

NEW JERSEY COURT OF ERRORS AND  
APPEALS.

10

CAROLINE R. HUNT,  
Pltff. in Error,

*vs.*

THE STATE, SIGMUND WARSH-  
ING,

Def't. in Error.

*In Error.*

20

**POINTS OF PLAINTIFF IN ERROR.**

I.

The Supreme Court should have dismissed the writ under the act of 1884. P. L. p. 269. Because  
1st. The act by its terms was clearly intended to be retroactive. The words "has been, had or made," relate to the past. 30

In the act construed, in *Citizen's Gas Co. vs. Alden*, 15 Vr. 648, and in the acts construed in the other cases cited by the Supreme Court, the language was different.

2nd. The case of the state, *Vreeland vs. Bergen*, 5 Vr. 438, does not apply, because the writ in this case was allowed *after* the law of 1884 took effect. 40

3rd. The owner had certainly been allowed a reasonable time. The sale was made January 5, 1878, and the writ was not applied for until October, 1884.

4th. It is not claimed that act under which the taxes were levied is unconstitutional, therefore the case of Van Cleef *vs.* New Brunswick, 9 Vr. 320, does not apply.

## II.

10

If description in the advertisement of sale was sufficient to notify the owner for what property he was assessed, and such as to secure a fair sale, tax sale will not be set aside.

State, Allen Pros. *vs.* Woodbridge, 13 Vr. 401.

20 In case above cited, a description as follows, "Rufus N. Edgar, Land fifty, Road district No. 21," was held sufficient to uphold a tax sale, but a description, "Rufus N. Edgar, Land fifty," was held to be insufficient because "the description did not mention any road district," and because it did not appear in the case "that there was no other, or similar, property of Edgar's in the *township*."

30 In Newcomb *vs.* Franklin Township, 17 Vr. 438, tax sale was set aside because the property was sold under following description:—"Name, House, William A. (Copp Place); acres, 20; tax, \$6.60, etc." the description not coming within the rule laid down in the Allen case *supra*.

40 The property in question was marked on city atlas as lots 1 to 13, maps A, B, H, *farm*, showing that property was considered as one tract. The property in question was the only property owned by Julia A. Chapman in the third ward in 1876.

Test. E. M. Brown, page 21, line 30.

The owner certainly could not be misled by the

imperfection of the description, and any one wishing could ascertain exactly the property assessed by referring to the city atlas.

The tract sold was "a farm," but for convenience was assessed in separate lots.

### III.

10

It was not claimed that any injustice was done by the sale. The taxes were actually due; the assessments have been sustained and the taxes were never paid until the plaintiff in error paid them to the city and took an assignment of the tax-title.

If no one was misled or injured by the deficiency in the description, the objection is purely technical, and since the act of 1881 (Pam. L., p. 194) technical objections are not sufficient to invalidate an assessment of taxes. 20

#### *Conover vs. Honce, Vr. 348.*

But it is claimed that this act only applies to errors or defects in assessments and not to defects in advertisements of sale. 30

The language of the act is "That no tax assessment or water rate imposed or levied in this state shall be set aside or reversed in any court of law or equity, in any action, suit or proceeding for any irregularity in defect in form or illegality in assessing, laying or levying, any such tax assessment or rate, or in the proceedings for collecting the same, if the person against whom, or the property upon which, such tax, assessment or rate is assessed or laid, is in fact liable to taxation or assessment, or imposition of such water rate, in respect of the purposes for which such tax, assessment or rate is levied, assessed, or laid." 40

In *Conover vs. Honce supra*, the learned Chief Justice said, "The expressed purpose of this law, therefore, is to prevent for the future the frustration of taxation on the ground of erroneous procedure, and the result in this case is that if this description is legally insufficient—and I do not mean to intimate  
10 that such is the fact—nevertheless such irregularity can form no basis for this writ of error." In that case the description in the duplicate was *Conover, "Charles H., deceased, 132 acres."*

The Supreme Court affirmed the assessment, but set aside the sale. The city has however received all that is due on this assessment from the plaintiff in error; the Common Council could not therefore  
20 order another sale, and there is no law that would authorize plaintiff in error to sell the property in order to enforce her lien.

If, therefore, the judgment of the Supreme Court is sustained, the effect would be to nullify the Act of 1881 in all cases where tax sales had been made, and were objectionable by reason of some technical defect. If Act of 1881 was only intended to reach  
30 the defects in assessments and go no further, what possible meaning can be given to the words "or in the proceeding for collecting the same."

This statute should be construed liberally.

*Lehigh Valley R. R. Co. vs. Dover and Rockaway R. R. Co.*, 14 Vr., 528.

If construed strictly, no meaning whatever can be  
40 given to the clause in the statute referred to.

VAIL & WARD,  
of counsel with plaintiff in error.

# Court of Errors and Appeals.

CAROLINE R. HUNT,

*Plaintiff in Error,*

*vs.*

THE STATE, SIGMUND WARSHING,

*Defendant in Error.*

*On Certiorari.*

*Brief of Defendant in Error.*

## I.

The certiorari in this case is brought to set aside the assessment of taxes for the year 1876, in the Third Ward of the city of Rahway, upon the land of Julia A. Chapman, and all proceedings subsequent to said assessment, including the sale of the said land for unpaid taxes, the certificate of sale, and the declaration of sale.

The said Caroline R. Hunt bought the said land from the City of Rahway for unpaid taxes, and holds a declaration of sale therefor. It is admitted that the defendant in error was the owner of the land at the time the writ was allowed, and became the owner thereof May 10th, 1884; and that he lives in New York city. Page 3 of the testimony.

The land was sold for the unpaid taxes January 5th, 1878. Page 9 of the return.

The writ of certiorari was allowed October 20, 1884. Page 2 of the return.

The plaintiff in error moved to dismiss the writ of certiorari, because the same was allowed after six years had elapsed from the date of the sale of said land for unpaid taxes, by virtue of the provisions of the supplement to the act to regulate the practice of Courts of Law, approved April 25, 1884. (Laws of 1884, p. 269.)

That act provides "that no writ of certiorari shall hereafter be granted or allowed to review any assessment for taxes, to recover which taxes any sale has been had or made by virtue of any special or local law, or to review the proceedings of any such sale, unless such writ be granted or allowed *within six years from the date or time of such sale.*" This act took effect immediately.

The Court below refused to dismiss the writ of certiorari, upon the ground that the said act is *prospective only, not retroactive.*

See opinion page 7, &c., of State of Case and the cases there cited. Also City of Elizabeth vs. Hill. 10 Vroom, 555. Newcomb vs. Franklin Township. 17 Vroom, 437.

The act is clearly *prospective*, and the judgment of the Court below in refusing to dismiss the writ of certiorari should be affirmed.

## II.

The Court below set aside the tax sale and all proceedings subsequent thereto, upon the ground of a defect in the advertisement of sale of such a nature, that it cannot be remedied, and therefore is not amendable under the statute of 1881.

See opinion, page 10, state of the Case.

Real estate in the City of Rahway until the year 1872, was described in the tax levy and assessment by its natural description in brief. In 1872 and since then, it has been described (as required by law) according to a map known as the City Atlas.

Laws of 1872, page 1263, sections 7 to 12, inclusive.

Section 12 of that act provides "that the district assessors shall so arrange their duplicates as to specify therein, by their letters and numbers on the City Atlas, the several lots or sub-divisions of lots assessed, with the valuation thereof, to the end that each lot, and the amount assessed upon

it, may be clearly ascertained and identified; and all assessments of taxes shall be made upon the lots and sub-divisions as they appear at the time upon the City Atlas." The description of the property in the duplicate for 1876, is as follows :

Map.	No.	Street.	Name.
B. 11	189	Franklin,	Chapman, Julia A.
" 6	190	"	" "
C 1	191	Plainfield,	" "
C 1½	192	"	" "
" 2	193	Inman,	" "
" 6	194	Madison,	" "
" 7	195	Stephens,	" "
" 12	196	Inman,	" "
" 13	197	"	" "
" 15	198	Bramhall,	" "
A 1	199	Franklin,	" "

Page 4 of the return.

The property as described in the advertisement of sale, is as follows :

### THIRD WARD.

	Cost.	Int.	Tax.	Total.
Chapman, Julia A.	1.50	24.22	177.23	202.95

Page 8 of the return.

Section 14 of the act of 1872, P. L., page 1,265, provides, "that in advertising any lots or tracts of land for unpaid taxes or assessments, it shall be sufficient to describe said lots or sub-divisions of lots by the *letters* and *numbers* and *streets*, by which they are distinguished in the City Atlas, together with the *names of the owners thereof*; and the omission or mistake in the *name of such owner*, either in the City Atlas or Register, or by the district assessor, or in any of the proceedings taken to enforce the collection of taxes or assessments, shall not be invalidated thereby."

Neither the *letter*, *number* or *street* appears in the advertisement of sale. There is *no property description whatever*.

This is a fatal defect, and vitiates the sale of the property, and of necessity all proceedings subsequent to the sale.

As is said by Justice Scudder in the opinion, "to hold such notice of sales of lands for taxes good, would go far beyond any case yet decided."

There must be a description of property of *some kind* in the advertisement of sale. In this case, there is absolutely *no description of property whatever*. This, of necessity, is such a defect that it vitiates the tax sale and all subsequent proceedings.

In the case of *State Parker, pros., vs. Elizabeth, 10 Vroom, 689*, the Court states the rule of law applicable to the description of property, in matters of taxation and sale of land for unpaid taxes; and in that case, where the description of the property was "Samuel Barber, h. 60 ft., Linden street," the Court, upon *certiorari*, set aside the assessment and all other proceedings, for the reason that the property was insufficiently described.

In the present case, where there is *no description whatever*, the defect is of such a nature, that it of necessity vitiates the tax sale, and all subsequent proceedings, and the judgment of the Court below should be affirmed.

### III.

Nor can this defect in the advertisement of sale, be remedied by invoking the aid of the statute of March 23, 1881, P. L., page 194, because this act gives jurisdiction to the Court to amend in case of irregularities or defects *in form only*.

State vs. Montclair & Greenwood Lake R. R. Co., 14 Vroom,  
524.  
Peckham vs. Newark, 14 Vroom, 576.  
Conover vs. Honce, 17 Vroom, 347.

The absence of the description of the property in the advertisement of the sale *is not an irregularity or defect in form only*. The description of the property is essential and necessary to a valid advertisement and sale of the property. It is a condition precedent to such advertisement and sale. Without a description of some kind the sale is absolutely

void. The want of such description is not an irregularity or defect in form only, and therefore is not within the terms of the statute.

#### IV.

Besides an amendment of the description cannot be made (if allowable under the act) because *there is nothing to base an amendment upon*. There is no description whatever in the advertisement of sale. If there had been a description of some kind in the advertisement, it might be amended by changing it into a proper description. But there being no description to support an amendment, no amendment can be made.

#### V.

The aid of the act of 1881 cannot be invoked, and a new tax levied by the Court unless, (as said act expressly provides) "the person against whom, or the property upon which such tax assessment or rate is assessed or laid, *is in fact liable to taxation*, or assessment, or imposition of such water tax, in respect of the purposes for which such tax assessment or rate is levied, assessed or laid." In other words, no tax can be levied by the Court under said act, unless the property is liable to such re-taxation. The property in question is not liable for the taxes of 1876 or any part thereof. The property has paid its proportion of that tax. It is true, not by the owner, in the usual way, but by a sale of the property by the City of Rahway, and the payment to the city of the whole tax levied upon the property for that year, with interest and costs of sale. It is a payment as lawful and effectual, and as fully discharges the property from its liability to taxation for that year, as if payment of the tax had been made by the owner before the sale. The property has therefore borne its burden of the tax for that year, and has been fully relieved and discharged of all liability to taxation for that year, and cannot again be burdened with the same tax or any part thereof. The City,

County and State to whom the property has paid its tax, for that year, have no claim against the property, their demands for that year having been fully paid and satisfied. The fact that the purchaser of the tax title receives no benefit from his purchase of the property, and payment of the tax, cannot affect the question, and does not give the right to invoke the aid of that act. An individual who has purchased a tax title which proves invalid, cannot in any event invoke the aid of the act for his individual benefit. It was never intended for any such purpose. It was intended solely for the *benefit of municipalities to whom taxes are due, and to aid them in securing and enforcing payment of taxes.* When the municipality has received the tax by payment by the owner of the property, or by a sale of the property, the property has borne and discharged its burden of the tax, and is not liable to re-taxation. Every purchaser of tax titles takes the risk of the validity of his title. If the title proves to be invalid he has no remedy. But the tax is fully paid by the sale of the property, and payment of the tax to the municipality; and the property is fully discharged from its liability to taxation for the same objects for which it was taxed. It is released from the burden of the tax, or any part of it. I submit that the Court is powerless under the act of 1881, to again subject the property to re-taxation as provided for in that act; and for the reasons herein stated that the judgment of the Court below should be affirmed with costs.

ROBERT E. CHETWOOD.

*Attorney of Defendant in Error.*

NEW JERSEY, TO WIT :

[SEAL.]

*The State of New Jersey, to Caroline R.  
Hunt, The Mayor and Common Council* 10  
*of the City of Rahway, and Edmund M.*  
*Brown, Receiver of Taxes of the City of*  
*Rahway, GREETING :*

We being willing for certain reasons to be certified of the assessment of taxes for State, County and City purposes, and for School, Road and County taxes of said city, for the year 1876, assessed and imposed upon a certain lot of land and premises situate in the Third ward of said City of Rahway, the same being assessed to Julia Chapman, by the following description, viz. : "Known on city atlas map A, lot 20 number one (1,) map B, lots number six (6,) and eleven, (11,) map C, lots number one (1,) one and one-half (1½,) two, (2,) six, (6,) seven, (7,) twelve, (12,) thirteen, (13,) and fifteen, (15,) farm," and now the property of Sigmund Warshing, and of all matters touching and concerning the same, do command you, that the tax ordinance for the year 1876, passed by the Common Council of the City of Rahway; the assessment against the said Julia Chapman, of the land and premises above described, as contained in the assessment roll of the Third Ward of said City of Rahway for said year, together with the warrant of the Mayor and Clerk of said 30 city, commanding the Receiver of Taxes to demand and collect the taxes mentioned in said assessment roll; the transcript of the unpaid taxes for said year upon real estate in said Third ward, (omitting from said transcript all real estate and the taxes due thereon, except the above described premises, assessed to Julia Chapman, and the amount of taxes due thereon), and also the proceedings of the said Common Council thereon; the advertisement and sale of the above described premises for unpaid taxes for said year; the 40 certificate of sale of said premises to the said The Mayor

and Common Council of the City of Rahway; the assignment thereof, and the declaration of sale to the said Caroline R. Hunt, and all matters touching and concerning the same as fully as the same remain before you, or under your control, you certify and send to the Justices of our Supreme Court, at Trenton, in and for said State, on the first Tuesday of November next, together with this writ, that we may cause to be done touching the same, what of right ought to be done.

10 WITNESS, Mercer Beasley, Esq., Chief Justice of our said Court, at Trenton, aforesaid, the twentieth day of October, 1884.

ROBT. E. CHETWOOD,  
*Attorney.*

BENJ. F. LEE,  
Clerk.

Allowed Oct. 20, 1884.

B. VAN SYCKEL,  
*Justice Supreme Court of N. J.*

AN ORDINANCE RESPECTING TAXES FOR THE YEAR 1876.

20 Be it ordained by the Mayor and Common Council of the City of Rahway.

SECTION I. That there shall be assessed, raised by tax and collected upon and from all persons residing, and lands located within the lamp and police district of the City of Rahway, the following sums, viz. :

For the lighting of streets.....	\$8000
“ “ support of the Police Department.....	\$7000

30 SECTION II. That there shall be assessed, raised by tax and collected upon and from all persons residing and lands located within the City of Rahway, the following sums, viz. :

For the support of Public Schools.....	\$9500
“ “ “ the Fire Department.....	\$1800

For keeping in repair and cleaning the streets, and repairing crosswalks, the sum of.....	\$4000
---	--------

For the contingent expenses of the City.....	\$9000
--	--------

For the payment of interest upon the city debt and on temporary loans.....	\$17000
--	---------

For the maintenance of the Water Works.....	\$20600
---	---------

40 SECTION III. A poll tax of one (1) dollar shall be assessed, to be applied to the contingent fund.

SECTION IV. A dog tax of one (1) dollar upon the first dog, two (2) dollars upon the second dog, and three (3) dollars on every slut shall be assessed, to be applied to the contingent fund.

SECTION V. That the monies paid into the City Treasury, for fines and costs and licenses, shall be applied to the contingent fund.

SECTION VI. That the sum of six thousand ( $\$6000\frac{0.0}{100}$ ) dollars, shall be raised for deficiencies for the past year.

Passed June 27th, 1876.

JOHN H. LUFBERRY,  
Pres't C. Council.

10

Attest:

H. N. OLIVER,  
City Clerk.

Approved June 28, 1876.

JOHN J. HIGH,  
Mayor.

A true copy of said ordinance as recorded on pages 84 and 85 Ordinance Book, Vol. 11.

20

FRANKLIN MARSH,  
City Clerk.

30

40

Map.	No.	Street.	Name.	Value of Real Estate.	Net Value Assessed to Each.	State School.	Road.	Fire.	Contingent.	Interest on City Debt.	School.	Poor.	County.	State.	Interest Water Bonds	Total.											
B 11	189	Franklin	Chapman, Julia A.	250	350	1	71	35	16	79	1	47	83	52	1	78	8	93									
"	6	"	"	100																							
C 1	191	Plainfield	"	400	600	1	22	59	27	1	34	2	54	1	42	89	3	03	15	30							
C 1	192	"	"	200																							
"	2	Inman	"	800	800	1	62	80	36	1	79	3	39	1	89	1	19	4	04	1	22	4	10	20	40		
"	6	Madison	"	500	500	1	02	50	22	1	12	2	11	1	18	74	2	53	77	2	56	12	75				
"	7	Stephens	"	1400	1400	2	84	1	39	63	3	14	5	92	3	30	2	09	7	07	2	14	7	18	35	70	
"	12	Inman	"	500	1700	3	45	1	68	77	3	81	7	19	4	01	2	53	8	59	2	60	8	72	43	35	
"	13	"	"	1200																							

A true copy of the assessment against said Julia Chapman of the land and premises above described, as contained in the assessment roll of the Third Ward of said City of Rahway, for the year 1876.

EDMUND M. BROWN,  
Receiver.

DELINQUENTS IN TAXES THIRD WARD, 1876.

*	*	*	*	*	*	*	*	*	*	*	*
189, 190,	Chapman	Julia	A	.....							\$ 8.93
191, 192,	"	"	"	.....							15.30
193,	"	"	"	.....							20.40
194,	"	"	"	.....							12.75
195,	"	"	"	.....							35.70
196, 197,	"	"	"	.....							43.35 10
198,	"	"	"	.....							35.70
199,	"	"	"	.....							5.10
*	*	*	*	*	*	*	*	*	*	*	*

STATE OF NEW JERSEY, }  
 UNION COUNTY. } s.s.

A. J. Ritter, Receiver of Taxes of the City of Rahway, in said County, being duly sworn, saith that the list of names above mentioned is a true list of the names of the delinquent tax-payers in each ward of said city, with the sum due from each respectively, said delinquency being for the taxes for the year 1876, and he further saith, that the money due as in said list mentioned have been duly demanded, or due notice thereof given or left at the usual places of residence of each delinquent, who could be found or who might reside in said city or ward.

A. J. RITTER, Rec.

Sworn and subscribed before }  
 me, this sixteenth day of }  
 Feb. 1877.

GARRET BERRY,  
 M. C. C.

30

A true copy of the transcript of the unpaid taxes for said year (1876) upon real estate in said Third Ward (omitting from said transcript all real estate and the taxes due thereon, except the above described premises assessed to Julia Chapman, and the amount of taxes due thereon) with oath of Receiver of Taxes, etc.

FRANKLIN MARSH,  
 City Clerk. 40

Com. from A. J. Ritter, Receiver of Taxes, giving statement, names and amounts due from delinquent tax-payers, Rec'd and list referred to Committee on Assessments.

A true copy from the minutes of the proceedings of the Common Council of the City of Rahway of the meeting of February 20th, 1877, as recorded in Minute Book, Vol. 5, Page 369,

FRANKLIN MARSH,  
City Clerk.

10

By Cn. Howell :

*Resolved*, That the warrant to the Receiver of Taxes be issued by the Mayor and City Clerk, under the seal of the city, for the collection of arrears of taxes for 1876.

Adopted.

A true copy from the minutes of the proceedings of the Common Council of the City of Rahway of the meeting held  
20 February 20th, 1877, as recorded in Minute Book, Vol. 5, Page 378.

[SEAL.]

FRANKLIN MARSH,  
City Clerk.

To Andrew J. Ritter, Receiver of Taxes of the City of Rahway, County of Union and State of New Jersey. You are hereby commanded to collect from the several persons named in the foregoing assessment roll, the several sums mentioned on the last column of said assessment roll, opposite their respective names, being arrears of taxes  
30 standing against them uncollected, and in case of non-payment of the same, you are commanded to make same of the goods and chattels of the said persons named in the said assessment roll, together with interest and costs, by sale and distress thereof according to law, and, if sufficient goods and chattels cannot be found of such delinquents respectively, or any one or more of them, to make the said sum of money with the interest and costs thereof, then in  
4 such case you are commanded to make the same of the lands, tenements, real estate and chattels real of said delinquents, whereof they or any one or more of them were seized on the 20th day of December 1875, to the 20th day

of December, 1876, respectively, for the shortest time for which any person or persons will agree to take the same, and pay such taxes and costs, fees, charges and deed expenses. And, if goods and chattels, lands, tenements or real estate of the said delinquents or any one or more of them cannot be found, or not sufficient to make the money aforesaid, take the body of such delinquent, if to be found in the County of Union and deliver the same to the Sheriff of the County of Union, or his Jailor, to be kept in safe and close custody, until payment be made of said tax, interest,<sup>10</sup> costs, fees, charges and expenses; and you are further commanded to pay the said moneys so received from time to time, when so collected to the Treasurer of said City of Rahway, according to the provisions of an act entitled "An Act to revise and amend the Charter of the City of Rahway."

Approved March 3d, 1865.

[SEAL.]

Given under the seal of said City, and under the hands of the Mayor and Clerk of said City, this 23d day of February, 1877.<sup>20</sup>

JOHN J. HIGH,  
Mayor.

Attest:

H. N. OLIVER,  
City Clerk.

The above is a true copy of the warrant issued by the Mayor and Clerk, as ordered by the Common Council of the City of Rahway, to the Receiver of Taxes.

[SEAL.]

FRANKLIN MARSH,  
City Clerk.<sup>30</sup>

#### SALE OF LANDS FOR THE PAYMENT OF TAXES.

Public notice is hereby given, that in pursuance of the provisions of the revised charter of the City of Rahway, I shall proceed to collect the taxes remaining unpaid on Saturday, the 5th day of January, 1878, by public sale at auction of the lands and real estate whereon said taxes are imposed, at the hour of 2 o'clock in the afternoon of the day above mentioned, at the City Hall in the City of Rahway.<sup>40</sup>

The following is a list of the names of the owners, and real estate liable for the payment of said taxes, together

with a description of said lands and the amount of taxes unpaid, with the interest and the costs due thereon respectively.

Dated December 6th, 1877.

A. J. RITTER,  
Receiver of Taxes.

Property marked thus \* indicates that other parties are supposed to be responsible for the taxes.

10

\* \* \* \* \*

THIRD WARD.

	Cost.	Int.	Tax.	Total.
Chapman, Julia A .....	1.50	24.22	177.23	202.95

The above is a true copy of the advertisement of sale of lands for the payment of taxes as published in The National Democrat, a newspaper published in the City of Rahway, in the issues of Dec. 6th, 13th, 20th and 27th, 1877, and Jan'y 3d, 1878, according to the sworn proofs of publication on file in my office.

20

[SEAL.]

FRANKLIN MARSH,  
City Clerk.

To all persons to whom these presents shall come or may concern.

30

Whereas, The Common Council of the City of Rahway, did, on the 23d day of February, 1877, duly order and direct the Receiver of Taxes of the City of Rahway, to collect the unpaid taxes for the year 1876, by public sale at auction of the land and real estate, whereon such taxes had been imposed or were a lien. And, whereas, there was then remaining unpaid the sum of \$177.23 taxes for the year 1876, assessed and imposed upon a certain lot or parcel of land and premises situate, lying and being in the Third Ward of the City of Rahway, in the County of Union, and State of New Jersey, the same being assessed to Julia Chapman,

40

and known on City Atlas, Map C and A, as lot 11 Franklin St. &c., Farm. And, whereas, the said sale was duly advertised in two newspapers printed and published in said city for four weeks, at least once in each week, such advertisement setting forth the time and place of sale, which time was the 5th day of January, 1878, at 2 o'clock in the afternoon, and said place was the City Hall in said City of Rahway. And, whereas, the amount so assessed on the said lot known as aforesaid, together with the interest thereon, and all costs, fees, charges and expenses, did amount to the sum <sup>10</sup> of \$202.95, the said Receiver of Taxes of the City of Rahway, on the said 5th day of January, 1878, at 2 o'clock in the afternoon of that day, at the City Hall in the said City of Rahway, did cause the said lot heretofore mentioned, known as aforesaid in said city to be exposed for sale at public auction for the lowest term of years, for which any person would agree to take the same and pay the said sum of \$202.95, being the amount expended as aforesaid for the purposes aforesaid, and thereupon no one bidding for the same, the same was struck off to the Mayor and Common <sup>20</sup> Council of the City of Rahway for the term of 50 years, according to the provisions of the revised charter of the City of Rahway, they paying the sum of \$202.95, being the amount assessed on said lot as aforesaid, and the interest thereon, and the said costs, fees, charges and expenses. And no other person offering to take same for so short a time, the same was accordingly, openly and publicly cried off and sold to the said Mayor and Common Council of the City of Rahway for the said term of 50 years. Now, therefore be it known, that the said the Mayor and Common Council <sup>30</sup> of the City of Rahway, in consideration of the said sum of \$202.95, paid by the said Mayor and Common Council of the City of Rahway, the receipt whereof is hereby acknowledged; do hereby declare and make known that the said lot of land and premises has been so sold as aforesaid, for the term of 50 years for and in consideration of the payment of the amount expended for the purpose aforesaid; and the said Mayor and Common Council of the City of Rahway, their successors and assigns, are entitled to hold and enjoy the same for their proper use until the said term <sup>40</sup>

of 50 years is completed and ended; subject, nevertheless, to the right of redemption as provided by the charter of said City of Rahway, and the supplements thereto.

*In Witness Whereof*, The Common Council of the City of Rahway, have caused the common seal of said City of Rahway to be hereunto affixed, and these presents to be signed by J. J. High, Mayor of said city, and attested by A. J. Ritter, Receiver of Taxes, the 20th day of March, 1878.

[SEAL.]

10

A. J. RITTER,  
Receiver of Taxes.

J. J. HIGH,  
Mayor.

Signed, sealed and delivered in the presence of }  
J. B. Oliver.

STATE OF NEW JERSEY, }  
UNION COUNTY. } s. s.

20 Be it remembered that on this 20th day of March, 1878, before me, H. N. Oliver, Commissioner of Deeds for Union County, personally appeared J. B. Oliver, who being duly sworn according to law, doth depose and say that he knows the common seal of the City of Rahway, that the seal affixed to the above certificate is that seal; that he saw J. J. High, Mayor of the City of Rahway, sign the foregoing certificate of sale, and heard him acknowledge that he signed, sealed and delivered the same as the voluntary act and deed of the Mayor and Common Council of the City of  
30 Rahway; and that this deponent subscribed his name thereto as an attesting witness.

J. B. OLIVER.

Sworn and subscribed on }  
the day and year afore- }  
said before me.

H. N. OLIVER,  
Commissioner of Deeds.

40 Endorsement on said certificate of sale.  
Certificate assigned, returned and cancelled and declara-

tion of sale issued to Caroline R. Hunt, assignee, this 19th day of June, 1884.

FRANKLIN MARSH,  
City Clerk.

No. 304, Rahway, N. J., June 19th, 1884.

I hereby certify that I have received from Caroline R. Hunt, \$275.05 for the redemption of lots 6 and 11 B; 1, 1½ 10 2, 6, 7, 12, 13 and 15 C; 1 A; Maps B, C and A ward 3, assessed to Julia A. Chapman, sold for taxes of 1876.

Tax.....	\$177 23
Costs.....	2 75
Int.....	95 07
	<hr/>
Certificate.....	275 05

H. S. LANGSTAFF,  
Treasurer. 20

The above is the certificate of Treasurer, by virtue of which the certificate of sale was assigned to Caroline R. Hunt, per resolution of Common Council.

[SEAL.]

FRANKLIN MARSH,  
City Clerk.

Whereas, Caroline R. Hunt, of the City of Rahway of the County of Union, of the State of New Jersey, having paid to "The Mayor and Common Council of the City of Rahway" the amount of the taxes, costs, fees, charges and expenses mentioned in the within certificate, together with the interest thereon. Now, therefore, in consideration thereof, "The Mayor and Common Council of the City of Rahway," do hereby sell, assign, transfer and set over unto the said Caroline Hunt, the within "certificate of sale," and the term thereby granted, to have and to hold the same unto

the said Caroline R. Hunt, her heirs, executors administrators and assigns.

*In Testimony Whereof*, The Common Council of the City of Rahway, have caused the common seal of said city to be hereunto affixed, and these presents to be signed by Joseph W. Savage, Mayor of the said city, and attested by Franklin Marsh, City Clerk, the 19th day of June, 1884.

[SEAL.]

10

Attest:

FRANKLIN MARSH,  
• City Clerk.

J. W. SAVAGE,  
Mayor.

STATE OF NEW JERSEY, }  
UNION COUNTY. } s. s.

Be it remembered that on this 19th day of June, 1884, before me a Master in Chancery of New Jersey, personally appeared Franklin Marsh, who being duly sworn according  
20 to law, doth depose and say that he knows the common seal of the City of Rahway, that the seal affixed to the above declaration is that seal; that he saw Joseph W. Savage, Mayor of the City of Rahway, sign the foregoing declaration of sale, and heard him acknowledge that he signed, sealed and delivered the same as the voluntary act and deed of the Mayor and Common Council of the City of Rahway, and that this deponent subscribed his name thereto as an attesting witness.

FRANKLIN MARSH.

30 Sworn and subscribed on }  
the day and year afore- }  
said, before me.

B. A. VAIL,  
M. C. C. of N. J.

This is to certify that the within annexed papers are true copies (1) of the certificate of sale of the lands of Julia Chapman to the Mayor and Common Council of the City of  
40 Rahway, as recorded on page 211, Vol. A of certificates of sale, with the proper acknowledgment.

(2) The assignment of said certificate to Caroline R. Hunt, by the Mayor and Common Council of the City of Rahway, with the proper acknowledgment. Certificate showing the cancellation of the certificate of sale.

[SEAL.]

FRANKLIN MARSH,  
City Clerk.

The Mayor and Common Council of the City of Rahway, do herewith send to the Supreme Court of the State of New Jersey the "Tax ordinance for the year 1876," the war-10 rant of the Mayor and Clerk of said city, commanding the Receiver of Taxes to demand and collect the taxes mentioned in said assessment roll, the transcript of the unpaid taxes for said year upon real estate in said ward, with the list of delinquents, etc., presented to the Common Council by Receiver, the advertisement of sale of the above described premises, the certificate of sale, and the assignment thereof to Caroline R. Hunt, and the certificate of the Treasurer of the City of Rahway, showing that Caroline R. Hunt paid the taxes on the property mentioned in the certificate<sup>20</sup> of sale, &c., as within they are commanded, as by the transcripts of said papers respectively, hereto annexed more fully appears.

Given under the seal of said city and the hands of the Mayor and Clerk thereof, this 4th day of November A. D. 1884.

[SEAL.]

Attest:

FRANKLIN MARSH,  
City Clerk.

J. W. SAVAGE,  
Mayor.

30

DECLARATION OF SALE      CERTIFICATE NO. \_\_\_\_\_

*To all persons to whom these presents shall come or concern:*

WHEREAS, The Common Council of the City of Rahway, on the 23d day of February A. D. 1877, duly order and direct the Receiver of Taxes of the City of Rahway, to collect the unpaid taxes for the year 1876, by public sale at auction of the land and real estate whereon such taxes had been imposed or were a lien. And, whereas, there was<sup>40</sup> then remaining unpaid the sum of \$177.23 taxes for the

year 1876, assessed and imposed upon a certain lot or parcel of land and premises, situate, lying and being in the Third Ward of the City of Rahway in the County of Union, and State of New Jersey, the same being assessed to Julia Chapman, and known on City Atlas, Map A, lot number one (1); Map B, lots number six (6) and eleven (11); Map C, lots number one (1) and one and a half ( $1\frac{1}{2}$ ), two (2), six (6), seven (7), twelve (12), thirteen (13) and fifteen (15) Farm.

10 And, whereas, the said sale was duly advertised in two newspapers, printed and published in said city for four weeks, at least once in each week, such advertisement setting forth the time and place of sale, which time was the 5th day of January, A. D. 1878, at 2 o'clock in the afternoon, and said place was the City Hall in said City of Rahway. And, whereas, the amount so assessed on the said lot known as aforesaid, together with the interest thereon, and all costs, fees, charges and expenses, did amount to the sum of \$202.95, the said Receiver of Taxes of the City of Rahway, on the said 5th day of January, A. D. 1878, at 2

20 o'clock in the afternoon of that day at the City Hall in the said City of Rahway, did cause the said lots heretofore mentioned, known as aforesaid in said city, to be exposed for sale at public vendue for the lowest term of years, for which any person would agree to take the same and pay the said sum of \$202.95, being the amount expended as aforesaid, for the purposes aforesaid; and, thereupon no one bidding for the same, the same was struck off to the Mayor and Common Council of the City of Rahway for the term of 50 years, according to the provision of the revised charter

30 of the City of Rahway, they paying the sum of \$202.95, being the amount assessed on said lots as aforesaid and the interest thereon, and the said costs, fees, charges and expenses; and the said certificate having first been duly recorded, was on the 19th day of June, A. D. 1884, under the provisions of a resolution of the Common Council of said city, duly assigned to one Caroline R. Hunt, and in consideration of the sum of \$225.05 by her paid to the said Mayor and Common Council of the City of Rahway.

Now be it known, that the said Mayor and Common Council of the City of Rahway, in consideration of the said sum of \$225.05 paid by the said Caroline R. Hunt, the re-

ceipt whereof is hereby acknowledged, do hereby declare and make known, that the said lot of land and premises has been so sold as aforesaid for the said term of 50 years, for and in consideration of the payment of the amount expended for the purpose aforesaid, and the said Caroline R. Hunt, her heirs, executors, administrators and assigns, are entitled to hold and enjoy the same for her or their proper use, until the said term of 50 years is completed and ended, subject nevertheless to the right of redemption as provided by the charter of said City of Rahway, and the supplements thereto. <sup>10</sup>

*In Witness Whereof*, The Common Council of the City of Rahway, have caused the common seal of said City of Rahway, to be hereunto affixed, and these presents to be signed by Joseph W. Savage, Mayor of said city, and attested by Franklin Marsh, clerk of said city, this 19th day of June A. D. 1884. <sup>20</sup>

[SEAL.]

Attest:

FRANKLIN MARSH,  
City Clerk.

J. W. SAVAGE,  
Mayor.

Signed, sealed and delivered in the presence of. }

The printed matter at lines (1), (2), (3), (4) and (5) on this page erased before execution.

FRANKLIN MARSH.

30

STATE OF NEW JERSEY, }  
UNION COUNTY. } s. s.

Be it remembered that on this 19th day of June A. D' 1884, before me a Master in Chancery of New Jersey, personally appeared Franklin Marsh, who being duly sworn according to law, doth depose and say, that he knows the common seal of the City of Rahway, that the seal affixed to the above declaration is that seal; that he saw Joseph W. Savage, Mayor of the City of Rahway, sign the foregoing declaration of sale, and heard him acknowledge that he <sup>40</sup>

signed, sealed and delivered the same as the voluntary act and deed of the Mayor and Common Council of the City of Rahway, and that this deponent subscribed his name thereto as an attesting witness.

FRANKLIN MARSH.

Sworn and subscribed on }  
the day and year afore- }  
said, before me.

B. A. VAIL,

10 *Master in Ch'y of N. J.*

I do hereby send to the Honorable, the Justices of the Supreme Court of the State of New Jersey, the declaration of sale of the land and premises, as within I am commanded, as by the transcript of the same hereto annexed more fully appears.

Dated December 9th, 1884.

CAROLINE R. HUNT.

By VAIL & WARD,  
*Atty's.*

20

30

40

## NEW JERSEY SUPREME COURT.

The State,

SIGMUND WARSHING,

*Prosecutor,**vs.*

CAROLINE R. HUNT, and others,

*Defendants.**On Certiorari.**Reasons.*

10

And the said Prosecutor by Robert E. Chetwood, his attorney, comes &c., and alleges that the assessment for taxes made upon the property, appearing in the proceedings and return in this cause, as well as all the proceedings, had and taken on said assessment for the sale of said property, and the collection of said taxes, including said sale, and the certificate and declaration of sale, are illegal and void, and should be set aside and for nothing holden, for the following reasons.<sup>20</sup>

I. Because there is no legal and valid description of the property assessed, for the reason that there is no *ordinance* or *resolution* of the Common Council of the City of Rahway, either *authorizing the City Atlas to be made, or adopting the City Atlas that has been made.*

II. Because there is no legal and valid assessment roll of the Third Ward of the City of Rahway, for the year 1876, for the reason that there is no authentication of said assessment roll as required by law.

III. Because there is no warrant under the hands of the Mayor and Clerk of the City of Rahway, and under the seal of said city, upon the assessment roll of said ward for said year, commanding the Receiver of Taxes of said city to demand and collect the taxes from the several persons named in said assessment roll, opposite to their respective names, and to pay the same from time to time when so collected to the Treasurer of said city, according to the provisions of the charter of said city. 40

IV. Because no transcript of the unpaid taxes for the year 1876, assessed upon lands or real estate in said city, was prepared by the Receiver of Taxes of said city and delivered to the City Clerk of said city ; nor was any such transcript of unpaid taxes presented by the City Clerk to the Common Council of said city, as required by law.

V. Because the transcript of unpaid taxes for the year 1876, prepared by the said Receiver of Taxes, and afterwards delivered by the City Clerk to the Common Council of said city, did not contain any description of land or real estate assessed to the said Julia A. Chapman in said ward in said year.

VI. Because there was no legal and valid tax warrant issued by the Common Council of said city, for the collection of the said tax assessed against the said Julia A. Chapman for said year.

VII. Because there was no legal and valid advertisement or sale of the property so assessed to said Julia A. Chapman.

VIII. Because there is no legal and valid certificate of sale, issued for the sale of the said property so assessed, to the Mayor and Common Council of the City of Rahway.

IX. Because there is no legal and valid declaration of sale, issued by the Mayor and Common Council of the City of Rahway, for the property so assessed and sold, to the said Caroline R. Hunt.

X. Because the tax ordinance for the year 1876 ordains, that a portion of the moneys ordered to be raised by tax for said year, viz. : The sum of \$15000 shall be collected upon and from all persons residing and lands located, within the lamp and police district of the City of Rahway, which district is less in extent than the whole territory embraced within the corporate limits of said city, and the said sum of \$15000 was assessed upon persons residing and upon lands located in said lamp and police district.

ROBT. E. CHETWOOD,  
*Attorney of Prosecutor.*

# NEW JERSEY SUPREME COURT.

---

THE STATE:

SIGMUND WARSHING,

*Pros.*

AGAINST

CAROLINE R. HUNT, AND OTHERS,

*Deft s.*

---

## TESTIMONY.

---

### INDEX.

NAME.	DIRECT EXAMINATION.	CROSS-EXAMINATION.
Robert E. Chetwood,	3	4
William E. Blanchard,	5	
Franklin Marsh,	7 10 23	10 23
Edmund M. Brown,	13 21	19

---

RAHWAY, N. J.:  
W. L. MERSHON & CO.

1885.

# New Jersey Supreme Court.

10

THE STATE,  
SIGMUND WARSHING,  
*Pros.*

*vs.*

20 CAROLINE R. HUNT, and others,  
*Def't's.*

*On Certiorari.*

30

Transcript of testimony taken in the above stated cause before the subscriber, C. Addison Swift, a Master in Chancery of New Jersey, at the City Hall, in the City of Rahway, N. J., on Saturday, the seventh day of February, eighteen hundred and eighty-five, in the presence of Robert E. Chetwood, Esq., Counsel for the prosecutor; Messrs. Vail and Ward, Counsellors for the defendant, Caroline R. Hunt, and Garret Berry, Esq., Counsel for the remaining defendants.

C. ADDISON SWIFT,

40

Master in Chancery of New Jersey.

It is agreed that this testimony be taken before C. Addison Swift, as a Master in Chancery, by consent.

It is admitted that the prosecutor is the owner of the property in question, and assessed to Julia A. Chapman, and became owner thereof May 10<sup>th</sup>, 1884, and that he resides in New York city.

It is admitted that the Declaration of Sale, 10  
to Caroline R. Hunt, was recorded in the Clerk's office of the County of Union, on the twentieth day of June, 1884, in' Book 168 of deeds for said county on page 81, &c.

ROBERT E. CHETWOOD, a witness sworn on behalf of the prosecutor, testified as follows :

I am the attorney of the prosecutor ; I have examined the books of Ordinances of the Common Council of the City of Rahway, and there is no ordinance authorizing a City Atlas to be made ; nor is there any ordinance adopting the City Atlas that has been made ; I have examined the maps in the office of the Receiver of Taxes of the City of Rahway, known as the City Atlas, and from which maps property in the City of Rahway is described, for the purpose of assessment of taxes, and there is nothing to show on the City Atlas by what authority the same was made, nor that the same was made ; I have also examined the books containing the records of the proceedings of the Common Council of the City of Rahway, from the first day of January 1872, to the first day of January 1881, and there is no resolution on record authorizing a City Atlas to be made, or adopting any City Atlas that has been made. I have examined the assessment roll of taxes in the Third Ward in the City of Rahway, for the year 1876, and there was no warrant on such assessment roll, under the hand of the Mayor and Clerk of the said City, and under the seal of the 30  
40

said city, commanding the Receiver of Taxes of the City of Rahway to demand and collect the amount of taxes in the said assessment roll; there was no warrant of any kind upon the said assessment roll authorizing or directing, or commanding the demanding and collecting of said taxes.

10

*Cross-examination :*

By Mr. VAIL :

Q. Are you familiar with the books of the City?

A. I am.

Q. How long have you been so?

20 A. Well, for the last—Since about July 1881.

Q. Since about July 1881 up to the present time?

A. I have been familiar with them from about July, 1881.

Q. I ask whether you have been familiar with them from that time up to now?

A. I have not examined the books since about July 1881, up to that time I am familiar with them.

30 Q. Then your knowledge of the books is obtained from an examination of the books made about, or at that time?

A. Yes, sir.

Q. And before that time you had no knowledge of them?

A. No, sir, no knowledge.

ROBT. E. CHETWOOD.

40 Sworn and subscribed before me }  
this 7th day February, 1885. }

G. ADDISON SWIFT,

M. C. C. of N. J.

WILLIAM E. BLANCHARD, a witness sworn on behalf of the prosecutor, testified as follows :

*Direct-examination :*

By Mr. CHETWOOD :

10

Q. You live in the City of Rahway ?

A. Yes, sir.

Q. How long have you lived there ?

A. I have been here since 1868.

Q. Have you ever been Receiver of Taxes of the City of Rahway ?

A. Yes, sir.

20

Q. For what years—for what time ?

A. Commenced in May, 1878, until September, 1880.

Q. Have you been one of the Assessors of the City of Rahway ?

A. I was one of the District Assessors of the City of Rahway.

Q. What district were you Assessor of ?

A. The first district.

30

Q. What did that comprise ?

A. It comprised the first and fourth wards.

Q. For what time were you District Assessor ?

A. I was District Assessor from 1872 to 1878. I was Assessor in 1871.

Q. Are you familiar with the mode of assessment of taxes in the City of Rahway for the year 1876 ?

A. I am ; yes, sir.

40

Q. From what was the description of property taken, for assessment of taxes on property, in 1876, by the Assessors ?

A. The Assessors had a map of all those properties—the City Atlas.

Q. Taken from the City Atlas?

A. Yes, sir.

Q. Do you know when the description from the  
10 City Atlas was first taken for assessment—what year?

A. 1872.

Q. And been taken ever since then?

A. Yes, sir. From 1872 down to the present time the assessments have always been made from descriptions taken from the City Atlas.

Q. (Handing witness a copy of the tax ordinance  
20 for the year 1876.) Just look at that. The first section of that tax ordinance for 1876 ordains that fifteen thousand dollars shall be assessed upon property and persons in the lamp and police district in the City of Rahway, does it not?

A. Yes, sir.

Q. Do you know what the district, known as the lamp and police district of the City of Rahway, is comprised of?

30 A. I did then; I could not describe it now.

Q. For 1876?

A. I did know at that time.

Q. You did know then?

A. Yes, sir; but I don't know now. The lamp and police district in 1876 was less than the whole territory of the whole city.

Q. Do you know whether that fifteen thousand  
40 dollars was assessed in the lamp and police district in 1876?

A. Yes, sir.

Q. And the balance of taxes that year—the tax

ordinance, how was that assessed—the City at large?

A. Yes, sir; the City at large.

W. E. BLANCHARD.

Sworn and subscribed before }  
me this 7th day of Febrn- }  
ary, A. D. 1885.

10

C. ADDISON SWIFT,

M. C. C. of N. J.

Not cross-examined.

FRANKLIN MARSH, a witness called and sworn on behalf of the prosecution, testified as follows:

20

*Direct Examination.*

By MR. CHETWOOD.

Q. You are City Clerk of the City of Rahway?

A. Yes, sir, and have been so since 1882, May the 15th.

30

It is admitted that at the time these assessments were made there were ordinances in the City of Rahway fixing the lamp and police districts of said city, which districts were less in extent than the territorial limits of the City of Rahway.

Q. Have you before you the lists of delinquents for the year 1876?

A. Yes, sir; supposed to have been sent in by the Receiver.

40

Q. As set out in the return to the certiorari?

A. Yes, sir.

Q. In that list of delinquents does it anywhere appear what property is assessed ; that is, your return as delinquents ?

A. Yes, sir ; it can be very clearly identified.

Q. No ; does it appear in that list what property is assessed and returned as delinquent in taxes ?

10 A. Directly, no ; indirectly, yes.

Q. Where is it ?

A. We have the numbers here, which refer to the duplicates, which are—(Interrupted)

Q. You say directly, no ; indirectly, yes ?

A. Yes, sir ; they have marginal numbers here which refer to duplicate numbers on the tax duplicates, and from the tax duplicates—I am not familiar with the name of the book, but I call it the tax  
20 duplicate book—you can refer to the City Atlas, which gives the map number or block number, or whatever the case might be.

Q. Take for instance the property of Julia A. Chapman, returned as delinquent ?

A. Yes, sir.

Q. Now what property was she assessed for, that the taxes are returned unpaid in this list of  
30 delinquents ?

A. I should have to refer to the City Atlas and tax duplicates.

Q. Then the list of delinquents does not show the property assessed to Julia A. Chapman ?

A. No, sir, we simply consider this as a proper identification.

Q. Now in the return to the certiorari, page 5, the figures 189 to 199 inclusive, what do those  
40 figures mean ?

A. They refer to the numbers in the tax duplicates.

Q. Numbers of what ?

A. That is, the numbers for the purpose of identifying the property.

Q. Numbers of what ?

A. I cannot tell ; I know, as a matter of fact, that these numbers refer to numbers in other books, for the purpose of identification.

Q. What do they mean ?

10

A. They are placed there for the purpose of identification, to get the proper description of property from the tax duplicates and City map, to identify the property ; that is why they are placed there.

Q. Are those numbers the designation of the property assessed to Julia A. Chapman on the City Atlas ?

A. They are what we call the book number in the tax duplicate, by which we identify the property. 20

Q. Are those numbers on the pages on the assessment roll for the year 1876, upon which the property of Julia A. Chapman is assessed ?

A. No, sir, they are not pages, they are what we call the book numbers. They may be on any particular page, they are probably all on one page, same as those in the list. 30

Q. Now the amount that is returned due from Julia A. Chapman, for 1876, on this list of delinquent taxes, does the list show whether that is taxes on personal property or real estate ?

A. Directly it does not, indirectly it does, as a matter of fact it is upon real estate.

Q. I ask you, does this list, on the face of it, show whether those amounts are taxes on personal estate, or real estate ? 40

A. I can only state as a matter of fact.

Q. What does the book show ; is there anything there ?

A. No, sir, it does not show whether it is personal or real estate.

This book which I hold in my hand is marked "Book of Delinquents" page 641, near the bottom—the last eight lines, and this return, on page 5, was taken from this book of delinquents, referred  
10 to by me.

Q. Is there anything in the advertisement of sale return, and which appears on page 8, to show what property Julia A. Chapman was assessed for?

A. No, sir, nothing more than that; that is just as it appears; it was assessed as a farm.

*Cross-examination.*

20

(BY MR. VAIL.)

Q. This was the usual way, was it, of making the advertisement—of making the description in the advertisements?

A. No, sir, sometimes they were designated as map numbers.

Q. Just refer to them?

30 A. In a majority of cases they were referred to as map numbers.

Q. You said there was some other advertisement?

A. Yes, sir, there is another advertisement concerning the sale of these lands for taxes for the collection of unpaid taxes for the year 1876.

40

BY MR. CHETWOOD.

The Prosecutor objects to any advertisements of sale for unpaid taxes, except the advertisement, as it appears in the return.

Q. What is that you refer to ?

A. Twenty days' notice is required by law to be given, previous to the notice of the sale.

Q. What book are you looking at now ?

A. The book of proofs of publications, from June 18, 1874, to April 2, 1879.

Q. This book is not paged ? 10

A. No, sir, it is not paged.

Q. What do you find in that book—under what date ?

A. There is a twenty-days notice, under an affidavit dated the 9th of January, 1879, made by Lewis S. Hyer, the affidavit reads :—

“NEW JERSEY, }  
Union County, } ss. 20

“Lewis S. Hyer, being duly sworn on his oath, deposes and saith, that he is a resident of Rahway, in the State and County aforesaid, and is publisher of the National Democrat, a weekly newspaper, printed and published in the City of Rahway, and that the annexed is a true copy, and was published in said newspaper on the first day of November, 1877. 30

“Sworn and Subscribed before me, at Rahway, this 9th day of January, 1879. } Signed by, “LEWIS S. HYER.”

“H. M. OLIVER,  
Commissioner of Deeds.”

Following this is a copy of the twenty days notice referred to in the affidavit :— 40

“*Twenty Days Notice to Tax Payers* :—In Pur-

suance of the provision of the Revised Charter of the City of Rahway, public notice is hereby given, that a warrant has been issued commanding me to collect all unpaid taxes, as per list of delinquents, and that in pursuance thereof, unless such taxes are paid, with interest thereon, within twenty days  
 10 after the first publication of this notice, I shall proceed to collect the same by giving four weeks notice of public sale at auction, of all lands and real estate, whereon such taxes are imposed, which notice shall embrace the names of the owners of such lands or real estate, with the description thereof, the amount of taxes unpaid, with the interest and costs due thereon respectively.

20

“A. J. RITTER, *Receiver.*”

“November, 1, 1877.”

This book shows by affidavits, that that was published twice, in that form, on the first and eighth of November, 1877, respectively. It was changed — the heading was changed simply to  
 30 “Taxes of 1876, Twenty days Notice to Tax-Payers,” the words “Taxes of 1876” is added. On the 15th of November, by affidavit of Lewis S. Hyer, it appears that the same notice was published, with this addition, “Taxes of 1876” at the head of the notice.

Q. Do you know whether there was any assessment made against Julia A. Chapman, for personal property.

40 A. No, sir. As a matter of fact there was not.

Q. The assessment was only against her for real estate?

A. Only for real estate, to the best of my knowledge.

*Re-direct-examination.*

Q. You said that Julia A. Chapman was not assessed for personal estate, only for real estate ?

A. Yes, sir.

Q. How do you know that fact ?

A. Because she did not live in the City.

Q. You know that fact ?

10

A. Yes, sir.

Q. Do the books show it ?

A. The books show it, too.

Q. You know this as a matter of fact that she did not have any personal property in the City ?

A. Yes, sir, that she was assessed for.

Sworn and subscribed before me, this 7th day of February, A.D., 1885. } FRANKLIN MARSH. 20

C. ADDISON SWIFT,

M. C. C. of N. J.

EDMUND M. BROWN, a witness called and sworn on behalf of the Prosecutor, testified as follows :—

30

*Direct-examination.*

By Mr. CHETWOOD.

Q. You reside in Rahway ?

A. Yes, sir.

Q. Are you Receiver of Taxes of the City of Rahway ?

40

A. I am.

Q. And have been Receiver how long ?

A. Since September, 1880, continuously.

Q. And as Receiver have you charge of the collection of taxes in the City of Rahway?

A. Yes, sir.

Q. And also have in your possession the City Atlas?

A. Yes, sir.

10 Q. From which the descriptions of property is taken for the assessment of taxes?

A. Yes, sir.

Q. Will you produce the City Atlas for the Third Ward of the City of Rahway?

A. (Witness produced the same.)

Q. When was that map made?

A. I do not know of my own knowledge.

20 Q. Is there anything to show upon this Atlas when it was made?

A. Not that I know of.

Q. Or by whose authority it was made?

A. No, sir.

Q. Are you familiar with the location of the property of Julia A. Chapman in the Third Ward?

A. I am.

30 Q. And it appears on this City Atlas for the Third Ward?

A. Yes, sir, for the Third Ward.

Q. Have you the assessment roll for the Third Ward for the year 1876, if so, will you produce it, please?

A. (Witness produced the same.)

Q. How do you know that book is the assessment roll for the Third Ward, for the year 1876?

40 A. I only know it because it says so here.

Q. How do you know it?

A. It says here, "3rd Ward, Taxes 1876, City of Rahway."

Q. Those words and figures are endorsed on the book?

A. Yes, sir.

Q. Is there any certificate upon this book from any one, that that book is the Assessment roll, for the Third Ward, for the year 1876?

A. There is a certificate as follows, on page 101:— 10  
 “We, Nathan V. Compton, Thomas Marsh, and H. C. Marsh, Assessors at large, and John Van Ortwick, Assessor of the Second District, comprising the 2nd and 3rd Wards of the City of Rahway, do hereby swear, that we have diligently inquired respecting the nature and value of the real and personal estate liable to taxation in the districts and wards where we are assessors, and have to the best of our ability, and without favor or partiality, valued all the said 20  
 property liable to taxation lying in the said District or Wards, at the full and fair value, at such prices as in our judgment said property will sell for at a fair and bona fide sale, by private contract, on the day prescribed by law for commencing the assessment of taxes, deducting from such value only such balance of debts, as is prescribed by law.”

This affidavit is signed by N. V. Compton, Thomas Marsh and J. A. Van Ortwick. The attestation clause is “sworn to and subscribed by N. V. Compton, Thomas Marsh and J. A. Van Ortwick, before me, this 17th day of July, 1876. 30

E. H. ROPES,

Commissioner of Deeds.”

Q. Is that the only certificate upon this Assessment roll?

A. That is all. 40

Q. And that is your only means of knowledge that that is the assessment roll; from the endorsements on the back, and from this certificate?

A. That is all.

Q. What do the numbers from 180 to 199 on page 5, of the return, mean. Just those numbers?

A. They mean, that is what we call our book numbers. They are the numbers on our books of those lots; the numbers on our books, not of the lots, but  
10 of the book numbers, beginning at one and going on until the later end.

Q. Do not those numbers refer to the lines upon the page in which the assessment against Julia A. Chapman is,—those are mere numbers—do not they refer to the lines on the page in the duplicate, in which the assessment against Mrs. Chapman appears?

A. Yes, it refers to the lines on the duplicate of  
20 1876, upon which the assessment against Julia A. Chapman appears.

Q. How are those numbers put upon the duplicate?

A. Well, beginning at one.

Q. The numbers begin at the first page of the duplicate opposite the name of the first person assessed, and continue consecutively throughout the duplicate, and ends with the name of the last  
30 person assessed, is not that correct?

A. Yes, that is so. There are some lines that have no names on.

Q. Those are not numbered?

A. No, those are not numbered.

Q. Look in that duplicate; what is the name of the first person assessed in that duplicate?

A. Edgar Ayres.

Q. What is his number?  
40

A. His number is 1.

Q. On the first page?

A. Yes, sir.

Q. What is the name of the last person assessed?

A. James S. Young.

Q. And his number?

A. 1494.

Q. Do those numbers refer to, or in any way indicate the property assessed?

A. These numbers do not.

Q. The property assessed is designated how? 10

A. By the number of the map; it is located on the map . . . the map number.

Q. Also the number on the map?

A. Yes, the letter on the maps—the maps begin with the letters A, B, C, D, and so on.

Q. Please look at the fourth page of the return, and the first column of the return of the page, B II, and so forth, what do those figures and letters mean? 20

A. That means the letter of the map, and the number of the lot on the map.

Q. By which the property of Julia A. Chapman is assessed?

A. Yes, sir.

Q. For the year 1876?

A. Yes, sir.

Q. And I suppose that the figure 189 is on the line on the page upon which the first piece of property appears as assessed to Julia A. Chapman? 30

A. Yes, sir; that is it.

Q. And the other numbers to 197 inclusive, are the other lines on the same page on which the balance of the property appears assessed to Julia A. Chapman; is that correct?

A. Yes, sir.

Q. What are the map and lot numbers of the property assessed to Julia A. Chapman, as appears on that duplicate? 40

A. B, 11, 189; B, 6, 190; C, 1, 191; C, 1 1-2, 192;

C, 2, 193 ; C, 6, 194 ; C, 7, 195 ; C, 12, 196 ; C, 13, 197 ; C, 15, 198 ; A, 1, 199.

Q. What do the letters refer to ?

A. The letters refer to the map ; the letter of the map.

10 Q. And the figures ?

A. These figures refer to the number on the map —the number of the lot on the map.

Q. Upon the assessment roll for the Third Ward for the year 1866, is there a warrant under the hands of the Mayor and Clerk of the City of Rahway, and under the seal of the said City, commanding the Receiver of Taxes to collect from the several persons named in said assessment roll, the amounts assessed, opposite their respective names, and pay the same from time to time, as so collected, to the Treasurer of the said city ?

A. Upon the assessment roll of these taxes ?

Q. Yes, is there such a warrant on that book, commanding the Receiver to collect the taxes ?

A. No, there is a warrant on a separate book. I mean the warrant directing the Receiver to collect the unpaid taxes after the list of delinquents had been sent to the Common Council by the Receiver ; this warrant is annexed to the list of delinquents.

Q. Is there on that assessment roll ?

A. No, sir.

Q. Is there such a warrant on any of the assessment rolls in the City of Rahway ?

A. For any year ? In any of these books ?

Q. Yes ?

40 A. Not that I know of.

Q. You never saw any ?

A. I never saw any in any of these particular books.

Q. There has never been any such warrant put upon any assessment roll to your knowledge?

A. No, sir.

*Cross-examination.*

(By MR. VAIL.)

10

Q. Supposing I should ask you what property was designated by book number 189 on this duplicate, what would you say?

A. I should say it was the property designated on the map in the Third Ward, as belonging to Julia A. Chapman, and marked B, 11.

Q. Indicating the block and map number?

20

A. Yes, sir.

Q. Then these book numbers, as you call them, do designate property assessed?

A. Well, yes, they do, because they give us the

—(Interrupted.)

Q. Because they refer to the map and lot numbers on the map?

30

A. Yes, we turn and look at the book number; what we call the book number, beginning with one and going on down.

Q. Then they refer to the particular property just as clearly as the map letter, and lot number do?

A. Yes, sir.

Q. When taxes are paid to you, you enter them upon your ledger by the book number, do you not?

40

A. Yes, sir.

Q. And that is the only designation of the particular property that appears on your ledger?

A. That is all.

Q. Then of course you refer to those to see what property has been paid ?

A. Yes, sir.

Q. This return by you, on page 4 of this book, only includes book number 197; that should have  
10 been continued so as to include 199, should it not; to refer to the whole of Julia A. Chapman's property it should have included 198 and 199, should it not?

A. Yes, sir, it should have included them.

Q. And these numbers, 198 and 199 appear on this duplicate on the next page ?

A. Yes, sir.

Q. In the assessment to Julia A. Chapman for the  
20 year 1876, was there any assessment for personal property ?

A. There was none.

Q. Was the property of Julia A. Chapman in controversy in this suit, included in the lamp and police district at that time ?

A. It was not. It did not reach that.

Q. Then there was no assessment against her for lamp and police ?

A. Not in 1876.

Q. These maps that have been referred to as the  
30 City Atlas; have the assessments always been made up with reference to the map and lots on that map ?

A. Do you mean by the Assessors ?

Q. Yes ?

A. Yes, sir,—that is, since 1876.

Q. In 1876 and since ?

A. Yes, sir.

Q. And all taxes during 1876 and since, have  
40 been collected by those descriptions ?

A. Yes, sir.

Q. You have been Receiver of Taxes since September 1880, I think you said ?

A. Yes, sir.

Q. Have any warrants by the Mayor and Clerk of the City of Rahway, ever been attached to any assessment rolls put into your hands since you have been Receiver?

A. No, sir.

Q. Has anything ever been attached to the assessment rolls, except the certificate of the Assessors, which has already been read?

A. Nothing.

Q. Have you had occasion to examine the tax duplicates for the year 1876, and every year since that time?

A. I have.

Q. On any of the duplicates for 1876, or any of them since, does any certificate or warrant appear, except the certificate of the Assessors?

A. None of them.

Q. None at all?

A. No sir.

Q. How long has that property been assessed in the City of Rahway from the City Atlas?

A. Commencing in 1872 and continuing down to this time.

Q. Is the property in question, the only property owned by Julia A. Chapman in the Third Ward, in 1876?

A. It was. Lot C. 15, 198, is on Bramhall street; and lot A. 1, 199, is on Franklin avenue.

*Re-direct Examination.*

Q. Then these numbers that you refer to, all those do not fix the description or location of the property assessed?

A. No.

Q. When you get the number, where do you look, and how do you find out the description or location of the property meant by that number?

A. By this book, the number in here do you mean?

Q. Yes, when you get the number you say the number itself does not express it?

A. No.

Q. Where do you look, and how do you ascertain what property that number indicates?

A. I find it out by looking on the same line, opposite the number, and that line is the map letter and lot and map number upon it.

EDMUND M. BROWN.

20

Sworn and subscribed before me, this 7th day of February, A.D. 1885.

C. ADDISON SWIFT,

M. C. C. of N. J.

30

It is admitted that there was a resolution by the Common Council of the City of Rahway authorizing the assignment of the tax sale certificate to the defendant Caroline R. Hunt, and before the Declaration of Sale was executed, and in accordance with which the Declaration of Sale was made.

(Prosecutor rests.)

40

RAHWAY, N. J., February 14, 1885.

Continuation of examination of witnesses, in the above stated cause.

Appearance as before.

FRANKLIN MARSH, re-called for the defendants.

*Direct-examination.*

By MR. VAIL.

Q. Since your last examination have you examined the minutes of the Common Council, for the purpose of ascertaining whether there was any authorization by the Common Council, for the making of the City Atlas?

10

A. I find from the proceedings of the Common Council of the City of Rahway, of July 28th, 1871, on page 533 of the minutes of the Common Council, the following resolution:—"Resolved that the Finance Committee of the Common Council in cooperation with the City Assessors at large, be authorized to cause a City Atlas to be made to embrace the property lines of all the owners of real estate within the city limits, with an estimate of the real market value of each tract or parcel of real estate." Adopted by the following vote, viz: Affirmative, Councilmen, Halliday: Lufberry: Martin Schantz: B. A. Vail and H. C. Vail. Negative, Councilmen Houston: Howard: J. H. Jackson: C. H. Jackson and Roll.

20

30

By MR. CHETWOOD.

I object to this evidence as incompetent.

*Cross-examination.*

40

By MR. CHETWOOD.

Q. Have you found any record of the Common

Council since the above resolution was adopted,  
adopting the present City Atlas, or any City Atlas?  
A. No sir.

Signature waived.

10 Sworn and Subscribed before me, }  
this 14th day of February, A. }  
D. 1885.

C. ADDISON SWIFT.

M. C. C. of N. J.

Defendants Rest.

20

30

40

# New Jersey Court of Errors and Appeals.

10

CAROLINE R. HUNT, Plff. in Error, <i>vs.</i> THE STATE, SIGMUND WARSH- ING, Def't. in Error.	} <i>In Error.</i>	20
---	--------------------	----

The writ of error in the above stated cause, directed to the Supreme Court, was issued June 29, 1885, was made returnable July 18, 1885, and was duly returned. 30

The return thereto is as follows :—

The answer of the Justices of the Supreme Court of New Jersey, within named.

The record and proceedings whereof mention is made with all things touching and concerning the same, we do certify to the Court of Errors and Appeals in a certain schedule to this writ annexed as within we are commanded. 40

M. BEASLEY, C. J. { L. S. }

## NEW JERSEY SUPREME COURT.

June Term, 1885.

10

THE STATE,  
SIGMUND WARSHING,  
Prosecutor,  
*vs.*

20 CAROLINE R. HUNT, et als.,  
Defendants.

*On Certiorari  
Order.*

30 The Court having inspected the assessment of taxes for State, County and City purposes, and for School, Road and County Taxes, for the year eighteen hundred and seventy-six, assessed and imposed upon a certain lot of land and premises, situate in the Third Ward of the City of Rahway in the County of Union, in this State, assessed to Julia A. Chapman, by the following description, viz:—

40 “Known on City atlas map A. lot number one (1). Map B. lots number six (6) and eleven (11). Map C. lots number one (1) one and one-half (1½) two (2), six (6), seven (7), twelve (12), thirteen (13), and fifteen (15) farm,” and now the property of Sigmund Warshing, the said Prosecutor, and all the records and proceedings of the Mayor and Common Council of said City of Rahway, subsequent to said assessment of taxes, and all other records and

proceedings, returned with the Certiorari in this cause, the reasons for error assigned, and heard the arguments of Counsel thereon, and maturely considered the same, Do Order that the advertisement of sale, and the sale of said premises assessed as aforesaid to the said Julia A. Chapman for the unpaid taxes of said year; the certificate of sale of said premises for said unpaid taxes, to the Mayor and Common Council of the City of Rahway; the assignment of said certificate of sale, and the declaration of sale of said premises for said unpaid taxes, to the defendant, Caroline R. Hunt, and all proceedings of the said the Mayor and Common Council of said City of Rahway, and all other proceedings whatever, subsequent to the levy and assessment of said tax against the said Julia A. Chapman, brought up by the said Certiorari be reversed, set aside and for nothing holden, without costs to either party; and that the plaintiff in Certiorari be restored to all things he has lost, by reason of the illegal advertisement and sale of the said premises for the unpaid taxes as aforesaid, and that the said levy and assessment of taxes against the said Julia A. Chapman, for the said premises, be in all things affirmed.

10

20

30

Entered June 26, 1885.

On motion of

ROBT. E. CHETWOOD,

Atty. of Pros.

I, Benj. F. Lee, Clerk of the Supreme Court of the State of New Jersey, do certify that the foregoing is a true copy of an order made in above stated cause by said Court and entered in the minutes thereof.

40

In testimony whereof I have hereto  
set my hand and the seal of said  
court at Trenton, this tenth  
day of July, A. D. eighteen  
hundred and eighty-five.



10

BENJ. F. LEE, Clk.

On allegation of diminution, a writ of certiorari  
was granted and duly returned with depositions and  
reasons.

20

30

40

## COURT OF ERRORS AND APPEALS.

CAROLINE R. HUNT,

Plaintiff in Error,

*vs.*

THE STATE,

SIGMUND WARSHING,

Defendant in Error.

} *Assignment of* 10  
} *Errors.*

Afterwards, to wit, on the eighteenth day of July, in the year eighteen hundred and eighty-five, in the Court of Errors and Appeals comes the said Caroline R. Hunt by Vail & Ward, her attorneys, and says that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error in this, to wit:—

First. Because the Court refused to dismiss the writ of certiorari under the provisions of an Act entitled a Supplement to the Act to Regulate the Practice of Courts of Law, approved April 25, 1884. Pam. laws of 1884, p. 269. 30

Second. Because the said Court decided that there was a defect in the advertisement of sale.

Third. Because the Court directed that the description of the property in question in the advertisement of sale was insufficient.

Fourth. Because said Court decided that said sale and all the following proceedings, including the certificate of sale to the city of Rahway, and the declaration of sale to said plaintiff in error, were invalid. 40

Fifth. Because the said Court ordered judgment for the said defendant in error, whereas judgment should have been rendered for said plaintiff.

10 Therefore the said plaintiff prays that the judgment aforesaid, by reason of the aforesaid errors and of other errors appearing in the record and proceedings aforesaid, be reversed, annulled, and held for nothing, and that the said Caroline R. Hunt may be restored to all things she has lost on occasion of the said judgment, and that the said Sigmund Warshing may rejoin to the said errors, &c.

VAIL & WARD,

Attorneys for and of Counsel with  
20 plaintiff in error.

30

40

## OPINION.

WARSHING

*vs.*

HUNT.

10

1. The supplement to the act to regulate the practice of courts of law, approved April 25, 1884 (Laws, p. 269) limiting the allowance of a writ of certiorari to review an assessment of taxes, to recover which a sale has been made by virtue of any special or local law, to six years from the date or time of such sale, is prospective, and not retroactive. 20

2. Such construction is favored in law.

3. It is essential that all statutes of limitations which affect existing rights and remedies shall allow a reasonable time after they take effect for the commencement of suits on such cause of action.

4. An advertisement of sale of lots for taxes must be sufficient in description to warn the owner and direct the attention of others to the particular property to be sold. 30

New Jersey Supreme Court,  
February Term, 1885.

SIGMUND WARSHING

*vs.*

CAROLINE R. HUNT, et al.

40

R. E. CHETWOOD, for Prosecutor.

VAIL & WARD, and G. BERRY, for Defendants.

On Certiorari to review the tax for 1876, on land in the Third Ward of Rahway, assessed to Julia Chapman, and sold for taxes to the Mayor and Common Council of said city; the certificate of sale, the assignment thereof, and the declaration of sale to Caroline R. Hunt are returned.

10 The opinion of the Court was delivered by Scudder, J.

The first motion is made on behalf of the defendants, to dismiss the writ of certiorari, because not allowed within six years from the date or time of the sale, according to the supplement to the Act to regulate the practice of Courts of Law. Laws 1884, p. 269, approved April 25, 1884.

20 The sale of these lands for taxes was made January 5, 1878, the certificate of sale is dated March 20, 1878, and the writ was allowed October 20, 1884, after more than six years had elapsed.

30 The writ was prosecuted in aid of an action of ejectment and is within time, unless this recent statute is applicable. *State, Baxter v. Jersey City*, 7 Vr. 188. The act is brief and enacts "That no writ of certiorari shall hereafter be granted or allowed to review any assessment for taxes to recover which taxes any sale has been had or made by virtue of any special or local law, or to review the proceedings of any such sale, unless such writ be granted or allowed within six years from the date or time of such sale." It is to take effect immediately.

40 This sale was made under a special and local law, to wit: The Charter of the City of Rahway, and is in this respect, within the terms of the Statute. But the important question is whether the whole Act is intended to be retrospective or prospective only. Its terms are prospective and apply to all cases where in the future any sale has been had or made for the

recovery of taxes. The fact of such sale is made the point on which the limitation shall begin to act and the writ can only be granted or allowed within six years thereafter. It is true that the words "has been had," or "has been made," might apply to a sale that had been made before the law was enacted, but the construction already given, that it may indicate a sale in the future, is sufficient to decide which shall be adopted, for the rule of construction of Statutes is, that every reasonable endeavor shall be made so to interpret the statutory text, as to give the law a prospective and not a retroactive effect. *Proprietors v. Jones*, 7 Vr. 206. *State, Alden v. Newark*, 11 Vr. 92. *McGovern v. Connell*, 14 Vr. 106. *Citizens' Gas Light Co. v. Alden*, 15 Vr. 648. *Boylan v. Kelly*, 9 Stew. 334. 10

If a retroactive effect were given, then the cases of municipal sales in the past, where the parties may by statute (Revision 1045, sec. 15) have the proceedings reviewed by certiorari are suddenly deprived of this remedy without any time given before the act takes effect. A law limiting the time in which an action shall be brought, has been held not to apply to a suit which was begun after the act was passed, but before it took effect. *State, Vreeland v. Bergen*, 5 Vr. 438. 20 30

It is conceded that while there is no power in the legislature to take from this Court the right to allow a writ of certiorari, or to deprive the writ of any of its essential attributes as a prerogative writ, yet a reasonable regulation or limitation as to the time within which it is to be sued for and allowed, is valid. *Green v. Jersey City*, 13 Vr. 118. 40

But it has been doubted whether any such limitation can be imposed where an assessment on lands has been made under a statute which is challenged

as unconstitutional. *State, Van Cleef v. New Brunswick*, 9 Vr. 320.

It is essential that all statutes of limitation which affect existing rights and remedies, shall allow a reasonable time after they take effect, for the commencement of suits upon such causes of action.

This is a general rule which has been applied in many cases. *Cooley Const. Lim.*, sec. 366 and notes.

To give this statute immediate effect as a retroactive law, would take away rights now secured by statute without any time given for their assertion. This will not be presumed to be the legislative intention, nor will such construction be given, unless the words used are so positive as to permit no other interpretation.

The other reasons relating to the form of the assessment are either not sustained by the facts, as proved, or are amendable under the statute of 1881, and may be corrected by evidence outside the return. *Woodbridge v. Allen*, 14 Vr. 262. *Conover v. Honce*, 17 Vr. 347. It is not necessary to refer to them in detail.

There is, however, a defect in the advertisement of sale, which cannot be remedied. The only notice of what property is to be sold is in these words:—  
 “Third Ward, Chapman, Julia A., cost 1.50, Int. 24.22, Tax 177.23. Total 202.95.” This is the only advertisement of eight parcels of land, in the third ward belonging to Julia A. Chapman. To hold such notice of sales of lands for taxes good, would go far beyond any cases yet decided. *State, Allen v. Woodbridge*, 13 Vr. 401, where there was a fuller

description given, says it should be such as to warn the owner for what property he is assessed, and such as to secure a fair sale, by showing to purchasers what property is to be sold. Here, there was no notice to purchasers to indicate whether one lot or eight lots were to be sold, and no description whatever by which they could be identified.

10

This omission will invalidate the sale and all that follows it, including the certificate of sale to the city and the declaration of sale to Caroline R. Hunt.

The assessment is particular and sufficiently descriptive of the land, giving the name of the owner, the ward, the streets, number of lots, and amount assessed.

20

This will therefore be affirmed, but without costs to either party.

30

40

