council :
 May, 26, 1874.

“ Ordinance introduced :

“ An ordinance to open Forty-second street, from Avenue D to Newark Bay.”

June 2d, 1874.

“ Ordinance passed unanimously :

“ An ordinance to open Forty-second street, from Avenue D to Newark Bay.”

20

June 23d, 1874.

“ Resolved, That the ordinance to open Forty-second street, from Avenue D to Newark Bay, be referred to the Commissioners of Assessments and Emmett Smith, a city surveyor not interested in said improvements, for preliminary map and report.”

June 30th, 1874.

“ Councilman Rollston moved to reconsider the vote by which the resolution to refer the ordinance to open Forty-second street to the Commissioners of Assessments was passed at the meeting of the Council held June 23d, 1874. Carried.”

30

An Ordinance to open Forty-second Street, from the line of Avenue D to the line of Newark Bay.

The Mayor and Council of the City of Bayonne do ordain as follows :

Sec. 1. That Forty-second street, from the line of Avenue D to the line of Newark Bay, be opened as the same is laid down upon a map made by the Map and Grade Commissioners of said city, and filed in the office of the Clerk of the city of Bayonne.

10 Sec. 2. That the actual net cost of said improvement, after the completion thereof, shall be assessed and paid as directed by the Revised City Charter.

Introduced July 28th, 1874.

Passed August 11th, 1874.

Approved August 13th, 1874.

HENRY MEIGS,

Mayor.

Attest: W. C. HAMILTON,
City Clerk.

STATE OF NEW JERSEY, }
HUDSON COUNTY. }

20 C. J. Hatch, being sworn, says that he is the editor of the Bayonne Herald, a weekly newspaper printed and published in Bayonne, in the county and State aforesaid, and circulating in the city of Bayonne, in said county, and that an ordinance, a copy of which is herewith annexed, was published in said newspaper for the space of ten days, said publication commencing on August 22, 1874.

C. J. HATCH.

30 Sworn and subscribed before me, at Bayonne, this 27th day of May, 1876.

W. C. HAMILTON,
Com'r of Deeds.

STATE OF NEW JERSEY, }
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E. Gardner, being sworn, says that he is editor of the Hudson County Times, a weekly newspaper printed and published in the city of Bayonne, in the county and State aforesaid, and circulating in the city of Bayonne, in said county, and that an ordinance, a copy of which is herewith annexed, was published in said newspaper for the space of ten days, said publication commencing on August 21st, 1874.

E. GARDNER.

Sworn and subscribed before me, at Bayonne, this 10
 26th day of May, 1876.

W. C. HAMILTON,
Com'r of Deeds.

Whereas, An Ordinance, entitled "An Ordinance to open 42d street from the line of Avenue D to the line of Newark Bay, was passed by the Council on the 11th day of August, 1874; approved by the Mayor on the 13th day of August, 1874; and duly published for the space of ten days in the two official newspapers circulating in the City of Bayonne; therefore 20

Resolved, That said Ordinance be referred to the Commissioners of Assessments and Emmett Smith, a City Surveyor, not interested in said improvement, for the purpose set forth in the Revised Charter.

Adopted Sept. 1st, 1874.

In the matter of opening 42d street from Avenue D to Newark Bay, in the City of Bayonne, Hudson County, New Jersey.

Notice is hereby given, that the Commissioners of Assessments to whom was referred the ordinance relating to the above entitled matter, have made a preliminary report of their proceedings on said street, and caused to be made a map of said improvement in accordance with Section 58 of the City Charter, and showing each lot or parcel of land benefited by said improvement, with the 30

amount assessed to each, and the said Commissioners have filed said report and map in the office of the City Clerk on the 22d day of September, 1874, pursuant to the provisions of Section 58, Title 6, of the act entitled "An act to revise an act to incorporate the City of Bayonne."

10 Notice is also given that unless within ten days after October 3, 1874, the owners of a majority of the land in lineal feet to be assessed for said improvement, shall file with the Clerk of the City a remonstrance signed by them, or their agents lawfully authorized, the Board of Councilmen will proceed forthwith to execute and carry out said improvement.

W. C. HAMILTON,
City Clerk.

Adopted by the Council, September 22, 1874.

STATE OF NEW JERSEY, }
HUDSON COUNTY. }

20 E. Gardner being sworn, says that he is Editor of the Hudson County Times, a weekly newspaper printed and published in the City of Bayonne, in the County and State aforesaid, and circulating in the City of Bayonne, in said County, and that a notice, a copy of which is herewith annexed, was published in said newspaper for the space of ten days; said publication commencing on September 25th, 1874.

E. GARDNER.

Sworn and subscribed before me at Bayonne, this 26th day of May, 1876.

W. C. HAMILTON,
Commissioner of Deeds.

STATE OF NEW JERSEY, }
 HUDSON COUNTY. }

C. J. Hatch, being sworn, says that he is editor of the Bayonne Herald, a weekly newspaper printed and published in Bayonne, in the county and State aforesaid, and circulating in the city of Bayonne, in said county, and that a notice, a copy of which is herewith annexed, was published in said newspaper for the space of ten days, said publication commencing on September 26th, 1874.

C. J. HATCH.

Sworn and subscribed before me, at Bayonne, this 10
 27th day of May, 1876.

W. C. HAMILTON,
Com'r of Deeds.

REPORT ON PRELIMINARY ASSESSMENT TO
 open Forty-second street.

To the Honorable the Mayor and Council of the City of
 Bayonne :

We, the undersigned, the Board of Commissioners of
 Assessments for street improvements, appointed by the
 Board of Councilmen of the City of Bayonne, would 20
 respectfully report unto your honorable body :

That at the time of our appointment as members of
 said board, we severally were, ever since have been, and
 at the present time are, Freeholders of said city of Bay-
 onne, and residents of the following wards in said city,
 viz: W. S. Jennings, of the First Ward; Francis
 O'Neill, of the Fourth Ward; and Geo. H. Sanford, of
 the Third Ward.

That before the performance of any act as commis-
 sioners, we severally took and subscribed the oath re- 30
 quired by the charter of said city.

That the ordinance passed August 11th, 1874, to carry
 out the improvement duly applied for, to wit: the open-
 ing of Forty-second street, from Avenue D to Newark
 Bay, and which improvement is described therein, was

duly referred to the undersigned, Commissioners of Assessments as aforesaid, under Section 58 of the city charter.

That each of the commissioners was duly notified of the times and places of meeting, to consider the said subject referred to said Board of Commissioners.

That we have together examined into the whole matter, impartially, and to the best of our skill, judgment and ability. We have proceeded over the line of said
 10 proposed improvement, accompanied by a city surveyor, and used our best efforts to ascertain all the facts necessary to form a correct opinion. We have caused a survey and preliminary map to be made of said improvement by the city surveyor, under our directions and instructions, said map to be filed with this report. Each lot or parcel of land shown on said map is distinguished by numbers.

We have estimated the whole cost of said improvement, according to the best of our judgment, and find
 20 the amount thereof to be the sum of forty-four thousand and eighty-four dollars and twenty cents.

We further report that on the map referred to herein, and filed herewith, we caused the lands taken for the opening of said Forty-second street to be colored *Neutral tint*, and have shown and numbered on said map the parcels taken belonging to different owners, and on another part of said map have determined and placed the names of the owners opposite each of said numbers, and stated thereon the interest and estate of said owners in said parcels, as far as practicable, and in all cases
 30 where the lands so valued and damaged by such taking are held by a tenant for life or years, and the fee is in remainder or reversion, we have apportioned such value and damages between them, and shown the same on said map.

We have determined, after thorough investigation, that the value of said lands to be taken amounts to the sum of twenty-five thousand and sixty dollars and

twenty-seven cents, and we have determined and have shown on said preliminary map the value of each parcel taken, and the value of every erection or building of any kind situated on said parcel, and the damage done by taking or removing said erection or building.

The value of said lands taken and the value of the erections thereon were included in and form part of the said sum of \$44,084.20, the total cost and expenses of said improvement.

That we have determined in our discretion that there is no property in said city of Bayonne benefited by said improvement other than that shown on said preliminary assessment map, which is made a part of this report. We have determined in our discretion that this property shown on said map is benefited by said improvement. 10

We have assessed said sum of forty-four thousand and eighty-four dollars and twenty cents, the total expenses and cost aforesaid on the said lands and real estate benefited by said improvement, in proportion to the benefit received by said land and real estate, and said lands benefited are colored crimson on said map. 20

We have determined, after careful examination and deliberation, that the proportion of such expenses and cost that should be assessed upon each separate lot or parcel of land shown on said preliminary assessment map, is the amount shown on said map, which map gives the names of the owners of said parcels, the number of each parcel, and the proportion of expenses assessed to each. In fixing these amounts we have considered the situation of these parcels, their locality and value, and their present and future use, and have assessed each parcel its proportion of expense in proportion to the benefits received by it from said improvement. 30

We report that, after a careful examination and deliberation, we have determined that the property that will be benefited by said proposed improvement, and the only property that will be benefited thereby, consists of the lots of land shown on said preliminary map.

- We have determined what proportion of said estimated cost should be borne by each lot and parcel of land shown on said map, in proportion to the benefits received by each, reference being had to the situation, locality, and value thereof, and the present and future uses thereof, and in accordance with said determination we have assessed said estimated cost upon the lands and real estate benefited, in proportion to the benefit received, and in an assessment list upon the preliminary map of said improvement, filed with this report and made a part thereof, the names of the owners of the said lots or parcels of land, as far as practicable, are given and reported together with the amount assessed to each.

All of which is respectfully submitted.

W. S. JENNINGS,
F. O'NEILL,
GEO. H. SANFORD, } Commissioners.

Dated Sept. 21, 1874.

Filed Sept. 22, 1874.

- 20 Whereas, numerous objections to the assessments on opening 42d street have come before this board:
Resolved, That the Map and Report be referred back to the Commissioners of Assessment for further revision.
Oct. 27, 1874.

In the matter of opening 42d street, from westerly line of Avenue D to Newark Bay, in the City of Bayonne, Hudson County, N. J.

- 30 Notice is hereby given, that the Commissioners of Assessments, to whom was referred the ordinance relating to the above entitled matter, have made a preliminary report of their proceedings on said improvement and caused to be made a map of said improvement, in accordance with Section 58 of the City Charter, and showing each lot or parcel of land benefited by said improvement, with the amount assessed to each, and the said Commissioners have filed said report and map in the

office of the City Clerk, on the 10th day of Nov'r, 1874, pursuant to the provisions of Section 58, Title 6, of the act entitled, "An act to revise the act to incorporate the City of Bayonne."

Notice is also given, that unless within ten days after November 21, 1874, the owners of a majority of the lands in lineal feet to be assessed for said improvement shall file with the Clerk of the City a remonstrance signed by them, or their agents lawfully authorized, the Board of Councilmen will proceed forthwith to execute and carry out said improvement. 10

W. C. HAMILTON,
City Clerk.

Adopted by the Council, November 10, 1874.

STATE OF NEW JERSEY, }
HUDSON COUNTY. }

E. Gardner being sworn, says that he is editor of the Hudson County Times, a weekly newspaper, printed and published in the City of Bayonne, in the County and State aforesaid, and circulating in the City of Bayonne, in said County, and that a notice, a copy of which is herewith annexed, was published in said newspaper for the space of ten days; said publication commencing on November 13th, 1874. 20

E. GARDNER.

Sworn and subscribed before me, at Bayonne, this 26th day of May, 1876.

W. C. HAMILTON,
Commissioner of Deeds.

STATE OF NEW JERSEY, }
 HUDSON COUNTY. }

C. J. Hatch being sworn, says that he is editor of the Bayonne Herald, a weekly newspaper printed and published in Bayonne, in the County and State aforesaid, and circulating in the City of Bayonne, in said County, and that a notice, a copy of which is herewith annexed, was published in said newspaper for the space of ten days; said publication commencing on November 14th, 1874.

C. J. HATCH.

10 Sworn and subscribed before me, at Bayonne, this 27th day of May, 1876.

W. C. HAMILTON,
Commissioner of Deeds.

REPORT ON PRELIMINARY ASSESSMENT TO
 Open Forty-second Street.

To the Honorable the Mayor and Council of the City of Bayonne:

20 We the undersigned, the Board of Commissioners of Assessments for street improvements, appointed by the Board of Councilmen of the City of Bayonne, would respectfully report unto your honorable body:

That at the time of our appointment as members of said board we severally were, ever since have been, and at the present time are, Freeholders of said City of Bayonne, and residents of the following wards in said city, viz:

W. S. Jennings of the first ward, Francis O'Neill of the fourth ward, and Geo. H. Sanford of the third ward.

30 That before the performance of any act as commissioners, we severally took and subscribed the oath required by the charter of said city.

That the ordinance, passed 187 , to carry out the improvement duly applied for, to wit: the opening of Forty-second street from the westerly line of

Avenue D, to the line of Newark Bay, and which improvement is described therein, was duly referred to the undersigned, commissioners of assessment as aforesaid, under section 58 of the city charter.

That each of the commissioners were duly notified of the times and places of meeting, to consider the said subject referred to said board of commissioners.

That we have together examined into the whole matter, impartially, and to the best of our skill, judgment and ability. We have proceeded over the line of said proposed improvement, accompanied by a city surveyor, and used our best efforts to ascertain all the facts necessary to form a correct opinion. We have caused a survey and preliminary map to be made of said improvement by the city surveyor, under our directions and instructions, said map to be filed with this report. Each lot or parcel of land shown on said map is distinguished by numbers. 10

We have estimated the whole cost of said improvement according to the best of our judgment, and find the amount thereof to be the sum of Forty-four thousand three hundred and fifty-nine dollars and twenty cents. 20

We further report that on the map referred to herein, and filed herewith, we caused the lands taken for the opening of said Forty-second street to be colored Neutral, and have shown and numbered on said map the parcels taken belonging to different owners, and on another part of said map have determined and placed the names of the owners opposite each of said numbers, and stated thereon the interest and estate of said owners in said parcels, as far as practicable, and in all cases where the lands so valued and damaged by such taking are held by a tenant for life or years, and the fee is in remainder or reversion, we have apportioned such value and damages between them, and shown the same on said map. 30

We have determined, after thorough investigation, that the value of said lands to be taken amounts to the

sum of twenty-five thousand and sixty dollars and twenty-seven cents, and we have determined and have shown on said preliminary map the value of each parcel taken, and the value of every erection or building of any kind situate on said parcel, and the damage done by taking or removing said erection or building.

10 The value of said lands taken and the value of the erections thereon were included in and form part of the said sum of \$44,359.20, the total cost and expenses of said improvement.

That we have determined, in our discretion, that there is no property in said city of Bayonne benefited by said improvement other than that shown on said preliminary assessment map, which is made a part of this report. We have determined, in our discretion, that this property shown on said map is benefited by said improvement.

20 We have assessed said sum of forty-four thousand three hundred and fifty-nine dollars and twenty cents, the total expenses and cost aforesaid, on the said lands and real estate benefited by said improvement, in proportion to the benefit received by said land and real estate, and said lands benefited are colored Crimson on said map.

30 We have determined, after careful examination and deliberation, that the proportion of such expenses and cost that should be assessed upon each separate lot or parcel of land shown on said preliminary assessment map is the amount shown on said map, which map gives the names of the owners of said parcels, the number of each parcel, and the proportion of expenses assessed to each. In fixing these amounts we have considered the situation of these parcels, their locality and value, and their present and future use, and have assessed each parcel its proportion of expense in proportion to the benefits received by it from said improvement.

We report that, after a careful examination and deliberation, we have determined that the property that will be benefited by said proposed improvement, and the

only property that will be benefited thereby, consists of the lots of land shown on said preliminary map.

We have determined what proportion of said estimated cost should be borne by each lot and parcel of land shown on said map, in proportion to the benefits received by each, reference being had to the situation, locality, and value thereof, and the present and future uses thereof, and in accordance with said determination we have assessed said estimated cost upon the lands and real estate benefited, in proportion to the benefit received, and in an assessment list upon the preliminary map of said improvement, filed with this report and made a part thereof, the names of the owners of the said lots or parcels of land, as far as practicable, are given and reported together with the amount assessed to each.

All of which is respectfully submitted.

W. S. JENNINGS,
F. O'NEILL,
GEO. H. SANFORD, } Commissioners.

Dated Nov. 2, 1874.

Filed Nov. 10, 1874.

Council to meet December 1, for objections.

20

The Committee on Assessments, Sewers and Streets, report that as a majority of property owners have not protested against opening said street, recommend that the preliminary map be confirmed.

December 8, 1874.

D. W. OLIVER,
JAMES ROLLSTON, } Committee.

Received and adopted, Dec. 8, 1874.

30

Whereas, the Commissioners of Assessments have made and filed their preliminary Report and Map in the

matter of opening Forty-second street, from westerly line of Avenue D to Newark Bay, according to law, and the City Clerk has given the notices of the filing of said report and map and of the time and place when and where the Board of Councilmen will meet to hear and consider any objections to said report or to the improvement which might be presented in writing.

10 *And Whereas*, the Board of Councilmen has considered and adjudicated upon all objections presented in writing made at the time and place specified in such notices.

And Whereas, the said Board of Councilmen has determined to make said improvement and confirm said report notwithstanding any objection to the same.

Be it Resolved, that the awards made in said report and map be confirmed and that said improvement be made and completed in such manner as this Board may hereafter direct under the supervision of the Commissioners of Assessments.

20 Adopted Dec. 8, 1874.

Approved Dec. 10, 1874.

HENRY MEIGS,

Mayor.

Attest: W. C. HAMILTON,

City Clerk.

30 *Resolved*, That the various sums awarded to the persons to whom awards are made for property taken, as they appear in the column entitled "For Land," on the Preliminary Assessment Map, for the opening of Forty-second street, from Avenue D to Newark Bay, filed with the Clerk of the City of Bayonne, N. J., Nov. 10, 1874, and for damages sustained, as they appear in the column entitled "For Special Damages," on said Preliminary Assessment Map, in making the improvement in opening Forty-second street, from Avenue D to Newark Bay, be,

and the same are hereby confirmed as awards. And be it further,

Resolved, That the said awards be paid, and to that end that the following sums be paid to the following named persons, viz:

<i>Name.</i>	<i>No. of Plot Taken.</i>	<i>Amount.</i>
	<i>Commissioners' Numbers</i>	
	<i>Preliminary Assessment Map.</i>	

(Here follows an enumeration of names, lot numbers, and amounts, the same as stated on the preliminary map.) 10

And be it further

Resolved, That only so much of said awards to each person respectively, as is in excess of the assessments on land of said persons to whom the same are made, as estimated on said preliminary map, be paid in money, and where there is no such excess, that no money payment be made on account of said assessment, and that the final assessment upon land of the said persons respectively to whom said awards are hereby ordered to be paid, when made, be cancelled to the extent of the awards to said person or persons then unpaid, the assessment on each plot (in case there be more than one plot) being reduced proportionally, and in case the said award or awards then unpaid exceed the said final assessment on land of the person or persons respectively to whom said awards are made, that the excess thereof be paid to the person or persons to whom the said awards are made as aforesaid. And be it further 20

Resolved, That said Preliminary Map be and the same hereby is made a part of this resolution.

Adopted Jan. 26, 1875.

Attest: W. C. HAMILTON,

City Clerk.

JOHN NEWMAN,

President of the Council.

Approved Jan. 27, 1875.

HENRY MEIGS,

Mayor.

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Resolved, That the improvement of opening Forty-second street, from Avenue D to Newark Bay, be made and completed, by the removal of all obstructions from the line thereof according to the requirements of Section 58 of the act entitled "An Act revising the Act to incorporate the City of Bayonne, in the County of Hudson and State of New Jersey," and the supplements thereto, and that the Street Commissioner is hereby directed to carry out the requirements of this resolution.

20 Adopted Sept. 28, 1875.

Resolved, That the ordinance to open Forty-second street, from Avenue D to Newark Bay, be and hereby is referred to the Commissioners of Assessments for final map and report.

Adopted Dec. 14, 1875.

REPORT ON FINAL ASSESSMENT TO OPEN
 R Forty-second street, from Avenue D to Newark Bay.
 To the Honorable the Mayor and Council of the City
 of Bayonne:

30 We, the undersigned, the Board of Commissioners of

Assessments for street improvements, appointed by the Board of Councilmen of the City of Bayonne, would respectfully report unto your honorable body :

That at the time of our appointment as members of said board we severally were, ever since have been, and at the present time are, Freeholders of said City of Bayonne, and residents of the following Wards in said city, viz: Geo. E. Seymour, of the First Ward ; Nathan Bartlett, of the Second Ward ; and John Moffet, of the Third Ward.

10

That before the performance of any act as commissioners, we severally took and subscribed the oath required by the charter of said city.

That the improvement of opening Forty-second street, from the line of Avenue D to the line of Newark Bay, described in the ordinance of the Mayor and Council of the city of Bayonne, passed August 11, 1874, was completed prior to the first day of December, 1875.

That the owners of a majority of the land in lineal feet to be assessed for said improvement, did not, within the time allowed by the city charter, file a remonstrance with the clerk of said city against the same.

20

That each of the commissioners were duly notified of the times and places of meeting, to consider the subject of said improvement and the assessment therefor.

That we have proceeded over the ground on the line of said improvement with a city surveyor, made measurements, and examined into the whole matter.

That we have ascertained and determined that all the expenses and the cost of proceedings for said improvement amount to the sum of forty-four thousand three hundred and fifty-nine dollars and twenty cents, and on the assessment map accompanying this report the items composing said sum are shown.

30

We further report that on the map referred to herein, and filed herewith, we caused the lands taken for the opening of said Forty-second street to be colored Neutral tint, and have shown and numbered on said map the

parcels taken belonging to different owners, and on another part of said map have determined and placed the names of the owners opposite each of said numbers, and stated thereon the interest and estate of said owners in said parcels, as far as practicable, and in all cases where the lands so valued and damaged by such taking are held by a tenant for life or years, and the fee is in remainder or reversion, we have apportioned such value and damages between them, and shown the same on said
10 map.

We have determined, after thorough investigation, that the value of said lands to be taken amounts to the sum of twenty-five thousand and sixty dollars and twenty-seven cents, and we have determined and have shown on said final map the value of each parcel taken, and the value of every erection or building of any kind situate on said parcel, and the damage done by taking or removing said erection or building.

The value of said lands taken and the value of the
20 erections thereon were included in and form part of the said sum of \$44,359.20, the total cost and expenses of said improvement.

That we have determined, in our discretion, that there is no property in said city of Bayonne benefited by said improvement other than that shown on said final assessment map, which is made a part of this report. We have determined, in our discretion, that this property shown on said map is benefited by said improvement.

We have assessed said sum of Forty-four thousand
30 three hundred and fifty-nine dollars and twenty cents, the total expenses and cost aforesaid, on the said lands and real estate benefited by said improvement, in proportion to the benefit received by said land and real estate.

We have determined, after careful examination and deliberation, that the proportion of such expenses and cost that should be assessed upon each separate lot or parcel of land shown on said final assessment map, is

the amount shown on said map, which map gives the names of the owners of said parcels, the number of each parcel, and the proportion of expenses assessed to each. In fixing these amounts we have considered the situation of these parcels, their locality and value, and their present and future use, and have assessed each parcel its proportion of expense in proportion to the benefits received by it from said improvement.

That we have, upon the principles set forth in this report, caused the city surveyor to prepare a final assessment map, containing each lot assessed, which is thereon colored Lake, also the name of the owner or owners of each lot, in accordance with the city charter, and also the other matters referred to in this report, to which said map we have signed our names as commissioners, and it forms a part of this report. 10

All of which is respectfully submitted.

GEO. E. SEYMOUR, }
JOHN MOFFET, } Commissioners. 20

Dated Dec. 28, 1875.

Filed Jan. 4, 1876.

Council meet Feb. 1, 1876, for objections.

In the Matter of Opening Forty-second Street, from Avenue D to Newark Bay, in the City of Bayonne, Hudson County, N. J.

Notice is hereby given that the Commissioners of Assessments, to whom was referred the ordinance relating to the above entitled matter, have made a final report of their proceedings, and a map of the improvement of said street, and showing each lot or parcel of land bounded by said improvement, with the amount assessed to each, and have filed said report and map in the office of the City Clerk, on the 4th day of January, 1876, pursuant to the provisious of Section 58, Title 6, of the act en- 30

titled "An act to revise the act to incorporate the City of Bayonne."

And that the Council of the city of Bayonne will meet at the City Hall in said city, on Tuesday, February 1, 1876, at 8 o'clock P. M., to consider said assessments, and to receive and consider all objections thereto which may be presented in writing.

W. C. HAMILTON,
City Clerk.

10 Adopted by the Council Jan. 11, 1876.

STATE OF NEW JERSEY, }
HUDSON COUNTY. }

E. Gardner being sworn, says that he is editor of the Hudson County Times, a weekly newspaper, printed and published in the City of Bayonne, in the County and State aforesaid, and circulating in the City of Bayonne, in said County, and that a notice, a copy of which is herewith annexed, was published in said newspaper for the space of ten days; said publication commencing on January 13th, 1876.

E. GARDNER.

20 Sworn and subscribed before me, at Bayonne, this 26th day of May, 1876.

W. C. HAMILTON,
City Clerk.

STATE OF NEW JERSEY, }
HUDSON COUNTY. }

C. J. Hatch being sworn, says that he is editor of the Bayonne Herald, a weekly newspaper printed and published in Bayonne, in the County and State aforesaid, and circulating in the City of Bayonne, in said County, and that a notice, a copy of which is herewith annexed, was published in said newspaper for

the space of ten days; said publication commencing on January 15th, 1876.

C. J. HATCH.

Sworn and subscribed before me, at Bayonne, this 27th day of May, 1876.

W. C. HAMILTON,
Commissioner of Deeds.

To the Honorable the Common Council of the City of Bayonne:

The undersigned owners of property on the line of Forty-second street do hereby protest and remonstrate against the confirmation of the assessment for the opening of said street, and show as and for the grounds of such protest that the opening of said street and the assessment or proposed assessments therefor are, and each of them is irregular, illegal and void, for the reasons following, namely:

First, Because a majority of the owners of lineal feet did not make the petition and deposit required by the charter of the city of Bayonne. 20

Second, Because the application of the property owners for such opening was not advertised for two weeks in the official papers circulating in the city.

Third, Because the ordinance directing the work was passed less than thirty days after the completion of such advertisement (if the same was completed at all).

Fourth, Because the Commissioners did not file their map within twenty days after the reference of the matters to them.

Fifth, Because the property owners did not receive the notice of the filing of the report and map which was required by law, or any notice whatever thereof. 30

Your objectors further show that by reason of the premises the Municipal authorities have failed to acquire jurisdiction over the property on the line of 42nd street for the purpose of assessment, and have failed and neglected to perform all and singular the conditions precedent to the laying of such assessment as regulated and provided by the city charter.

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William H. Keegan,
 Michael Mullaney,
 Sarah A. J. Allen,
 * Jas. A. Wake,
 Thomas Gasque,
 John Smith,
 David B. Salter,
 Estate of Mrs. Saxton,
 per J. D. Harris,

and all other persons embraced in the assessment list as liable for assessments for benefits.

By SAMUEL B. HIGENBOTAM,

20

Attorney.

Protest received and referred to Committee on Assessments, Sewers and Streets, Feb. 1, 1876.

CITY OF BAYONNE:

Whereas, The Commissioners of Assessments did on the 11th day of January, 1876, make their final report and map of assessment on opening Forty-second street, from Avenue D to Newark Bay.

30 *And Whereas*, Due notice has been given according to the terms of the charter to those interested; and whereas, no legal objections to said assessment have been made; therefore, be it

Resolved, By the Council of the City of Bayonne, that that the final report and map of the Commissioners of Assessments on opening Forty-second street, from Avenue D to Newark Bay, and the assessment for

said improvement, be and the same is hereby confirmed.

Adopted by the Council, March 22, 1876.

W. C. HAMILTON,
City Clerk.

Approved 22d March, 1876.

HENRY MEIGS,
Mayor.

NEW JERSEY SUPREME COURT.

The State,
DAVID B. SALTER, et als.,

Prosecutors,

vs.

The MAYOR and COUNCIL of the City
of Bayonne and HENRY K. VAN
HORN, Collector of Revenue of said
City of Bayonne.

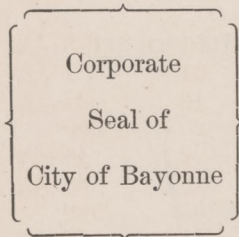
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On Certiorari.

The Mayor and Council of the said City of Bayonne,
and Henry K. Van Horn, Collector of Revenue of said
city, herewith send to the Supreme Court of the State of
New Jersey, a certain assessment, to wit, a final assess- 20
ment of the lands taken, damages sustained and benefits
received, and of all the costs and expenses of opening,
regulating, &c., a certain street in said city of Bayonne,
from Avenue D to Newark Bay, in said city, and of all
things touching and concerning said final assessment, as
they now remain, before said Mayor and Council of the
city of Bayonne, and before the said Henry K. Van
Horn, Collector of Revenue of said city of Bayonne, as
they are commanded by the annexed writ, together with
a copy of a certain final map hereto annexed, which is 30
the same in all respects as the preliminary map filed in

my office 22^d Sept., 1874, except that in said preliminary assessment the amounts of awards and assessments were a trifle higher than the statements on the final map.

In witness whereof I, the Clerk of said city, have hereto set my hand and affixed the corporate seal of said city, and the said Collector has hereto set his hand and seal, this 19th day of June, A. D. 1876.



W. C. HAMILTON,
City Clerk.

10

H. K. VAN HORN,
Col'r of Revenue. [L. S.]

PROSECUTORS' TESTIMONY.

The following persons testify that they are the signers of the application to open 42d Street, dated 21st April, 1874, a copy of which has been returned in answer to the writ of *certiorari* herein; and that at the time of signing said application they were the owners of the lots designated by the following numbers set opposite their names, respectively, on the preliminary assessment map, a copy of which has been returned in answer to the writ of *certiorari* herein; that they still own the same lots; that they never owned any other property in the City of Bayonne; and that their said respective lots contained the following number of lineal feet on the

20

North line, or on the South line, of 42d Street, as the same appears on said map, to wit:

Persons signing application.	No. of the lot owned by him.	No. of lineal feet of such lot on the line of 42d Street.	
James Wake,	57	000	
John McPhail,	62	97 $\frac{13}{100}$	
William Hague, }	64	22 $\frac{28}{100}$	
tenants in common. }			
Charles A. Davis,	21	42 $\frac{19}{100}$	
Peter Girth,			
owner only of an un- }	51	143 $\frac{54}{100}$	10
divided $\frac{1}{4}$ of $\frac{3}{8}$ of }	31	7 $\frac{66}{100}$	
Thomas McGee,	45	37 $\frac{53}{100}$	
Thomas Gasque,	20	000	
Hartman M. Vreeland,	22	48 $\frac{35}{100}$	
William Wilson,	18	88 $\frac{88}{100}$	
A. Carey Smith,	55	000	
John Smith,	71	73 $\frac{47}{100}$	
Caroline Cauley,	50	14 $\frac{07}{100}$	
Peter J. J. Lignot,	60	75 $\frac{98}{100}$	
Alice Salter, }	35	129 $\frac{94}{100}$	
.	47	68 $\frac{03}{100}$	
Prime Smith,	43	41 $\frac{74}{100}$	
Joseph J. Finn,	65	000	
Thomas E. Salter, }	30	39	20
.	52	37 $\frac{06}{100}$	
Samuel C Mount, }	36	45 $\frac{86}{100}$	
.	37	100	
.	38	27 $\frac{83}{100}$	
William H. Keegan,	118	000	

The lots Nos. 62, 64, 51, 45, 71, 50, 60, 47, 43, 52 and 38, contained the lineal feet above named, along the south line of said 42d Street; and the lots Nos. 21, 31, 22, 18, 35, 30, 27, 36 and 37, contained the number of lineal feet above named, along the north line of 40th Street. 30

John Wilson and George Wilson testified that they owned lot No. 33 in common, and neither of them ever

signed the application nor authorized any person to sign it for them; that their names were signed to the application by their sister, at the solicitation of Richard Jonas.

ISAAC L. ALLEN, a witness, produced on the part of the prosecutors, being duly sworn, testified :

I am one of the signers of the original application to open 42d Street—dated October 21st, 1874. I did not at that time and have not since owned any real estate in the City of Bayonne. Witness being shown the preliminary assessment map before referred to, says my wife owned Commissioner's lot, No. 56, on that map; that lot has no frontage on 42d Street. My wife did not at that time and has not since owned any other property in City of Bayonne. My wife's name is Sarah A. J. Allen.

RICHARD JONAS, a witness, produced on the part of the prosecutors, being duly sworn, testified :

I do not own any real property in the City of Bayonne. I have not at any time since March, 1874, owned any.

20 I am not sure whether I signed the original application for the opening of 42d Street or caused it to be signed. I have now looked at the original signature and cannot determine. I cannot tell whether the signature to the application "Richard Jonas" is in my handwriting or not. I now reside in the City of Bayonne, on the line of 42d Street. I have lived there about six or seven years.

That vicinity is not thickly populated. I don't know of any other Richard Jonas the owner of property in Bayonne. I know of another Richard Jonas, he is my son. I don't know whether he owns any property on 42d Street. He lives in Bayonne, on 42d Street. He signs his name Richard Jonas, Jr. I know his signature; the signature, Richard Jonas, on the application is not in his handwriting.

I might miss my own handwriting when I see it. I am about sixty-six years old; my eyesight is not very

good. I cannot say whether the name, Richard Jonas, on this application is or is not in my handwriting. I don't think it has anything of the style of my hand.

And being cross-examined, he says:

On April 21st, 1874, I considered I had some interest in real estate along the line of the improvement, 42d Street. My wife had an interest there. My interest there was for the interest of my wife.

The title to lot No. 27, on the Commissioner's map before referred to, is in her name. 10

She authorized me to sign that application; she authorized me to sign with her consent; but whether I signed it or caused it to be signed, I cannot say.

Q. When you signed that did you intend to sign it so as to bind your wife and on her behalf?

Question objected to on the grounds.

1. That it assumes that the witness did sign the paper contrary to the evidence, and

2. That it is asking the operation of the mind of the witness as to intent? 20

A. Yes, Sir.

Q. Wasn't this property known by general repute as your property?

Question objected to as irrelevant and improper, and leading.

A. Yes, Sir; and I was taxed for it.

Counsel for prosecutors objects to the latter part of the answer as not responsive, and asks to have it stricken out, and that the evidence as to whether or not he was taxed for it, being matter of writing and record, can only be proved by that writing and record. 30

The tax bills for this property were all made out in my name, and I paid them.

Last answer objected to, by Counsel for prosecutors.

I was authorized by my wife to attend to all her business for her.

The frontage of my wife's lot on 42d Street is $55 \frac{88}{100}$ feet.

EMMET SMITH testified he is the official surveyor of the City of Bayonne, and made the maps upon the recent
 10 opening of 42d Street, in said City, copy of which has been returned in answer to the writ of *certiorari* herein.

The total number of lineal feet on the line of the improvement, that is to say, on the line of 42d Street, from Avenue D to Newark Bay is $4,595 \frac{35}{100}$ feet.

The distance on the north side of street is $2,291 \frac{17}{100}$ feet; on the south side it is $2,304 \frac{27}{100}$ feet; along the centre of said street it is $2,297 \frac{67}{100}$ feet.

There was also assessed for the improvement, the property on the line of the proposed 42d Street, from
 20 Avenue D to New York Bay, embracing 2,607 lineal feet on the line of said street; not embraced in the improvement, but assessed as benefited thereby.

It is admitted by counsel for the respective parties that the *American Standard* is a newspaper, published daily, in Jersey City; that it was designated as the official paper in Bayonne during the months of June and July, 1874, and the ordinance approved 8 June, 1874, before referred to, was published in said paper on June
 30 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, and not on any other day.

And that there were at the times of the publications referred to, at least two other daily papers published in Jersey City, having a circulation in City of Bayonne equal to or greater than the circulation of the *American Standard*.

CHARLES J. HATCH, a witness, produced on the part of the prosecutors, being duly sworn, testified.

I am the editor of the newspaper known as the *Bayonne Herald and Greenville Register*, published in the City of Bayonne.

I was such editor at the times hereinafter named. I now produce the files of said newspaper from April 1st, 1874, to April 1st, 1876. The following notices were published in said newspaper as follows:

1. The application to open 42d Street, dated April 10 21st, 1874, was published on May 2d and 9th, and not upon any other day or days.
2. The ordinance approved June 8th, 1874, was never published in said *Bayonne Herald and Greenville Register*.
3. The ordinance approved August 13th, 1874, was published on August 22d and 29th, and not on any other day.
4. Notice of preliminary report adopted September 22d, 1874, was published on September 26th and October 3d, and not upon any other day or days. 20
5. Notice of preliminary report adopted November 10th, 1874, was published on November 14th and 21st. and not upon any other day or days.
6. Notice of final report adopted January 11th, 1876, was published on January 15th and 22d, and not upon any other day or days.

EDWARD GARDNER, being sworn, testified: I am the editor of the newspaper known as the *Hudson County Times*, published in the City of Bayonne. I was such editor at the times hereinafter named. I now produce 30 the files of said newspaper from April 1st, 1874, to April

1st, 1876. The following notices were published in said newspaper as follows:

The application to open 42d Street, dated April 21st, 1874, was published on the 1st and 8th of May, and not upon any other day or days.

The ordinance approved June 8th, 1874, was published on June 12th and 19th, and not on any other day.

The ordinance approved August 13th, 1874, was published on August 21st and 28th, in said *Hudson County Times*, and not on any other day or days.

10 The resolution adopting the preliminary report was adopted September 22d, 1874, and was published on September 25th, and October 2d, and not upon any other day or days.

The notice of preliminary report was published on November 13th and 20th, and not upon any other day or days.

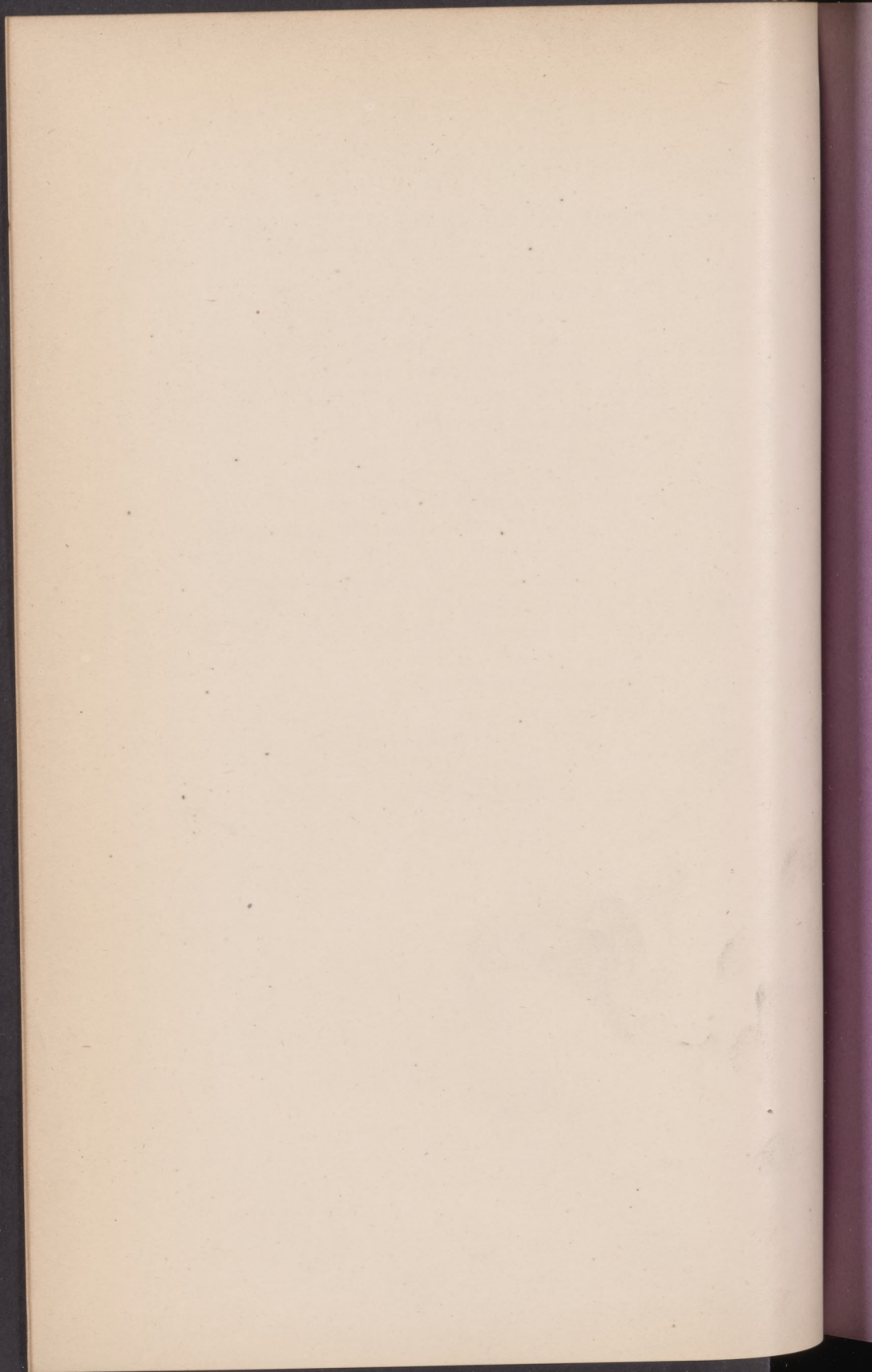
The notice of final report adopted January 11th, 1876, was published on January 13th and 20th and not upon any other day or days.

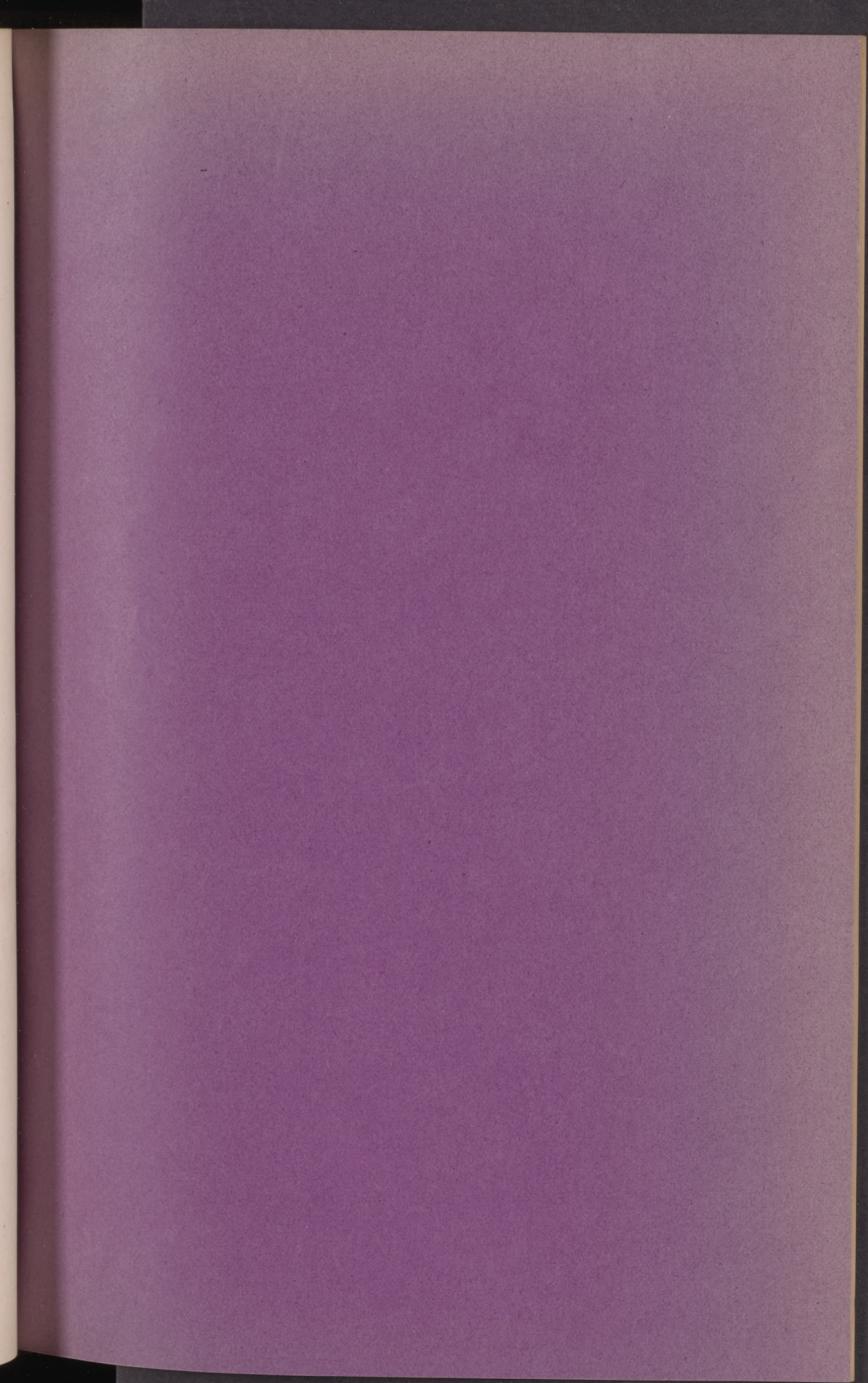
at 1870. The following names were published in
newspaper as follows:

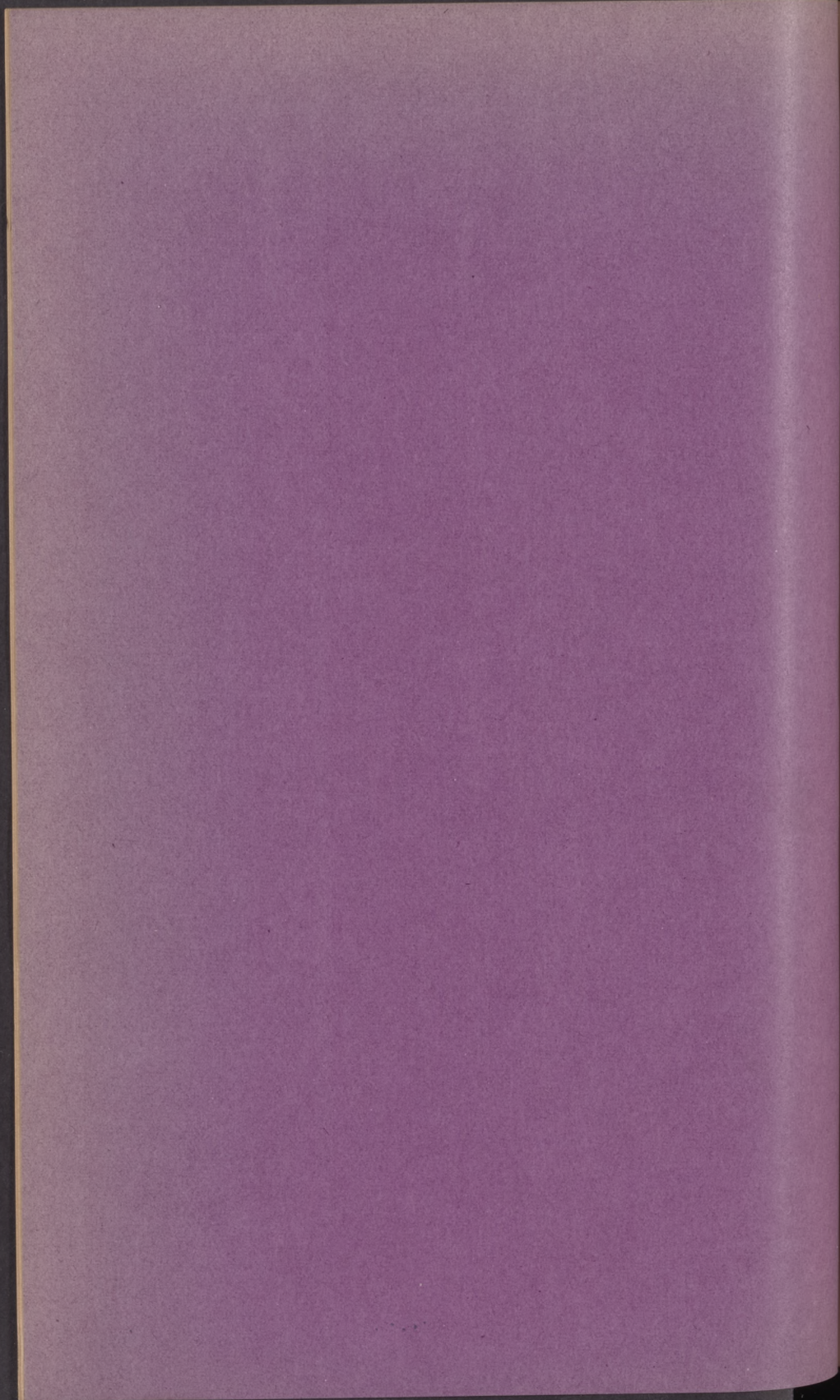
The registration to open the bank, which was
made, was published in the first and 2nd of the
month of the year of date.

The following names were published in the 1st of the
month of the year of date, and in the 2nd of the
month of the year of date, and in the 3rd of the
month of the year of date.

The following names were published in the 4th of the
month of the year of date, and in the 5th of the
month of the year of date, and in the 6th of the
month of the year of date.







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