

Court of Errors and Appeals.

THE MAYOR AND ALDERMEN OF JERSEY
CITY,

Plaintiffs in Error,

vs.

THE STATE, CHARLES B. BROECK ET
ALS,

Defendants in Error.

In Error.

The assessment in question was made under section 138 of an act entitled "An act to re-organize the local government of Jersey City," (Laws of 1871, p. 1094, &c.) The assessment was made against the "Anchor Manufacturing Company," but was afterward changed to appear on the books against the defendants in error. Under the section mentioned, the City claims that the tax assessed on personal property attaches to the goods, and that the change of name made by the Assessor did not invalidate the assessment.

ALLAN L. McDERMOTT,
Attorney of Plaintiffs in Error.

New Jersey Court of Errors and Appeals

THE MAYOR AND ALDERMEN OF JERSEY CITY,

Pltff. in Error,

v.

THE STATE, CHARLES B. BROECK, *et al.*,

Defendants.

On Certiorari.

Points of Defendants in Error.

The Charter of Jersey City provides:—"That the assessors shall constitute a board of assessors who shall confer together for the purpose of regulating the valuation of property in the several districts; each assessor shall within his district, assess the taxes for city purposes, as directed by the laws of this State for assessing township, county and state taxes in the following manner; they shall severally assess all real estate situate in their respective districts, both of residents and non-residents, and all personal estate situate in their respective districts belonging to non-residents in said city, and all the personal estate situated within said city, and also all the personal estate which is not elsewhere subject to taxation for township or municipal purposes of the residents in their respective districts, &c. (Sec. 138.)

“ And be it enacted, That the assessors of the several districts of said city shall cause to be filed with the clerk of the city a transcript or duplicate of the assessment of taxes levied in the city on or before the first day of August in each and every year; said transcript or duplicate shall be opened to the inspection of the taxpayers for the period of thirty days from the filing of the same; and shall also on or before that day, deliver another such transcript or duplicate to the clerk of the board of finance and taxation, said last transcript shall be delivered to the city collector who shall proceed to collect the taxes so assessed according to law.” (Sec. 141.)

See “An Act to reorganize the local government of Jersey City,” passed March 31, 1871. Pamp. Laws of 1871, p. 1094.

The general tax act (An Act concerning taxes, approved April 14, 1846, Rev. p. 1140,) provides:

§ 1. That the assessor of every township shall between the twentieth day of May and twentieth day of August annually, take a true account, and make out an exact list of the persons, lands, chattels, effects and estates, including certainties made ratable by law in that year, by which all assessments during the said year shall be regulated and made.”

The Act of April 11, 1866, sec. 6 (Rev. p. 1152), provides:

That the poll tax and tax on personal property shall be assessed upon each inhabitant liable to a personal tax in the township or ward where he resides, on the day prescribed by law for commencing the assessment in each year.

Sec. 7 provides that personal estate of non-residents shall be taxed in the township or ward where found.

Assessments for taxes must relate to the day in each year when by law the assessment is to be commenced.

State, *Shippen v. Hardin*, 5 Vr. 79.

State, *Tindall v. Vanderbilt*, 4 Vr. 38.

State, *Force v. Williamson*, 4 Vr. 77.

The evidence shows (p. 14) that the personal property assessed was assessed by the assessor to the Anchor Manufacturing Company.

That company was in possession of such personal property at the time limited for the commencement of the assessment for taxes, and continued in possession to a much later date, September 18, 1878. (See testimony of Broeck, p. 8.)

There is nothing to show on the books what personal property was on the premises at that time, and we do not have any means of ascertaining whether all or what part of the property assessed for taxes was conveyed by them to Broeck & Co.

Subsequently, after such sale, the name of the Anchor Manufacturing Company was erased from the assessor's book, and that of C. B. Broeck & Co. interlined in place of thereof.

The Anchor Manufacturing Company is alone liable for the tax.

It was in possession of the goods on the day of the commencement of the assessment, and did not, by the sale of part of the goods to C. B. Broeck & Co., make them liable for the whole tax, divest itself of any liability for taxes.

C. B. Broeck & Co., in purchasing such property, took it free of incumbrance.

By the statute it is evident that the lien for personal tax does not attach to the goods but only to the person.

The consideration paid by the prosecutors to the Anchor Manufacturing Company could in their hands be made to satisfy the unpaid tax, but not the goods themselves in the hands of the purchasers thereof.

JAMES B. VREDENBURGH,

of Counsel.

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Court of Errors and Appeals.

THE MAYOR AND ALDERMEN OF JERSEY
CITY,

Plaintiffs in Error,

vs.

THE STATE, CHARLES B. BROECK, ET
ALS.,

Defendants in Error.

In Error.

10

20

NEW JERSEY, ss: The State of New Jersey to our
Justices of our Supreme Court, greeting: Be-
[L. s.] cause in the records and proceedings, and also
in the giving of judgment in a plaint which
was in our Supreme Court before you, between the
State of New Jersey, Charles P. Broeck and William G.
Pennypacker, being the prosecutors, and "The Mayor and
Aldermen of Jersey City," a municipal corporation of
this State, being the defendants, on a certiorari issued out 30
of our said Supreme Court to the said, "The Mayor and
Aldermen of Jersey City" directed; manifest error, as is
said, hath intervened, to the great damage of the said,
"The Mayor and Aldermen of Jersey City," defendants
as aforesaid, as by the complaint of said defendants we are
informed, we being willing that the error, if any there be,
should in due manner be corrected and full and speedy
justice done to the parties aforesaid in this behalf, do com-
mand you that if judgment be thereon given and affirmed,
then you distinctly and openly send, under your seal, the 40

record and proceedings aforesaid, with all things touching the same, to our Judges of our Court of Errors and Appeals in the last resort in all causes at Trenton, on the first day of May next, and this writ, that the record and proceedings aforesaid being inspected we may cause to be further done thereupon what of right and according to law ought to be done.

Witness, Theodore Runyon, Esquire, President Judge of our said Court of Errors and Appeals, at Trenton aforesaid, 10 the twelfth day of April, in the year eighteen hundred and eighty-two.

HENRY C. KELSEY,

Clerk.

ALLAN L. McDERMOTT,

Attorney.

The answer of the Justices of the Supreme Court of New Jersey within named: The record and proceedings whereof mention is within made, with all things touching and concerning the same, we do certify to the Court of 20 Errors and Appeals in a certain schedule to this writ annexed, as within we are commanded.

M. BEASLEY, *C. J.* [L. s.]

JUDGMENT.

NEW JERSEY SUPREME COURT.

10

THE STATE, CHARLES B. BROECK, ET
AL., PARTNERS, ETC.,

*Pros.**vs.*

THE MAYOR AND ALDERMAN OF JERSEY
CITY.

On Certiorari.

20

This matter coming regularly on to be heard at the November Term, 1881, of the said Court, and having been duly argued before said Court by James B. Vredenburgh, of counsel with prosecutors, and Allan L. McDermott, of counsel with defendants, and the Court having taken time to consider the same.

It is now, at the February Term, 1882, of said Court, ordered that said assessment for taxes on the property of the prosecutors, and said tax warrant and all proceedings thereon as in the writ and return set forth and described be reversed, set aside and for nothing holden, with taxed costs to the prosecutors. 30

On motion of James B. Vredenburgh,

Atty. Pros.

Entered March 1st, 1882.

A true copy.

BENJ. F. LEE,

Clerk. 40

NEW JERSEY COURT OF ERRORS AND APPEALS.

IN THE LAST RESORT IN ALL CAUSES.

10	THE MAYOR AND ALDERMEN OF JERSEY CITY, <i>Plaintiffs in Error,</i> <i>vs.</i> THE STATE, CHARLES B. BROECK AND WILLIAM G. PENNYPACKER, <i>Defendants in Error.</i>	}	<i>Assignments of Error.</i>
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20 Afterwards, to-wit, on the return day of the said writ, before the Court of Errors and Appeals in the last resort in all causes of the State of New Jersey, come the said, "The Mayor and Aldermen of Jersey City," by Allan L. McDermott, their attorney, and assign the following causes of error:

First.—Because the Supreme Court decided that the assessment of personal tax against the prosecutors should be set aside on the ground that the same should have been
 30 assessed against the "Anchor Manufacturing Company."

Second.—Because the Supreme Court decided that the assessment of tax on personal property "had commenced and was, in fact, finished while the Anchor Manufacturing Company were the owners of the property taxed, and long before the prosecutors became the owners."

Third.—Because the Supreme Court decided that "the assessment was legally made to the Anchor Manufacturing
 40 Company."

Fourth.—Because the Supreme Court decided that a lien for taxes on personal property does not attach to the goods, but the owners of the property at the time of the assessment are liable for the tax, and that the duplicate could not be legally changed.

Fifth.—Because the Supreme Court set aside the said assessment of personal tax against the prosecutors, whereas, by the laws of New Jersey, said assessment should have been affirmed.

10

And the said, “The Mayor and Aldermen of Jersey City,” pray that the judgment aforesaid may be reversed, annulled and altogether held for nothing, and that they may be restored to all things which they have lost by occasion of the said judgment.

ALLAN L. McDERMOTT,

Attorney for Plaintiffs in Error.

Common joinder in error filed.

20

WRIT OF CERTIORARI.

NEW JERSEY, ss : The State of New Jersey, to the Mayor and
 Alderman of Jersey City and to Henry F. Crawford,
 [L. s.] ford, Constable, greeting : We being willing for
 10 certain reasons to be certified of an assessment of
 taxes for the year eighteen hundred and seventy-eight, upon
 the personal property of Charles B. Broeck & Company,
 situate at number 287 Warren street, in Jersey City, and
 the tax warrant issued thereon, and all proceedings taken
 for the collection of the said tax, together with all matters
 and proceedings touching or concerning the said assessment
 for taxes and said tax warrant.

We do command you that the said assessment for taxes
 so as aforesaid made by you the said, The Mayor and Aldermen
 20 of Jersey City, and the said tax warrant issued thereon,
 together with all matters and things touching and concerning
 the said assessment as the same remain with you, by whatever
 name the said Charles B. Broeck & Company may be designated,
 or the said property may be described therein to our Supreme
 Court at Trenton, on the fourth Tuesday of February next,
 you certify and send, together with this writ, that therein
 may be done what of right and according to the laws and
 constitution of this State ought to be done.

30 Witness, Mercer Beasley, our Chief Justice, at Trenton,
 the twentieth day of November, in the year of our Lord
 one thousand eight hundred and eighty.

BENJ. F. LEE, *Clerk.*

SCUDDER & VREDENBURGH, *Att'ys.*

I do herewith send to the Supreme Court of the State of
 New Jersey, the assessment for taxes of 1878, with all
 40 things touching and concerning the same, as within I am

commanded, as by the paper hereunto annexed more fully appears.

Witness my hand and seal this third day of June, A. D. eighteen hundred and eighty-one.

JAMES H. LOVE, [L. s.]


City Collector.


CITY COLLECTOR—OFFICE, CITY HALL.

District 1. Folio 83. Bring this bill when payment is 10 made.

[Anchor Manfg. Co.—erased sold out to Chas. B. Broeck,
To the Corporation of Jersey City, Dr.

1878. For the annual tax due in November, 1878, assessed for State, County and City purposes.

 The City Collector gives notice that the Commissioners of Appeals in cases of taxation, will meet on the fourth Tuesday of November, 1878, at the City Hall, at seven o'clock P. M., to correct errors of assessments, if any there be, and they will continue to meet at stated times 20 until all applications are disposed of.

 Upon all taxes paid prior to the 20th day of December next, the interest at the rate of 12 per cent. per annum will be deducted from the time of payment to that date. If not paid till after the 20th of December, 12 per cent. interest will be collected to date of payment, and penalty of 5 per centum on the amount of the tax, if the same be not paid before the tenth of January ensuing.

Rate of Taxation—\$17 on a thousand for city; \$4 per thousand for county; \$2.60 per thousand for State; tctal, 30 \$23.60 on a thousand.

Office hours from 9 to 4 o'clock.

JAMES H. LOVE,

City Collector.

Block—137.

Lot No.—Barrel Factory.

Location of Premises—Warren street.

Value of Personal Property—\$7000.

Total Amount Taxes—\$165.20.

I do herewith in the matter of the Certiorari in which Charles B. Broeck and William G. Pennypacker are prosecutors, send to the Supreme Court of the State of New Jersey, the original tax warrant mentioned in the certiorari to which this is my return. Also the distress and inventory of goods and chattels made by me September 18th, 1880, as I am commanded by the certiorari hereto annexed.

Dated at Jersey City, December 10th, 1880.

10

HENRY F. CRAWFORD,

Constable.

STATE OF NEW JERSEY, }
HUDSON COUNTY, } ss:

COURT FOR THE TRIAL OF SMALL CAUSES.

Before A. L. Sears, *Justice of the Peace.*

The Mayor and Aldermen of Jersey City *vs.* C. B. Broeck & Co., 287 Warren street.

20

TAX WARRANT.

Taxes for the year 1878.....	\$193 10
Dollorage.....	3 86
Costs	36
Total	<u>\$197 32</u>

By virtue of a Tax warrant in the above stated cause, I have distrained on and inventoried the following goods and
30 chattels, to-wit :

Two desks.
One safe.
One looking-glass.
One barrel wagon, with frame on sides.
One gray horse.
One set of harness.
Four chairs.
One stool.
One hand truck.
A lot of barrels.

40

A lot of coopers tools.

A lot of hoops and staves.

Date of Distress, Sept. 18th, 1880.

HENRY F. CRAWFORD,

Constable.

TAX WARRANT.

HUDSON COUNTY, *ss* :

10

The State of New Jersey to Henry F. Crawford, one of the Constables of said County :

Whereas, James H. Love, Collector of Jersey City, in the county aforesaid, did on the twenty-seventh day [L. s.] of August, 1880, deliver to the subscriber, one of the Justices of the Peace of said county, a list of the names of persons delinquent in paying their taxes in said city, with the sum due from them respectively, thereto annexed ; and I did administer an oath to said collector, that the moneys in said list mentioned had been duly demanded, or due notice thereof given or left at their usual place of residence of each delinquent who could be found, or who then resided in the said city, a copy of which said list is hereto annexed ; you are therefore commanded to levy the tax so in arrear, with costs, by distress and sale of the goods and chattels of the said delinquents respectively, giving at least four days' notice of the time and place of such sale, by advertisements set up in three of the most public places in the city, and pay the said taxes to the said city collector within forty-five days after the date hereof ; and if goods and chattels of the said delinquents respectively, or any one or more of them cannot be found, or not sufficient to make the money required, take the body of said delinquent, if to be found in the county aforesaid, and deliver the same to the sheriff of said county or his jailor, to be kept in close and safe custody until payment be made of the said tax, with costs ; and make return to me of this warrant, with a schedule thereunto annexed, according to law.

40

Given under my hand and seal this twenty-seventh day
of August, 1880.

C. B. BROECK & Co.

Taxes 1878,	165 20
Int.	27 90
	<hr/>
	193 10

A. L. SEARS,
Justice of the Peace.

NEW JERSEY SUPREME COURT.

THE STATE, CHARLES B. BROECK, ET ALS., vs. THE MAYOR AND ALDERMEN OF JERSEY CITY, <i>Defendants.</i>	}	<i>On Certiorari.</i> 10 <i>Testimony.</i>
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Examination of witnesses, taken before me, John W. Bissell, a Master in Chancery of New Jersey, at my office, No. 254 Washington street, Jersey City, New Jersey, on Thursday the twenty ninth day of September, A. D. eighteen hundred and eighty-one, at eleven o'clock in the forenoon, in the presence of James B. Vredenburg, Esquire, attorney for the prosecutors, and Allan McDermott, Esquire, attorney for the defendants.

The above examination is taken before me at the time and place above mentioned, by consent of the attorneys of the respective parties.

James H. Love, a witness produced on the part of the presecutors, being by me duly sworn according to law, on his oath says : 30

I am the City Collector of Jersey City, the defendants. I have charge of the assessors books after the assessment is confirmed by the Board of Finance and Taxation of Jersey City. The assessors books are confirmed by the Board of Finance on different days in different years, generally from October 15th to November 1st. The assessors book was confirmed by the Board of Finance on the day of for the year eighteen hundred and 40

seventy-eight. Up to that date I had not the possession of it; and after that date I have had the possession of it up to the present time.

(The book is produced and offered in evidence, and by consent a copy from the book is marked as an exhibit in this case, in place of book itself—said copy is marked Exhibit "P. 1.")

10 Q. Is the erasure of the name Anchor Manufacturing Company on this exhibit similar to the erasure of that name on the book?

A. This exhibit is an exact copy in that respect. To the best of my knowledge and belief the real estate on which this barrel factory is located is owned by the Malone estate. I know that in the year eighteen hundred and seventy-eight it was assessed to them.

And being *cross-examined*, the witness says:

20 Q. This erasure was made before the assessment for this personal estate was completed?

A. Yes, sir.

And being *re-examined*, the witness says:

Q. What erasure do you refer to?

A. The erasure of "The Anchor Manufacturing Company," in Exhibit P. 1, and the words "sold out to Charles B. Broeck & Company," were substituted.

30 Q. What do you mean by personal estate?

A. By this personal estate I mean the valuation, amounting to seven thousand dollars assessed as "barrel factory," and located on the lands of estate of Malone, fronting on Warren street—No. 283 Warren street.

JAMES H. LOVE.

Taken, sworn and subscribed to before me at Jersey City, New Jersey, this 29th day of September, A. D. 1881.

J. W. BISSELL,

Master in Chancery of New Jersey.

Charles B. Broeck, a witness produced on the part of the prosecutors, being by me duly sworn according to law, on his oath says :

Q. Of whom does the firm of Charles B. Broeck & Co. consist ?

A. It consists of myself and William G. Pennypacker. It was formed in the year eighteen hundred and seventy-five, in March, I think. Prior to September, eighteen hundred and seventy-eight, the firm carried on business at the foot of Bank street, New York. Mr. William G. Pennypacker now lives at Wilmington, Delaware; he has never lived in the State of New Jersey. I reside in the Arlington House, in Warren street, Jersey City. I have resided in Jersey City since May 1st, 1880; prior to that date I never lived in New Jersey. I do business at present in Jersey City at No. 283 Warren street. I have been in business in Jersey City since sometime in September, 1878—I think the 20th of September. Prior to the 20th of September, 1878, I never carried on business in New Jersey. Prior to the 20th of September, 1878, I did not own a dollar's worth of personal property in the State of New Jersey—I am speaking of the firm—neither as a firm nor individually. Prior to September 20, 1878, we carried on business at the foot of Bank street, in the City of New York, and were assessed there on all my personal property and on the personal property of the firm we paid our taxes there. In September 20th. when we came to New Jersey to do business, the Anchor Manufacturing Company was doing business at No. 283 Warren street, Jersey City. Our property was distrained for taxes by Crawford, or threatened to be done. I can't recollect the date. Refreshing my memory from a letter from Henry F. Crawford, it was shortly prior to November 16th, 1880. The constable, Henry F. Crawford, with the warrant, came in and took an inventory in the office of desks and such things; looked out of the window and saw a white mare of mine, and took an inventory of her, and he also included the hoops—about three thousand dollars worth—in the inventory.

Witness is shown a letter from Henry F. Crawford, bear- 40

ing date November 16th, 1880, and is marked as Exhibit P. 2, in this cause.

I received this letter by mail about the time the letter bears date.

(The introduction of the letter is objected to by defendant's attorney.)

And being *cross-examined*, says :

10 I last paid personal taxes in New York ; I can't recollect the date. To the best of my knowledge I believe I paid taxes in New York in the year 1878. I purchased this property on Warren street from the Anchor Manufacturing Company ; we paid some money and gave notes for the balance ; the whole thing amounted to forty-one thousand five hundred dollars (\$41,500) ; that money was paid for the entire purchase of their outfit, and for cooperage stock, made up and unmade. That stock was located at No. 283 Warren street, and the foot of Warren street. I don't
20 know whether we were taxed for the property at the foot of Warren street. We haven't paid any taxes for property at the foot of Warren street, Jersey City.

Q. What property included in this schedule in this cause annexed to the return of Henry F. Crawford, if any, did you pay tax upon in the City of New York, or in the State of New York ?

A. At the foot of Bank street, New York, I paid tax on the barrel wagon, gray horse, set of harness—that's all.

Q. On the 20th of September, 1878, did you not have
30 seven thousand dollars worth of personal estate in Jersey City upon which you had not paid taxes in New York ?

A. I suppose I may say I had, for my purchase was made on that day.

Q. Did you not have that amount in the building, No. 283 Warren street ?

A. I did—I speak for the firm—altogether.

Q. Have you paid any tax upon that property in any other State for that year ?

A. No, sir, I have not for any other year. I did not
40 entirely surrender my business in New York when I came

here. Our principal place of busines in September, 1878, was at the foot of Bank street, New York. Our principal business was first in Jersey City in May, 1880.

Q. Did you ever make return to the authorities of any other city of the fact that you owned this property in Jersey City?

A. No, sir.

Q. Where are the articles of your partnership filed?

A. They are not filed publicly anywhere.

Q. When did you last pay personal taxes in New York? 10

A. In 1879.

Q. What was the personal property of your firm worth in New York on October 1st, 1878?

A. I guess between forty and fifty thousand dollars.

And being *re-examined*, the witness says :

Since seeing my receipt I can say definitely that I paid all taxes assessed against Charles B. Broeck & Co. in the City of New York for the year 1878.

Q. Were you or Charles B. Broeck & Co., or Penny-²⁰ packer, in any way interested in The Anchor Manufacturing Company prior to your purchasing in 1878?

A. In no way, shape or form.

And being *re-cross-examined*, the witness says :

Q. What is the value of the personal property of your firm in Jersey City?

A. We are insured for forty-one thousand five hundred³⁰ dollars.

CHAS. B. BROECK.

Taken, sworn and subscribed to before me, at Jersey City, New Jersey, this 29th day of September, A. D. 1881.

J. W. BISSELL,

Master in Chancery of New Jersey.

EXHIBIT P. 1—*On part of Prosecutors.*

WARREN STREET, BLOCK 137.

Owners of Property and persons taxable—[Anchor Manfg. Co.—erased] sold out to Charles B. Broeck & Co.

Map Nos. of Lots—(Barrel Factory) makes bbls. for
10 Sugar House for M. & W.

Value of Personal Estate—\$7000.

Amount of City Tax—\$119.

Amount of County Tax—\$28.

Amount of State Tax—\$18.20.

Total Amount of Tax—\$165.20.

I hereby certify that the above is a correct copy of the assessment for taxes of 1878, against Barrel Factory located on Warren street, as shown by the Assessor's Book of the First Aldermanic District of Jersey City, for the year 1878.

20 Dated Jersey City, September 28th, 1881.

JAMES H. LOVE,

City Collector.

EXHIBIT P. 2.

JERSEY CITY NOVEMBER 16th 1880

To C B BROECK & Co

In the matter of Tax Warrants I hold against you for
30 Taxes due the Mayor and Aldermen of Jersey City for the year 1878 must be paid immediately or I *shall* without further notice advertise the goods and Chattels Distrained on by me Sept 18th 1880 for sale you Lawyer Mr Vredenburg informed me that there was some mistake about the tax which he intended to look into. I have waited as long as I can in the matter and can wait no longer Yours &c

HENRY F CRAWFORD *Constable.*

NEW JERSEY SUPREME COURT.

THE STATE, CHARLES B. BROECK et al, PARTNERS, &c., <i>vs.</i> THE MAYOR AND ALDERMEN OF JERSEY CITY.	}	<i>Pros.</i> <i>On Certiorari.</i> 10 <i>Reasons.</i>
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And the said prosecutors, by Scudder & Vredenburg, their attorneys, come and assign the following reasons why the said assessment for taxes, and the tax warrant and proceedings thereon in the said returns set forth, should be 20 reversed, set aside, and for nothing holden :

First.—Because at the time the said assessment for taxes was made, the said personal property was owned by The Anchor Manufacturing Company.

Second.—Because said assessment was made against The Anchor Manufacturing Company, and that afterwards the name of The Anchor Manufacturing Company was illegally erased from the assessor's books by some person, and that 30 of the prosecutors' illegally inserted therein, in the place of said company.

Third.—Because during the said year for which said taxes were levied, the said prosecutors were not residents of the State of New Jersey, and were engaged in no business within the State of New Jersey, but were in business out of said State, to-wit, in the City of New York exclusively, and they paid taxes on all their personal property in the said City of New York.

Fourth.—Because during said year the said prosecutors owned no personal property whatsoever in the State of New Jersey.

Fifth.—Because in said assessment there is no proper and legal description of the property assessed.

Sixth.—Because for other good and sufficient reasons the said assessment, tax warrant and proceedings thereon should be set aside and for nothing holden.

10

SCUDDER & VREDENBURGH,
Attorneys of Prosecutors.

OPINION.

Argued at November Term, 1881, before Justices Depue, Van Syckel and Parker.

J. B. Vredenburgh, *for Prosecutors.*

Allan L. McDermott, *for Defendants.*

10

The Opinion of the Court was delivered by Parker, *J.*: The writ of certiorari in this case presents the question of the legality of the assessment of taxes on personal property for the year 1878, claimed by the defendants to belong to Charles B. Broeck & Company.

The Anchor Manufacturing Company owned the property up to the 20th day of September, 1878, and on that day sold it to Broeck & Co. The duplicate shows that the assessment was first made to the Anchor Manufacturing 20 Company as owners, and that it was subsequently changed by erasing the words "Anchor Manufacturing Company," and added these words, "Sold out to Charles B. Broeck & Co."

The evidence shows that the prosecutors in the year 1878 did not reside in the State of New Jersey, and carried on business in the State of New York, where they were taxed on personal property.

The charter of Jersey City provides that the assessors of the several districts shall cause to be filed with the clerk of 30 the city, a transcript or duplicate of assessment of taxes levied in the city on or before the first day August in each year—and that for the period of thirty days such transcript or duplicate shall be open to inspection—and on or before the time last named (September 1st) shall deliver another transcript or duplicate to the city collector, who shall proceed to collect the taxes so assessed.

The general law of the State passed April 11, 1866, section 6, provides that the tax on personal property shall be assessed upon each inhabitant liable to a personal tax on 40

the day prescribed by law for commencing the assessment in each year. The assessment had commenced, and was in fact finished, while the Anchor Manufacturing Company were the owners of the property taxed, and long before the prosecutors became the owners.

The assessment was legally made to the Anchor Manufacturing Company. A lien for taxes on personal property does not attach to the goods, but the owners of the property at the time of the assessment are liable for the tax. The
10 duplicate could not legally be changed.

The following cases apply, viz :

State, Shippen *v.* Hardin, 5 Vroom, 29.

State, Force *v.* Williamson, 4 Vroom, 77.

The assessment against the prosecutors was illegal, and is set aside with costs.