

WM. S. SHARP, Printer, 23 East State Street, Trenton, N. J.

# Court of Errors & Appeals.

FREDERICK R. WILKINSON

*et als.,*

*vs.*

THE INHABITANTS OF THE  
CITY OF TRENTON.

Writ of Error to  
Supreme Court.

Returnable June Term, 1872.

KINGMAN & JOHNSON,

*Attorneys for Plaintiff in Error.*

JAMES S. AITKIN,

*Attorney for Defendants in Error.*

## WRIT OF ERROR.

[Returnable June Term, 1872.]

New Jersey, ss.—The State of New Jersey to the Justices of the Supreme Court of the State of New Jersey—  
[L. s.] Greeting: Because in the record and proceedings and also in the giving of judgment in a certain plaint, which was in our said court, before said Justices, by our writ of *certiorari*, wherein Frederick R. Wilkinson,

Alexander Roddy, George Callen and Louisa Callen, were prosecutors, against The Inhabitants of the City of Trenton, defendants, as is said, manifest error hath intervened to the great damage of the said prosecutors, as by their complaint 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 command you, that if judgment be thereupon given, then, without delay, you distinctly and openly send to us, under  
 10 your seal, the record and proceedings aforesaid, with all things touching the same, together with this writ, so that you may have them before our Court of Errors and Appeals, in the last resort, at Trenton, on the third Tuesday of June next, that the record and proceedings aforesaid being inspected, we may further cause to be done thereon what of right and according to the laws and customs of the State of New Jersey ought to be done.

Witness the Hon. Abraham O. Zabriskie, Chancellor and Judge of our said Court of Errors and Appeals, at Trenton,  
 20 the tenth day of April, A. D. eighteen hundred and seventy-two.

HENRY C. KELSEY, *Clerk.*

KINGMAN & JOHNSON, *Attorneys.*

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 Errors and Appeals in a certain schedule to this writ annexed, as within commanded.

30

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

*WRIT OF CERTIORARI.*

New Jersey, ss.—The State of New Jersey, to the inhabitants of the city of Trenton, Greeting: We being  
 [L. s.] willing for certain reasons to be certified of a certain ordinance entitled “An ordinance to lay out and open a street, commencing on the easterly side of Wil-

low street, opposite to the present easterly terminus of Quarry street, and running thence to the westerly side of Warren street," passed August 3d, 1869, and all the acts and proceedings of the Common Council of the said city, touching and concerning the same, and also of the report of commissioners appointed under said ordinance, to make an estimate and assessment of the damages that the owners of land taken for opening said street will sustain by the laying out and opening of said street, and of all matters touching and concerning the same, do command you that the said ordinance and the said report, and all matters touching and concerning the same, as fully as they remain before you or under your control, you certify and send to the Justices of the Supreme Court, at Trenton, on the first Tuesday of June next, together with this writ, that therein may be done what of right and according to the constitution and laws of this State ought to be done. 10

Witness Mercer Beasley, Esquire, Chief Justice, at Trenton aforesaid, the sixth day of March, A. D. eighteen hundred and seventy-one. 20

CHARLES P. SMITH, *Clerk.*

KINGMAN & JOHNSON, *Attorneys.*

City of Trenton: The Inhabitants of the City of Trenton do hereby send to the Supreme Court of the State of New Jersey, copies of the ordinances, reports, and other proceedings of the Common Council as herein commanded. By order of the Common Council.

A. M. JOHNSTON, *City Clerk.*

PROCEEDINGS OF THE COMMON COUNCIL IN REFERENCE TO THE  
EXTENSION OF QUARRY STREET TO WARREN STREET. 30

June 1st, 1869.

Mr. Cook presented the petition of F. R. Wilkinson and others, property owners, representing that the public good requires a street to be laid out and opened from the easterly

side of Willow street to the westerly side of Warren street, and requesting Council to cause a street to be laid out and opened, commencing on the said easterly side of Willow street, opposite the present easterly terminus of Quarry street, and running thence the same direction as Quarry street, to Barnes street, and from thence in a more northerly direction to the said westerly side of Warren street, said street to be sixty feet in width.

Which was read. When

- 10 Mr. Cook moved that the City Clerk advertise in accordance with the city charter, the intention of Council to lay out and open said street, and requesting all persons objecting thereto to file their objections in writing in his office within ten days after the date of such notice.

Which was agreed to.

Mr. Cook introduced "An ordinance to lay out and open a street from the easterly side of Willow street, opposite to the present easterly terminus of Quarry street, and running thence to the westerly side of Warren street."

- 20 Which was read a first time by its title. The said ordinance was as follows:

CITY OF TRENTON.

An ordinance to lay out and open a street commencing on the easterly side of Willow street, opposite to the present easterly terminus of Quarry street, and running thence to the westerly side of Warren street.

*The Inhabitants of the City of Trenton do ordain:*

1. That a street sixty feet in width be and the same is hereby laid out, commencing on the easterly side of Willow street, opposite the present easterly terminus of Quarry street, and running the same direction as Quarry street, to Barnes street, and from thence more northerly in a direct line to the said westerly line of Warren street, and that the lands required for said street are hereby taken and appropriated for that purpose.
2. That said street shall be known by the name of West Hanover street.
3. That the city surveyor shall establish the proper grade

for said street under the supervision of the Street Committee.

4. That the said street shall be graded under the supervision of the Street Commissioner, and he shall cause the expense thereof to be assessed on the lots fronting or bordering on said street in conformity with the provisions of the city charter.

Which was read a first time and referred.

The following is a copy of the petition hereinbefore mentioned: 10

*To the Common Council of the City of Trenton :*

The petition of the subscribers, property owners and residents of the city of Trenton, respectfully represents that the public good requires a street to be laid out and opened from the easterly side of Willow street to the westerly side of Warren street, and they would respectfully petition your Honorable Body to cause a street to be laid out and opened, commencing on the said easterly side of Willow street, opposite to the present easterly terminus of Quarry street, and running thence the same direction as Quarry street, to Barnes 20 street, and from thence more northerly in a direct line to the said westerly side of Warren street, said street to be sixty feet in width.

Trenton, April 1st, 1869.

F. R. Wilkinson,	Wm. Dolton,	
Edmund Bartlett,	John C. Disbrow,	
L. R. Furman,	Richard Sutphin,	
Ogden W. Blackfan,	Benj. S. Disbrow & Son,	
Lafayette Stradling,	J. E. Roberts,	
John R. Pearson,	Joseph Ashton,	30
Jesse Crosley,	Thos. Biddle,	
J. H. Wood,	George L. Dean,	
Florence McCarty,	John Halbert,	
Alex. Roddy,	J. R. Freese,	
Robert Farrell,	John Auer,	
Meirsozmlsor Gnezurt,	Whitaker & Skirm,	
Anthony Smith,	Matthew Dugan,	
William W. Gillespy,	Stephen O. Blackwell,	

	Isaac A. Dunn,	Samuel Kay,
	Amanda M. Colby,	William A. Benjamin,
	Patrick Fee,	Joshua Furman,
	Jacob S. Carr,	George Williamson,
	Samuel Prior,	Deacon Brock,
	Wm. H. Potts,	Joseph Auer,
	M. A. Heulings,	Charles Lyons,
	James B. Coleman,	Peter J. Kite,
	Henry Thøene,	L. R. Titus,
10	Samuel Roberts,	J. G. Stevens,
	C. B. Vansyckle,	William Warren,
		James Quigley.

## ENDORSED.

Petition of F. R. Wilkinson and others to extend and open Quarry street from Willow to Warren street.

June 1st, 1869.

Notice to be given.

July 6th, 1869. The City Clerk presented a report that notice of the intention of Council to lay out and open a  
20 street sixty feet in width, commencing on the easterly side of Willow street, opposite the easterly terminus of Quarry street, and running thence in the same direction, to Barnes street, and thence more northerly in a direct line to the west side of Warren street, had been published as required by the city charter, and that Harmon Booze had filed his objections thereto in the City Clerk's office.

The notice referred to was as follows:

## CITY OF TRENTON.

Notice is hereby given that it is the intention of the Com-  
30 mon Council to cause to be laid out and opened, a street commencing on the easterly side of Willow street opposite to the present easterly terminus of Quarry street, and running thence the same direction as Quarry street, to Barnes street, and thence more northerly, in a direct line, to the said westerly side of Warren street, said street to be sixty feet in width.

And all persons objecting thereto are hereby requested to file their objections, in writing, in the City Clerk's office, on or before the expiration of ten days from the date of this notice.

A. M. JOHNSTON, *City Clerk.*

Dated June 7th, 1869.

The objections of H. Booz were as follows:

TRENTON, June 14th, 1869.

*To the Common Council of the City of Trenton:*

I object to the interference or removal of any of my build- 10  
ings or taking of my land for the purpose of extending  
Quarry street from Willow to Warren street, there being an  
alley upon the south side of my property twenty-six feet  
wide, answering all purposes.

HARMON BOOZ.

Filed June 14th, 1869.

August 3d, 1869. Mr. Keegan, from the Ordinance Com-  
mittee, reported:

"An ordinance to lay out and open a street commencing  
on the eastly side of Willow street, opposite the present 20  
easterly terminus of Quarry street, and running thence to  
the westerly side of Warren street."

Which was read a second and third time, and passed by  
the following vote:

*Yeas*—Messrs. Becker, Bellerjeau, Bigelow, Cogill, Cook,  
Davis, Howell, Kafes, Keegan, Kelly, Lenox, Megill, Moore,  
Naar, (Pres't), Nelson, Skillman, Stokes, Taylor—18.

*Nays*—None.

Mr. Vanhorn, from the Street Committee, reported the  
following:

30

*To the Common Council:*

The Street Committee, who were authorized by Council to  
treat with the owners of the land and real estate required for  
the laying out and opening a street, commencing on the  
easterly side of Willow street, opposite to the present east-  
erly terminus of Quarry street, and running thence to the

westerly side of Warren street, for the same, report that they cannot agree with the owners thereof, *by reason of the legal incapacity* of some of said owners, for the same, for the purpose aforesaid.

LEWIS H. VANHORN,  
WM. M. LENOX,  
CHAS. B. COGILL,  
*Street Committee.*

I certify the above to be a true copy of the report of the 10 Street Committee, presented to the Common Council, August 3d, 1869, and accepted.

A. M. JOHNSTON, *City Clerk.*

TRENTON, Sept. 6th, 1869.

Mr. Vanhorn offered the following :

Whereas, the street committee of the Common Council have been unable to agree with the owners of land in the Second Ward of the city of Trenton, necessary for the laying out and opening of a street, commencing on the easterly side of Willow street opposite to the present easterly terminus of Quarry street, 20 and running thence to the westerly side of Warren street; and whereas, the following land and real estate has been, by virtue of an ordinance entitled "An ordinance to lay out and open a street, commencing on the easterly side of Willow street, opposite to the present easterly terminus of Quarry street, and running thence to the westerly side of Warren street," passed August 3d, 1869, taken as requisite for the purpose of laying out and opening said street, described as follows, to wit :

1. A lot of land belonging to Harmon Booze, beginning 30 on the easterly side of Willow street, at a point one foot northerly from the corner of Potts alley (Tan Yard alley); thence (1) by the line of said proposed street south sixty-seven and one half degrees east, fifteen feet to the northerly side of said Potts or Tan Yard alley; thence (2) running along the northerly side of said Potts or Tan Yard alley, south seventy-seven degrees east, one hundred and forty-three feet to the westerly side of Barnes street (formerly called New street); thence (3) running along the westerly

side of said Barnes street north thirteen degrees east, forty-three feet, to the northerly side of the proposed West Hanover street; thence (4) by the northerly line of said street, and by lands remaining to said Booze, north sixty-seven and one-half degrees west, seventy-six feet to the rear line of land belonging to P. Henry Downing; thence (5) running along the rear line of said Downing's land and a lot of James Ewing and Mary Armstrong, south thirteen degrees west, twenty-five and one-half feet, to the southeasterly corner of said Ewing and Armstrong's lot; thence (6) running along said lot, north seventy-seven degrees west, eighty feet to the easterly side of Willow street; and thence (7) running along the easterly side of Willow street south thirteen degrees west, twenty-four feet to the place of beginning: containing five thousand four hundred and ninety-eight square feet (5,498 s. ft.), being lots Nos. fifty and seventy-one (50 and 71), and parts of lots Nos. fifty-one and fifty-two (51 and 52), on page twenty City Atlas.

2. A lot of land belonging to James Ewing and Mary Armstrong, beginning on the easterly side of Willow street, at the corner of Harmon Booze's lot; thence (1) running along said side of Willow street, north thirteen degrees east, twenty feet to the corner of P. Henry Downing's lot; thence (2) by said Downing's lot at right angles to Willow street, south seventy-seven degrees east, eighty feet to the rear line of land of Harmon Booze; thence (3) by said Booze's lot, south thirteen degrees west, twenty feet to a corner to other lands of said Booze; thence (4) still by said Booze's land, and at right angles to Willow street, north seventy-seven degrees west, eighty feet to the easterly side of Willow street and the place of beginning: containing one thousand six hundred square feet (1,600 s. ft.), and being lot No. seventy (70) on page twenty City Atlas.

3. A piece of land belonging to P. Henry Downing, beginning on the easterly side of Willow street, at the northerly corner of the lot belonging to James Ewing and Mary Armstrong; thence (1) running along the easterly side of Willow street north thirteen degrees east, seventeen feet to a stake for a corner, in the northerly line of the proposed West Hanover street; thence (2) running along said side of pro-

posed street, and land remaining to said Downing, south sixty-seven and one-half degrees east, eighty-three feet, to land of Harmon Booze; thence (3) by said Booze's lot, parallel to Willow street, south thirteen degrees west, five and one-half feet to the northerly corner of the Ewing and Armstrong lot; thence (4) running along said lot, at right angles to Willow street, north seventy-seven degrees west, eighty feet to the easterly side of Willow street and the place of beginning: containing eight hundred and sixty-two square feet (862 s. ft.), being part of lot No. sixty-nine (69) on page twenty City Atlas.

4. A lot of land belonging to J. Henry Wood, beginning on the easterly side of Barnes street, at its intersection with the northerly side of Potts (or Tan Yard) alley; thence (1) running along the easterly side of Barnes street, north thirteen degrees east, thirty-four feet to a stake in the northerly side of the proposed West Hanover street; thence (2) running along said side of West Hanover street, and by land remaining to said Wood, south seventy-seven degrees east, 20 thirty-five feet, more or less, to the easterly side of Petty's run; thence (3) running along said side of Petty's run, southwesterly forty-seven feet, more or less, to the northerly side of Potts (or Tan Yard) alley; thence (4) along said side of alley, north seventy-seven degrees west, eight feet, more or less, to the easterly side of Barnes street and the place of beginning: containing six hundred and seventy-nine square feet (679 s. ft.), and being part of lot No. eighty-eight (88), on page twenty City Atlas.

5. A lot of land belonging to the estate of John Miller, 30 deceased, beginning on the northerly side of Potts (or Tan Yard) alley, at the easterly side of Petty's run; thence (1) running along the northerly side of Potts (or Tan Yard) alley, south seventy-seven degrees east, one hundred and forty-three feet, to the westerly side of a twelve foot alley, laid off by Joseph C. Potts in 1849; thence (2) running along the westerly side of said twelve foot alley, north thirteen degrees east, thirty-four feet, to the northerly line of the proposed West Hanover street; thence (3) along the line of said proposed street, north seventy-seven degrees west, one 40 hundred and twenty feet, more or less, to the easterly side

of Petty's run ; and thence (4) along said side of Petty's run, southwesterly, forty-six feet, more or less, to the northerly side of said Potts (or Tan Yard) alley and the place of beginning : containing four thousand four hundred and thirty-eight square feet (4,438 s. ft.), being part of lot No. forty-nine (49), on page twenty City Atlas.

6. A lot of land belonging to the estate of John Miller, deceased, beginning on the westerly side of Warren street, at a point fourteen feet and ten inches northerly from the northeasterly corner of Edmund Bartlett's hotel (known as the American Hotel) ; and running thence (1) along the westerly side of Warren street, north thirteen degrees east, thirty feet, to the southeasterly corner of a lot belonging to J. Beatty Lalor ; thence (2) along the southerly line of said Lalor's lot, north seventy-seven degrees west two hundred and forty-eight and one-half feet to the easterly side of a twelve foot alley, laid off by Joseph C. Potts about 1849 ; thence (3) along said side of said alley, south thirteen degrees west, thirty-three feet to the northerly side of Potts (or Tan Yard) alley ; and thence (4) along the northerly side of said alley south seventy-seven degrees east, two hundred and forty-eight feet and one-half of a foot to the westerly side of Warren street and the place of beginning, containing seven thousand eight hundred and twenty-seven and three-quarters square feet ( $7,827\frac{3}{4}$  s. ft.), being Lot No. Thirty-six (36) on page 20, City Atlas. (A small portion of the westerly end of this lot was embraced in the survey for Chancery street.)

7. A lot of land belonging to J. Beatty Lalor, beginning on the westerly side of Warren street, at the northeasterly corner of the old Phoenix Hotel, belonging to the estate of John Miller, deceased ; thence (1) running along the westerly side of Warren street, north thirteen degrees east, fifteen feet and two inches to a stake near said Lalor's house, the same being five inches southerly from the southeasterly corner of said Lalor's house ; thence (2) by a line parallel with Potts (or Tan Yard) alley, and along the northerly side of the proposed West Hanover street, north seventy-seven degrees west, about two hundred and forty-five feet and six inches to the easterly side of a twelve foot alley, laid off by Joseph C. Potts in 1849 ; thence (3) along the easterly side

of said twelve foot alley, south thirteen degrees west, fifteen feet and two inches to the northerly line of the lot belonging to the estate of John Miller, deceased, as aforesaid; and thence (4) along said line of said Miller's lot, south seventy-seven degrees east, two hundred and forty-five feet and six inches to the westerly side of Warren street and the place of beginning: containing three thousand seven hundred and thirty-one square feet (3,731 s. ft.), being part of lot No. thirty-seven (37), on page 20, City Atlas. (A small part of  
10 the westerly end of this lot was embraced in the survey of Chancery street.)

8. A lot from Joseph C. Potts, bounded and described as follows, to wit: Fronting or in width twelve feet on the northerly side of Potts (or Tan Yard) alley, and extending northwardly the same width of twelve feet, by and between a lot belonging to the estate of John Miller, deceased, (part of No. 49, page 20, City Atlas), on the west side thereof, and another lot of said Miller's estate, and land of J. Beatty Lalor, on the easterly side thereof, thirty-four feet to the  
20 northerly line of the proposed West Hanover street, containing four hundred and eight square feet (408 s. ft.) (All of this lot was included in the survey of Chancery street.) Therefore be it

*Resolved*, That the Mayor of the city of Trenton be and he is hereby authorized and required to appoint, under his hand and seal, three disinterested freeholders of said city, commissioners to make an estimate and assessment of the damages that the owners of the land so as aforesaid taken, will sustain by the laying out and opening of the said street  
30 as aforesaid; and the said commissioners, after estimating said damages, to assess the amount thereof upon such lots, or sub-divisions of lots, as in their opinion will be benefited by said improvement, according to the form of the statute in such case made and provided.

The above preamble and resolution were adopted August 3d, 1869.

D. NAAR,  
*President of the Common Council.*

A true copy :

A. M. JOHNSTON,  
*City Clerk.*

To WILLIAM NAPTON, Esq.,  
*Mayor of the City of Trenton.*

*To whom it may concern :*

WHEREAS, The Common Council of the city of Trenton did, on the third day of August, in the year of our Lord one thousand eight hundred and sixty-nine, pass an ordinance entitled "An ordinance to lay out and open a street, commencing on the easterly side of Willow street, opposite to the present easterly terminus of Quarry street, and running thence to the westerly side of Warren street," and thereby determined to lay out and open said street, commencing on the easterly side of Willow street, opposite to the present easterly terminus of Quarry street, and running thence to the westerly side of Warren street, and did take and appropriate the lands required for the said purpose ; and whereas, the said Common Council did, on the third day of August, A. D. one thousand eight hundred and sixty-nine, adopt a preamble and resolution in words following, to wit :

WHEREAS, The street committee of the Common Council have been unable to agree with the owners of the land and premises in the Second Ward of the city of Trenton, necessary for the laying out and opening of a street, commencing on the easterly side of Willow street, opposite to the present easterly terminus of Quarry street, and running thence to the westerly side of Warren street ; and whereas, the following lands and real estate have been, by virtue of an ordinance entitled "An ordinance to lay out and open a street, commencing on the easterly side of Willow street, opposite to the present easterly terminus of Quarry street, and running thence to the westerly side of Warren street," passed August 3d, 1869, taken as requisite for the purpose of laying out and opening said street, as aforesaid, to wit :

1. A lot of land belonging to Harmon Booze, beginning on the easterly side of Willow street, at a point one foot northerly from the corner of Potts (Tan Yard) alley ; thence (1)

by the line of said proposed street, south sixty-seven and one-half degrees east, fifteen feet to the northerly side of said Potts (or Tan Yard) alley; thence (2) running along the northerly side of said Potts (or Tan Yard) alley, south seventy-seven degrees, east one hundred and forty-three feet to the westerly side of Barnes street (formerly called New street); thence (3) running along the westerly side of said Barnes street north thirteen degrees east, forty-three feet to the northerly side of the proposed West Hanover street; thence  
 10 (4) by the northerly line of said street, and by lands remaining to said Booze, north sixty-seven and one-half degrees west, seventy-six feet to the rear line of land belonging to P. Henry Downing; thence (5) running along the rear line of said Downing's, and a lot of James Ewing and Mary Armstrong, south thirteen degrees west, twenty-five and one-half feet to the southeasterly of said Ewing and Armstrong lot; thence (6) running along said lot north seventy-seven degrees west, eighty feet to the easterly side of Willow street; and thence (7) running along the easterly side of Willow street,  
 20 south thirteen degrees west, twenty-four feet to the place of beginning: containing five thousand four hundred and ninety-eight square feet (5,498 s. ft.), being lots Nos. fifty and seventy-one (50 and 71), and parts of lots Nos. fifty-one and fifty-two (51 and 52), on page 20, City Atlas.

2. A lot of land belonging to James Ewing and Mary Armstrong, beginning on the easterly side of Willow street at the corner of Harmon Booze's lot; thence (1) running along said side of Willow street, north, thirteen degrees east, twenty feet to the corner of P. Henry Downing's lot;  
 30 thence (2) by said Downing's lot, at right angles to Willow street, south, seventy-seven degrees east, eighty feet to the rear line of land of Harmon Booze; thence (3) by said Booze's lot, south, thirteen degrees west, twenty feet to a corner to other lands of said Booze; thence (4) still by said Booze's land, and at right angles to Willow street, north, seventy-seven degrees west, eighty feet to the easterly side of Willow street and the place of beginning: containing one thousand six hundred square feet (1,600 sq. ft.), and being lot No. 70, on page 20 City Atlas.

40 3. A piece of land belonging to P. Henry Downing, be-

ginning on the easterly side of Willow street, at the northerly corner of the lot belonging to James Ewing, and Mary Armstrong; thence (1) running along the easterly side of Willow street, north, thirteen degrees east, seventeen feet to a stake for a corner in the northerly line of the proposed West Hanover street; thence (2) running along said side of proposed street, and land remaining to said Downing, south, sixty-seven and a half degrees east, eighty-three feet to land of Harmon Booze; thence (3) by said Booze's land parallel to Willow street, south, thirteen degrees west, five and one-half feet, to the northerly corner of the Ewing and Armstrong lot; thence (4) running along said lot, at right angles to Willow street, north, seventy-seven degrees west, eighty feet to the easterly side of Willow street, and place of beginning: containing eight hundred and sixty-two square feet (862 s. ft.), being part of lot No. sixty-nine (69) on page 20 City Atlas.

4. A lot of land belonging to J. Henry Wood, beginning on the easterly side of Barnes street, at its intersection with the northerly side of Potts (or Tan Yard) alley; thence (1) running along the easterly side of Barnes street, north thirteen degrees east, thirty-four feet to a stake in the northerly side of the proposed West Hanover street; thence (2) running along said side of West Hanover street, and by land remaining to said Wood, south seventy-seven degrees east, thirty-five feet, more or less, to the easterly side of Petty's run; thence (3) running along said side of Petty's run, south-westerly forty-seven feet, more or less, to the northerly side of Potts (or Tan Yard) alley; thence (4) along said side of alley, north seventy-seven degrees west, eight feet, more or less, to the easterly side of Barnes street and the place of beginning: containing six hundred and seventy-nine square feet (679 s. ft.), and being part of lot No. eighty-eight (88) on page twenty City Atlas.

5. A lot of land belonging to the estate of John Miller, deceased, beginning on the northerly side of Potts (or Tan Yard) alley, at the easterly side of Petty's run; thence (1) running along the northerly side of Potts (or Tan Yard) alley, south seventy-seven degrees east, one hundred and forty-three feet, to the westerly side of a twelve foot alley

laid off by Joseph C. Potts in 1849; thence (2) running along the westerly side of said twelve foot alley, north thirteen degrees east, thirty-four feet to the northerly line of the proposed West Hanover street; thence (3) along the line of said proposed street, north seventy-seven degrees west, one hundred and twenty feet, more or less, to the easterly side of Petty's run; and thence (4) along said side of Petty's run, southwesterly, forty-six feet, more or less, to the northerly side of said Potts (or Tan Yard) alley and the place of beginning: containing four thousand four hundred and thirty-eight square feet (4,438 s. ft.), being part of lot No. forty-nine (49) on page twenty City Atlas.

6. A lot of land belonging to the estate of John Miller, deceased, beginning on the westerly side of Warren street, at a point fourteen feet and ten inches northerly from the northeasterly corner of Edmund Bartlett's hotel (known as the American Hotel), and running thence (1) along the westerly side of Warren street, north thirteen degrees east, thirty feet to the southeasterly corner of a lot of J. Beatty Lalor; thence (2) along the southerly line of said Lalor's lot, north seventy-seven degrees west, two hundred and forty-eight and one-half feet, to the easterly side of a twelve foot alley laid off by Joseph C. Potts, about 1849; thence (3) along said side of said alley, south thirteen degrees west, thirty-three feet, to the northerly side of Potts (or Tan Yard) alley; and thence (4) along the northerly side of said alley, south seventy-seven degrees east, two hundred and forty-eight feet and one-half of a foot, to the westerly side of Warren street and the place of beginning: containing seven thousand eight hundred and twenty-seven and three-quarters square feet (7,827 $\frac{3}{4}$  s. ft.) being lot No. 36, on page twenty City Atlas. (A small portion of the westerly end of this lot was embraced in the survey for Chancery street.)

7. A lot of land belonging to J. Beatty Lalor, beginning on the westerly side of Warren street, at the northeasterly corner of the old Phœnix Hotel, belonging to the estate of John Miller, deceased; thence (1) running along the westerly side of Warren street, north thirteen degrees east, fifteen feet and two inches to a stake near said Lalor's house, the same being five inches southerly from the southeasterly

corner of said Lalor's house; thence (2) by a line parallel with Potts (or Tan Yard) alley, and along the northerly side of the proposed West Hanover street, north seventy-seven degrees west, about two hundred and forty-five feet and six inches, to the easterly side of a twelve foot alley, laid off by Joseph C. Potts in 1849; thence (3) along the easterly side of said twelve foot alley, south thirteen degrees west, fifteen feet and two inches, to the northerly line of the lot belonging to the estate of John Miller, deceased, as aforesaid; and thence (4) along said line of said Miller's lot, south seventy- 10 seven degrees east, two hundred and forty-five feet and six inches, to the westerly side of Warren street and the place of beginning: containing three thousand seven hundred and thirty-one square feet (3,731 s. ft.), being part of lot number thirty-seven (37), on page twenty City Atlas. (A small part of the westerly end of this lot was embraced in the survey of Chancery street.)

8. A lot from Joseph C. Potts, bounded and described as follows, to wit: fronting or in width twelve feet on the northerly side of Potts (or Tan Yard) alley, and extending 20 thence northwardly the same width of twelve feet, by and between a lot belonging to the estate of John Miller, deceased, (part of 41 on page 20 City Atlas), on the westerly side thereof, and another lot of said Miller's estate and land of J. Beatty Lalor on the easterly side thereof, thirty-four feet, to the northerly line of the proposed West Hanover street; containing four hundred and eight square feet (408 s. ft.) (All this lot was embraced in the survey of Chancery street.)

Therefore, be it *Resolved*, that the Mayor of the city of 30 Trenton be and he is hereby authorized and required to appoint, under his hand and seal, three disinterested freeholders of said city, commissioners to make an estimate and assessment of the damages the owners of the land so as aforesaid taken will sustain by the laying out and opening of the said street as aforesaid; and the said commissioners, after estimating said damages, to assess the amount thereof upon such lots, or sub-divisions of lots, as, in their opinion, will be benefited by said improvement, according to the form of the statute made and in such case provided. 40

Now, therefore, I, William Napton, Mayor of the city of Trenton, in obedience to the resolution aforesaid, do hereby appoint Theodore W. Hill, Robert C. Belville, and William Johnston, three disinterested freeholders of said city, to carry into effect the provisions of the said resolution.

And I do direct that the said commissioners, after having taken such oath or affirmation as is required by law, meet at the City Surveyor's office on Wednesday, the first day of September next, at ten o'clock in the forenoon, and having  
10 viewed said land and real estate and appurtenances, to make a just and true estimate and assessment, and report thereof, as is prescribed by law.

Given under my hand and the seal of the said city, this [L. s.] tenth day of August, in the year of our Lord one thousand eight hundred and sixty-nine.

WILLIAM NAPTON, *Mayor*.

State of New Jersey, City of Trenton, ss.—Theodore W. Hill, Robert C. Belville, and William Johnston, the above named commissioners, being by me duly sworn, say that  
20 they will fairly and impartially execute the duties imposed upon them by the above appointment, and make a just and true report, according to the best of their skill and judgment.

T. W. HILL.

R. C. BELVILLE.

WM. JOHNSTON.

Sworn and subscribed this 14th day of August, A. D. 1869, before me.

WILLIAM NAPTON, *Mayor*.

Sworn and subscribed this 23d day of August, 1869, before me.

WILLIAM NAPTON, *Mayor*.

30 State of New Jersey, City of Trenton, ss.—Joseph L. Naar, of the city of Trenton, in said State, being duly sworn according to law, says—That a notice, of which the annexed is a copy, was published in the "Daily True American," a newspaper published and circulated in the said city of Trenton, for ten days, at least, beginning on the twelfth day of August, A. D. eighteen hundred and sixty-nine, and that deponent is one of the publishers of the said newspaper.

JOS. L. NAAR.

Sworn and subscribed before me, this 7th day of September, A. D. 1869.

G. D. W. VROOM,  
*Master in Chancery of N. J.*

CITY OF TRENTON, MAYOR'S OFFICE, }  
August 10th, 1869. }

Notice is hereby given, that Theodore W. Hill, Robert C. Belville, and William Johnston, (carpenter), appointed by me, in accordance with a resolution of the Common Council, passed on the third day of August, instant, to make an estimate and assessment of the damages that the owners of 10 land and real estate will sustain in laying out and opening a street, commencing on the easterly side of Willow street, opposite to the present easterly terminus of Quarry street, and running thence to the westerly side of Warren street, and to assess the benefits thereof upon lots benefited, will meet at the City Clerk's office, on Saturday, the fourteenth day of August, instant, to take the oath or affirmation of office.

And I do hereby give notice to all persons interested, that the said commissioners will meet on Wednesday, the first 20 day of September next, at ten o'clock in the forenoon, at the City Surveyor's office, and after having viewed said land or other real estate, with the appurtenances, make a just and true estimate and assessment, as required by law.

WILLIAM NAPTON, *Mayor.*

State of New Jersey, ss.—John Briest, of the city of Trenton, in said State, being duly sworn according to law, says—That a notice, of which the annexed is a copy, was published in the "Daily Emporium," a newspaper published and circulated in the said city of Trenton, for ten days, at least, 30 beginning on the twelfth day of August, A. D. eighteen hundred and sixty-nine, and that deponent is the publisher of the said newspaper.

JOHN BRIEST.

Sworn and subscribed before me, this 7th day of September, A. D. 1869.

G. D. W. VROOM,  
*Master in Chancery of N. J.*

CITY OF TRENTON, MAYOR'S OFFICE, }  
August 10th, 1869. }

Notice is hereby given that Theodore W. Hill, Robert C. Belville and William Johnston (carpenters), appointed by me, in accordance with a resolution of the Common Council, passed on the third day of August, instant, to make an estimate and assessment of the damages that the owners of land and real estate will sustain in laying out and opening a street commencing on the easterly side of Willow street, opposite  
10 to the present easterly terminus of Quarry street, and running thence to the westerly side of Warren street, and to assess the benefits thereof upon lots benefited, will meet at the City Clerk's office, on Saturday, the fourteenth day of August, instant, to take the oath or affirmation of office.

And I do hereby give notice to all persons interested that the said commissioners will meet on Wednesday, the first day of September next, at ten o'clock in the forenoon, at the City Surveyor's office, and after having viewed said land or other real estate, with the appurtenances, make a just and  
20 true estimate and assessment as required by law.

WILLIAM NAPTON,  
Mayor.

September 7th, 1869. The City Clerk, through the President, presented the report of the commissioners appointed by the Mayor, upon the requisition of the Common Council, by resolution adopted August 3d, 1869, to make an estimate and assessment of the damages for the laying out and opening a street from the present easterly terminus of Quarry street, to Warren street, which had been filed in his office Septem-  
30 ber 7th, 1869.

Which was received.

Mr. Wilson offered the following:

*Resolved*, That the City Clerk be instructed to cause a written or printed notice of the assessments and costs in laying out and opening a street from the easterly terminus of Quarry street to Warren street, to be served or published as required by law.

Which was adopted.

The following is the said report :

Report of the commissioners appointed in the laying out and opening of a street, commencing on the easterly side of Willow street, opposite to the present easterly terminus of Quarry street and running thence to the yesterly side of Warren street.

*To the Common Council :*

The undersigned, freeholders of the city of Trenton, having been on the tenth day of August, in the year of our Lord one thousand eight hundred and sixty-nine, appointed by William Napton, Esq., Mayor of said city, commissioners as authorized and required by a resolution of the Common Council, adopted the third day of August the present year, and hereto prefixed, and also under an act of the Legislature of the State of New Jersey entitled "An act to revise and amend the charter of the city of Trenton," approved March 15th, 1866, to make an estimate and assessment of the damages that the owners of the land required to be taken will sustain by the laying out and opening of a street, commencing on the easterly side of Willow street, opposite to the present easterly terminus of Quarry street, and running thence to the west- 20  
erly side of Warren street, and after estimating said damages to assess the amount thereof upon such lots or sub-divisions of lots, as in our opinion will be benefited by said improvement; and having, before entering upon the execution of the duties imposed upon us, taken the oath required by law, before the said Mayor, and having met at the time and place designated by said Mayor, to wit: at the City Surveyor's office, on Wednesday, the first day of September of the present year, at ten o'clock in the forenoon, notice of which 30  
meeting to all persons interested having been given by said Mayor by advertisement in two of the newspapers published in this city, as will appear by copies thereof hereto prefixed, and having viewed the land and real estate, with the appurtenances, in the said appointment described, and heard the allegations of persons interested who chose to appear before us, and having fairly and impartially executed the duties imposed upon us, and having made a just and true estimate

and assessment of damages and benefits which will be sustained and derived by the owners of lots in the laying out and opening the said street as aforesaid, and in making such estimate and assessment, having had due regard as well to the value of the land and other real estate, with the appurtenances as to the injury or benefits of the owner or owners thereof by the laying out and opening said street, do report the following estimate and assessment of damages that the owners of the land taken under and by virtue of an ordinance  
10 of the Common Council, entitled "An ordinance to lay out and open a street, opposite to the present easterly terminus of  
01 Quarry street, and running thence to the westerly side of Warren street," passed August 3d, 1869, will sustain and derive, the description of which said land is at length set out in the appointment of three commissioners hereto prefixed:

1. We do report that Harmon Booze, the owner or reputed owner of lots numbered 50, 71, 51 and 52, on page 20, City Atlas, will sustain damages by the laying out and opening of the proposed street as aforesaid, and taking his land, with the  
20 appurtenances, required therefor as in the appointment hereinbefore described and set forth, and do estimate and appraise  
02 the said damages at the sum of seven thousand nine hundred and sixteen dollars.

2. We do report that James Ewing and Mary Armstrong, the owners or reputed owners of lot No. 70, page 20, City Atlas, will sustain damages by the laying out and opening of the proposed street as aforesaid, and taking their land, with the appurtenances required therefor, as in the appointment  
30 appraise the said damages at the sum of one thousand and four hundred dollars.

03 3. We do report that P. Henry Downing, the owner or reputed owner of lot No. 69, on page 20, City Atlas, will sustain damages by the laying out and opening of the proposed street as aforesaid, and taking his land, with the appurtenances required therefor, as in the appointment hereinbefore described and set forth; and do estimate and appraise the said damages at the sum of three hundred and seventy  
dollars.

40 4. We do report that John Henry Wood, the owner or

reputed owner of lot No. 88, on page 20, City Atlas, will sustain damages by the laying out and opening of the proposed street as aforesaid, and taking his land, with the appurtenances required therefor, as in the appointment hereinbefore described and set forth; and do estimate and appraise the said damages at the sum of two hundred and twenty-three dollars.

5. We do report that the estate of John Miller, deceased, the owner or reputed owner of lots Nos. 49 and 36, on page 20, City Atlas, will sustain damages by the laying out and opening of the proposed street as aforesaid, and taking the land, with the appurtenances required therefor, as in the appointment hereinbefore described and set forth; and do estimate and appraise the said damages at the sum of fourteen thousand seven hundred and eighty dollars.

6. We do report that J. Beatty Lalor, the owner or reputed owner of lot No. 37, on page 20, City Atlas, will sustain damages by the laying out and opening of the proposed street as aforesaid, and taking his land, with the appurtenances hereinbefore described and set forth; and do estimate and appraise the said damages at the sum of four hundred and forty-seven dollars.

And we do further report that in the laying out and opening of the proposed street as aforesaid, the following lots, or sub-divisions of lots, and the owner and owners thereof, will be benefited in our opinion by said improvement—that is to say:

We do report that in our opinion lot No. 51, on page 21, City Atlas, belonging or said to belong to Frederick R. Wilkinson, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of three thousand six hundred and sixty-seven dollars.

We do report that in our opinion lot No. 52, on page 21, City Atlas, belonging or said to belong to Lafayette Stradling, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do

hereby assess upon the said lot the sum of two hundred and two dollars.

We do report that in our opinion lot No. 50, on page 21, City Atlas, belonging or said to belong to Absalom Moore and Daniel Akers, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of three hundred and thirty-seven dollars.

- 10 We do report that in our opinion lot No. 49, on page 21, City Atlas, belonging or said to belong to John C. Grant, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of one thousand and thirty dollars.

- We do report that in our opinion lot No. 30, on page 22, City Atlas, belonging or said to belong to John C. Grant, will be benefited by the laying out and opening of the pro-  
20 posed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of four hundred and ninety dollars.

- We do report that in our opinion lot No. 29, on page 22, City Atlas, belonging or said to belong to John C. Grant, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of two hundred and seventy  
30 dollars.

We do report that in our opinion lot No. 28, on page 22, City Atlas, belonging or said to belong to Theodosia W. Stevens, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of six hundred and seventy-five dollars.

- We do report that in our opinion lot No. 46 on page 21, City Atlas, belonging or said to belong to Lafayette Stradling,  
40 will be benefited by the laying out and opening of the pro-

posed street as aforesaid, and having considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of two hundred and twenty-three dollars.

We do report that in our opinion lot No. 45, on page 21, City Atlas, belonging or said to belong to Roger O. Donnell, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of two hundred and forty-three dollars. 10

We do report that in our opinion lot No. 85, on page 21, City Atlas, belonging or said to belong to Jacob S. Carr, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of three hundred and forty-four dollars.

We do report that in our opinion lot No. 47, on page 21, City Atlas, belonging or said to belong to Deacon Brock, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of two hundred dollars. 20

We do report that in our opinion lot No. 82, on page 21, City Atlas, belonging or said to belong to Isaac A. Dunn, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot, the sum of one hundred and forty-eight dollars. 30

We do report that in our opinion lot No. 78, on page 21, City Atlas, belonging or said to belong to Levi R. Furman, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot, the sum of one hundred and seventy dollars.

We do report that in our opinion lot No. 68, on page 21, City Atlas, belonging, or said to belong to Lafayette Strad- 40

ling, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot, the sum of two hundred and forty-four dollars.

10 We do report that in our opinion lot No. 40, on page 21, City Atlas, belonging, or said to belong to George Williamson, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot, the sum of one hundred and sixty-four dollars.

We do report that in our opinion lot No. 39, on page 21, City Atlas, belonging, or said to belong to William W. Gillespy, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of one hundred and forty-eight dollars.

20 We do report that in our opinion lot No. 38, on page 21, City Atlas, belonging, or said to belong to Henry C. Furman, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of two hundred and forty-three dollars.

30 We do report that in our opinion lot No. 37, on page 21, City Atlas, belonging, or said to belong to Daniel Peixotto, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot, the sum of one hundred and sixty-two dollars.

We do report that in our opinion lot No. 36, on page 21, City Atlas, belonging, or said to belong to Daniel Peixotto, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of one hundred and 40 sixty-two dollars.

We do report that in our opinion lot number 35, on page 21, City Atlas, belonging, or said to belong, to Samuel Prior, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of three hundred and ninety-nine dollars.

We do report that in our opinion lot number 80, on page 21, City Atlas, belonging, or said to belong, to Joshua Furman, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of eighty-six dollars.

We do report that in our opinion lot No. 81, on page 21, City Atlas, belonging, or said to belong, to Ann Eliza Connolly, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of eighty-six dollars.

We do report that in our opinion lot No. 84, on page 21, City Atlas, belonging, or said to belong, to Jacob S. Carr, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of eighty-six dollars.

We do report that in our opinion lot No. 33, on page 21, City Atlas, belonging, or said to belong, to Liscomb R. Titus, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of one hundred and two dollars.

We do report that in our opinion lot No. 32, on page 21, City Atlas, belonging, or said to belong, to William Halsted, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of one hundred and one dollars.

We do report that in our opinion lot No. 72, on page 21, City Atlas, belonging, or said belong, to Amanda M. Colby,

will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of one hundred and ninety dollars.

We do report that in our opinion lot No. 30, on page 21, City Atlas, belonging, or said to belong, to Ann Beatty, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered  
10 the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of ninety-seven dollars.

We do report that in our opinion lot No. 29, on page 21, City Atlas, belonging, or said to belong, to William Clark, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered of the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of ninety-seven dollars.

We do report that in our opinion lot No. 28, on page 21,  
20 City Atlas, belonging, or said to belong, to William Clark, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of one hundred and two dollars.

We do report that in our opinion lot No. 42, on page 22, City Atlas, belonging, or said to belong, to Peter Farrelly, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly con-  
30 sidered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of twenty-three dollars.

We do report that in our opinion lot No. 49, on page 22, City Atlas, belonging, or said to belong, to David Shaw, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of eighty-one dollars.

We do report that in our opinion lot No. 14, on page 22,  
40 City Atlas, belonging, or said to belong, to Deacon Brock,

will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of ninety-four dollars.

We do report that in our opinion lot No. 45, on page 22, City Atlas, belonging or said to belong to Deacon Brock, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of one hundred and twenty-one dollars.

We do report that in our opinion lot No. 52, on page 22, City Atlas, belonging or said to belong to Francis Grisch, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot, the sum of one hundred and twenty-one dollars.

We do report that in our opinion lot No. 16, on page 22, City Atlas, belonging or said to belong to Jesse Crosley, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of two hundred and fourteen dollars.

We report that in our opinion lot No. 20, on page 22, City Atlas, belonging or said to belong to Louisa Crozer, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of seventy-two dollars.

We do report in our opinion lot No. 21, on page 22, City Atlas, belonging or said to belong to Thomas Dugan, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of seventy-two dollars.

We do report that in our opinion lot No. 22, on page 22, City Atlas, belonging or said to belong to Patrick Fee, will

be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of seventy-two dollars.

We do report that in our opinion lot No. 24, on page 22, City Atlas, belonging or said to belong to John C. Grant, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do  
10 hereby assess upon the said lot the sum of seven hundred and fifteen dollars.

We do report that in our opinion lot No. 11, on page 23, City Atlas, belonging, or said to belong to Ann Johnson, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot, the sum of seventy dollars.

We do report that in our opinion lot No. 12, on page 23, City Atlas, belonging, or said to belong to Ann Johnson,  
20 will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot, the sum of sixty dollars.

We do report that in our opinion lot No. 13, on page 23, City Atlas, belonging, or said to belong to Charles Lyons, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of one hundred and sixteen  
30 dollars.

We do report that in our opinion lot No. 14, on page 23, City Atlas, belonging, or said to belong to Susan Mesler, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot, the sum of fifty-three dollars.

We do report that in our opinion lot No. 26, on page 23, City Atlas, belonging, or said to belong to William Warren,  
40 will be benefited by the laying out and opening of the pro-

posed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot, the sum of thirty dollars.

We do report that in our opinion lot No. 45, on page 23, City Atlas, belonging, or said to belong to Ann E. Pearson, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot, the sum of sixty-nine dollars. 10

We do report that in our opinion lot No. 46, on page 23, City Atlas, belonging, or said to belong to Joseph A. Bond, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of thirty dollars.

We do report that in our opinion lot No. 25, on page 23, City Atlas, belonging, or said to belong to George Callen, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of twenty-seven dollars. 20

We do report that in our opinion lot No. 24, on page 23, City Atlas, belonging, or said to belong to George Callen and Louisa Callen, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of forty-three dollars. 30

We do report that in our opinion lot No. 23, on page 23, City Atlas, belonging, or said to belong to Matthew Dugan, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of twenty-seven dollars.

We do report that in our opinion lot No. 22, on page 23, City Atlas, belonging, or said to belong to John Auer, will be benefited by the laying out and opening of the proposed 40

street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of twenty dollars.

We do report that in our opinion lot No. 21, on page 23, City Atlas, belonging or said to belong to Edward Murray, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of twenty-two  
10 dollars.

We do report that in our opinion lot No. 20, on page 23, City Atlas, belonging, or said to belong to Alexander Roddy, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of thirty-four dollars.

We do report that in our opinion lot No. 19, on page 23, City Atlas, belonging, or said to belong to Robert Farrell, will be benefited by the laying out and opening of the pro-  
20 posed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of sixteen dollars.

We do report that in our opinion lot No. 17, on page 23, City Atlas, belonging, or said to belong to Margaret Jager, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of twenty-seven  
dollars.

30 We do report that in our opinion lot No. 28, on page 23, City Atlas, belonging, or said to belong to the estate of Sarah W. Higbee, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of two hundred and three dollars.

We do report that in our opinion lot No. 35, on page 23, City Atlas, belonging, or said to belong to John Auer, will be benefited by the laying out and opening of the proposed  
40 street as aforesaid, and having justly and fairly considered

the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of fifty-four dollars.

We do report that in our opinion lot No. 41, on page 23, City Atlas, belonging, or said to belong to Joseph Auer, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of twenty-seven dollars.

We do report that in our opinion lot No. 38, on page 23, 10 City Atlas, belonging, or said to belong to Florence McCarthy, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of thirty-eight dollars.

We do report that in our opinion lot No. 29, on page 23, City Atlas, belonging, or said to belong, to Florence McCarthy, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly 20 considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of twenty-one dollars.

We do report that in our opinion lot No. 68, on page 20, City Atlas, belonging, or said to belong, to John Halbert, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of two hundred and 30 ten dollars.

We do report that in our opinion lot No. 67, on page 20, City Atlas, belonging, or said to belong, to John Halbert, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of one hundred and ninety-five dollars.

We do report that in our opinion lot No. 66, on page 20, City Atlas, belonging, or said to belong, to Mary Dean, will be benefited by the laying out and opening of the proposed 40

street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of two hundred and seventy dollars.

We do report that in our opinion lot No. 93, on page 20, City Atlas, belonging, or said to belong, to John H. Cotton, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do  
10 hereby assess upon the said lot the sum of one hundred and twenty-six dollars.

We do report that in our opinion lot No. 65, on page 20, City Atlas, belonging, or said to belong, to Ogden W. Blackfan, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of three hundred and seventeen dollars.

We do report that in our opinion lot No. 97, on page 20,  
20 City Atlas, belonging, or said to belong, to Thomas Willson, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of eighty-four dollars.

We do report that in our opinion lot No. 96, on page 20, City Atlas, belonging, or said to belong, to Abraham D. Lukens, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly  
30 considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of sixty-three dollars.

We do report that in our opinion lot No. 85, on page 20, City Atlas, belonging, or said to belong, to Lucius R. Wright, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of one hundred and seventy dollars.

We do report that in our opinion lot No. 100, on page 20,  
40 City Atlas, belonging, or said to belong, to Ogden W. Black-

fan, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of ninety-five dollars.

We do report that in our opinion lot No. 17, on page 20, City Atlas, belonging, or said to belong, to the estate of William Potts, deceased, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of 10 one thousand nine hundred and ten dollars.

We do report that in our opinion lot No. 16, on page 20, City Atlas, belonging, or said to belong, to Mary A. Hewlings, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of one thousand three hundred and nineteen dollars.

We do report that in our opinion lot No. 31, on page 20, City Atlas, belonging, or said to belong, to Edmund Bart-20 lett, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of three thousand seven hundred and thirteen dollars.

We do report that in our opinion lot No. 86, on page 20, City Atlas, belonging or said to belong to James E. Seruby, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do 30 hereby assess upon the said lot the sum of one hundred and twenty-two dollars.

We do report that in our opinion lot No. 48, on page 20, City Atlas, belonging or said to belong to William H. Potts, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of two hundred and seventy dollars.

We do report that in our opinion lot No. 53, on page 20, 40

City Atlas, belonging or said to belong to Joseph B. Lawrence, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of one hundred and two dollars.

We do report that in our opinion lot No. 55, on page 20, City Atlas, belonging or said to belong to Thomas Cowley, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of ninety dollars.

We do report that in our opinion lot No. 80, on page 20, City Atlas, belonging or said to belong to Ralph Lanning and Theodore Lanning, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of forty-two dollars.

20 We do report that in our opinion lot No. 79, on page 20, City Atlas, belonging or said to belong to James H. Lanning, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of twenty-nine dollars.

We do report that in our opinion lot No. 28, on page 4, City Atlas, belonging or said to belong to William Dolton, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of thirty-six dollars.

30 We do report that in our opinion lot No. 29, on page 4, City Atlas, belonging or said to belong to William Dolton, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of ninety-five dollars.

40 We do report that in our opinion lot No. 30, on page 4,

City Atlas, belonging or said to belong to William Dolton, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of one hundred and thirty-four dollars.

We do report that in our opinion lot No. 31, page 4, City Atlas, belonging or said to belong to Edward Dolton, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered 10 the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of one hundred and thirty-three dollars.

We do report that in our opinion lot No. 32, on page 4, City Atlas, belonging or said to belong to Rebecca Ely, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of one hundred and thirty-eight dollars. 20

We do report that in our opinion lot No. 33, on page 4, City Atlas, belonging or said to belong to Henry Thøene, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of one hundred and thirty-three dollars.

We do report that in our opinion lot No. 34, on page 4, City Atlas, belonging, or said to belong to Clara Leake, will be benefited by the laying out and opening of the proposed 30 street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot, the sum of one hundred and forty-six dollars.

We do report that in our opinion lot No. 35, on page 4, City Atlas, belonging, or said to belong to Peter Katzenbach, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do

hereby assess upon the said lot, the sum of seventy-eight dollars.

We do report that in our opinion lot No. 36, on page 4, City Atlas, belonging, or said to belong to John F. Thompson, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of forty-five dollars.

10 We do report that in our opinion lot No. 37, on page 4, City Atlas, belonging, or said to belong to the heirs of William A. Brearley, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of forty-five dollars.

20 We do report that in our opinion lot No. 38, on page 4, City Atlas, belonging, or said to belong to William Dolton, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of eighty eight dollars.

We do report that in our opinion lot No. 84, on page 4, City Atlas, belonging, or said to belong to David Warman will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of forty-five dollars.

30 We do report that in our opinion lot No. 40, on page 4, City Atlas, belonging, or said to belong to Joseph H. Reading, deceased, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of thirty-six dollars.

40 We do report that in our opinion lot No. 29, on page 20, City Atlas, belonging, or said to belong to Richard Sutphin, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby

assess upon the said lot the sum of one hundred and thirty-three dollars.

We do report that in our opinion lot No. 28, on page 20, City Atlas, belonging, or said to belong to Benjamin S. Disbrow, will be benefited by the laying out and opening of the proposed street as aforesaid, and having justly and fairly considered the amount of such benefit to the said lot, we do hereby assess upon the said lot the sum of one hundred and two dollars.

Given under our hands and seals at the city of Trenton 10 aforesaid, this seventh day of September, in the year of our Lord one thousand eight hundred and sixty-nine.

T. W. HILL, [L. S.]

R. C. BELVILLE. [L. S.]

WM. JOHNSON. [L. S.]

(The notices required were duly served upon the owners of property so assessed, or upon the occupants, or in cases of non-residence, were published in one or more of the newspapers published in this city.)

The following refusals to agree to the assessments were 20 filed at the times named:

1869.

October 7. Theodosia W. Stevens.

(by J. G. Stevens, Trustee.)

" 7. Theodosia W. Stevens.

(One of the heirs of S. M. Higbee, by J.

G. Stevens, Trustee.)

" 9. Rebecca Ely, George Callen.

" 12. George and Louisa Callen.

" 14. George Williamson.

" 15. Francis Grisch.

" 15. John Auer.

" 16. Patrick Fee.

" 19. Clary Leake.

" 21. Jacob S. Carr.

" 22. Thomas Dugan.

" 27. Anna Johnson.

Nov'r 1. Roger O. Donnell.

" 6. Peter Katzenbach.

" 6. (1869.) John C. Grant, L. R. Titus, William 40

- Halsted, Daniel Peixotto, Joshua Furman, Ann Eliza Connolly, William Clark, Jesse Crosley, Margaret Pilgrim, Joseph Auer, Margaret Jeger, Harmon Booze, Owen Jenkins and son, Wm. H. Potts, executor of Wm. Potts, deceased, Wm. H. Potts, Bridget Ford, widow of Peter Farrelly, Edmund Bartlett, John Halbert, L. R. Wright, David Shaw, James R. Seruby, Mrs. Susie Mesler, Louisa C. Crozier, H. H. Snedeker, Ralph C. and Theodore Lanning, James H. Lanning, Amanda M. Colby, Deacon Brock, A. D. Lukens, Mary
- 10 Dean, Joseph A. Bond, Ann Beatty, Henrietta A. Brearley, guardian of the heirs of William A. Brearley, Edward Murray, John H. Cotton, William Warren, Patrick Henry Downing, Henry Thøene.

(These were dated October 15th, 1869.)

The following withdrawal of refusals to agree to the assessments was filed November 6th, 1869: Margaretta Jeger, Jesse Crosley, Henrietta A. Brearley, Ann Beatty, Henry C. Furman, Edward Murray, James R. Seruby, Clary Leake, Deacon Brock, Joseph A. Bond.

- 20 November 9th, 1869. The Clerk reported that in the matter of opening and extending Quarry street, thirty-nine persons assessed for benefits had filed their refusals to abide thereby, being less than two-thirds of the number assessed.

Which was ordered filed.

January 4th, 1870. Mr. Cogill presented the petition of Edmund Bartlett and Jacob S. Carr, asking that the proposed extension of Quarry street, from its present easterly terminus to Warren street, might be abandoned.

Which was read

- 30 Mr. Cogill offered the following:

*Resolved*, That the proposed extension of Quarry street, from Willow street to the westerly side of Warren street, under "An ordinance to lay out and open a street, commencing on the easterly side of Willow street, opposite the present easterly terminus of Quarry street, and running thence to the westerly side of Warren street," passed August 3d, 1869, be and the same is by the Common Council hereby abandoned.

Which was read and laid on the table.

September 6th, 1870. The following ordinance was passed by the Common Council:

*An Ordinance to authorize the issuance of Bonds in aid of Public Improvements.*

Whereas, by an act of the Legislature of New Jersey, approved March 17th, 1870, the Common Council of the city of Trenton was authorized to issue bonds for an amount not exceeding fifty thousand dollars, and to apply the proceeds of said bonds for the opening and improvement of the streets of said city; and whereas, it will be necessary to issue bonds 10 for the amount of thirty-two thousand dollars, for the opening of the extension of Quarry street and of the extension of Taylor street; therefore,

*The Inhabitants of the City of Trenton do ordain:*

SEC. 1. That the City Treasurer be and he is hereby authorized and required to cause to be prepared bonds of the city of Trenton, amounting, in the whole, to the sum of thirty-two thousand dollars, payable on the first day of October, A. D. eighteen hundred and seventy-three, and bearing interest at the rate of seven per centum per annum, payable 20 semi-annually.

SEC. 2. That the said bonds shall be sealed with the city seal, and signed by the Mayor, and attested by the City Treasurer, and shall have interest coupons thereto attached, the delivery of which coupons to the City Treasurer shall be a sufficient voucher to him for the payment of the interest thereon specified.

SEC. 3. That the proceeds of the said bonds shall be applied by the City Treasurer to the payment of the assessment of damages sustained by the owners of real estate in the 30 laying out and opening a street, commencing on the easterly side of Willow street, opposite to the easterly terminus of Quarry street, and running thence to the westerly side of Warren street; and also the damages sustained by the owners of real estate in the laying out and opening of Taylor street, from its present easterly terminus to the centre of the Delaware and Raritan Canal; and that the said money be applied for no other purpose whatever.

November 1st, 1870. The Treasurer reported "that he

tendered Mr. Booze the amount awarded him for opening Quarry street, which he refused to take, but wanted further time to consider on the same."

November 11th, 1870. Mr. Cook offered the following:

*Resolved*, That the Street Committee be authorized to dispose of the buildings upon the lot recently condemned for the extension of Quarry street, and which buildings were the property of Patrick H. Downing.

Which was adopted.

10 Dec. 6th, 1870. Mr. Cogill introduced "An Ordinance directing the grading of Quarry street from Willow to Warren street."

Dec. 6th, 1870. The Treasurer reported that he had paid for "opening Quarry street, \$25,135."

Mr. Cogill offered the following:

*Resolved*, That the Street Committee are hereby authorized and directed to advertise and sell at public sale all the buildings now standing in that part of Quarry street recently laid out, and extending from Willow street to Warren, and to  
20 require the purchaser or purchasers to have the materials therein removed within thirty days after such sale.

Which was read and adopted.

Mr. Cogill offered the following:

*Resolved*, That the City Solicitor be, and is hereby directed to notify the owners of lots upon which assessments were made by the commissioners appointed for that purpose, for benefits to said lots by reason of the laying out and opening of an extension of Quarry street from Willow to Warren street, that they must pay to the City Treasurer the sums so  
30 assessed within thirty days from the service of such notice, and if the same is not so paid, immediate proceedings will be commenced to collect the same according to law; and to further notify said owners that said assessments are liens upon their several lots for the amount thereof.

*Resolved*, That the said assessments paid in or collected shall be paid to the Commissioners of the Sinking Fund, to be by them invested as a fund for the payment of the bonds issued to pay for land and real estate taken for said exten-  
40 sion.

Which were read and adopted.

Dec. 20th, 1870. Mr. Noble offered the following:

*Resolved*, That the Street Committee be, and they are hereby instructed to sell at public auction, on Tuesday, December 27th, instant, upon the premises, all the buildings and materials now standing within the lines of the continuation of Quarry street from Willow street to Warren street recently laid out, and that they be authorized to allow to the purchaser or purchasers of such buildings and materials for the removal thereof, such time, not exceeding forty days 10 from said twenty-seventh day of December, as they shall deem expedient, upon the following terms: The terms will be cash at the time of sale for sums less than one hundred dollars, and for greater sums, the purchaser or purchasers to give a promissory note, with approved security, payable at one of the banks of the city, thirty days from date.

Which was read and adopted—12 to 2. (Cook and Cogill).

Feb. 14th, 1871. Mr. Exton offered the following:

*Resolved*, That the City Solicitor be and he is hereby instructed to proceed immediately to collect by law the 20 amounts assessed against and due by property owners on the extension of Quarry street who have not paid such assessment.

Which was adopted.

March 7th, 1871. Mr. Cook offered the following:

*Resolved*, That the Street Committee be and is hereby instructed to stop all further operations upon that part of Quarry street, between Warren and Willow streets, until the further order of Council.

Mr. Stokes moved to lay the same upon the table. 30

Which was not agreed to, as follows:

Yeas—Messrs. Davis, Lenox, Noble, Stokes, I. R. Wilson, J. A. Wilson—6.

Nays—Messrs. Bigelow, Box, Belville (Pres't), Cogill, Cook, Exton, Kafes, Keegan, Megill, Naar, Owens, Vanhorn—12.

The resolution was adopted by the following vote:

Yeas—Messrs. Bigelow, Box, Belville (Pres't), Cogill, Cook, Exton, Keegan, Naar, Owens, Vanhorn—10.

Nays—Messrs. Davis, Kafes, Lenox, Megill, Noble, Stokes, I. R. Wilson, J. A. Wilson—8.

April 5th, 1871. The Clerk presented the following writs of *certiorari*, which had been served upon him :

The State, Frederick R. Wilkinson, Alexander Roddy, George Callen, Louisa Callen, pros., v. The Inhabitants of the City of Trenton.

*Certiorari*. In the matter of assessment.

Returnable June Term, 1871.

10 Kingman & Johnson, Attorneys.

And ten others of the same cause.

City of Trenton, ss.—I do hereby certify that the foregoing is a true copy of the ordinances, reports and other proceedings of the Common Council relative to the laying out and opening of a street from the terminus of Quarry at Willow street and Warren street.

Witness my hand and the seal of said city, the 13th day of April, 1871.

20 [L. s.]

A. M. JOHNSTON,

City Clerk.

The Clerk was instructed to make the proper returns to said several writs, and the matter referred to the City Solicitor.

### REASONS.

[Filed July 17, 1871.]

And the said prosecutors, by Kingman & Johnson, their attorneys, come into court and show and assign the following reasons for setting aside said assessment—that is to say:

30 *First*. Because the street committee did not treat with the owners of the land necessary for the laying out and opening of said street, as required by the charter of said city.

*Second*. Because the reasons assigned for not treating with said owners are indefinite and insufficient.

*Third.* Because the order appointing the commissioners did not specifically prescribe their duties.

*Fourth.* Because the commissioners did not take the oath prescribed by law.

*Fifth.* Because the notice of the meeting of the commissioners to make the assessment, was not sufficient,

*Sixth.* Because one of the commissioners was interested in one or more of the lots assessed for benefits.

*Seventh.* Because the said assessment was unequal, unjust, and unfair. 10

*Eighth.* Because the commissioners, in making the assessment, estimated the value of the improvements on the land.

*Ninth.* Because the commissioners neglected to assess the benefits received by owners of certain lots fronting on said street.

*Tenth.* Because the commissioners did not report that assessments were made upon all the lots which, in their opinion, would be benefited.

*Eleventh.* Because it does not appear upon the report that the whole costs of the improvement were estimated. 20

*Twelfth.* Because the names and interest of the owners of certain lots assessed were insufficiently described in said report.

*Thirteenth.* Because no opportunity of being heard before the commissioners, on the merits, was given to parties assessed for benefits.

*Fourteenth.* Because no appeal from the decision of the commissioners was given to parties assessed for benefits.

*Fifteenth.* Because more than two-thirds of the property-owners assessed filed, with the City Clerk, their refusal, in 30 writing, to agree to such assessment and costs.

*Sixteenth.* Because the ordinance under which the said proceedings were had was not legally passed.

*Seventeenth.* Because the said report and assessment, and the other proceedings of the said commissioners, are, in divers other respects, illegal, inequitable, unjust, and contrary to law.

KINGMAN & JOHNSON,

Atty's for Prosecutors.

### *AGREEMENT OF ATTORNEYS.*

The following statement of facts is agreed upon, and may be used on argument in the eleven *certioraris* above :

The map marked "A" is a map of the extension of Quarry street and vicinity, with names and numbers of lots as they stood on the City Atlas of Trenton ; and that the figures on the front lines of the lots represent the frontage on said lots. There were four buildings situate on the lots taken for said street by said city, viz. : A hotel on the Miller property, a  
 10 store and dwelling on the Booze lot, and two other dwellings on other lots. That all of said buildings were sold by the order of the city authorities, and torn down or removed by the purchasers before the allowance of these *certioraris*.

The Board of Chosen Freeholders of Mercer county, in the year 1870, built a stone county bridge the width of said street, over Petty's run, where it crosses the same.

F. KINGMAN,  
*Attorney for Plaintiffs.*

JAMES S. AITKIN,  
*Attorney for Defendants.*

20

### *OPINION OF JUDGE BEDLE.*

This is one of eleven *certioraris* removing the proceedings in laying out a street in Trenton, between Warren and Quarry streets, and the assessments therefor. The determination of one includes all.

BEDLE, J. The court will only notice such objections as are of the most importance.

1. That the Council did not treat with the owners of land taken, who were under no legal capacity. The charter  
 30 (*Laws 1866, p. 364, sec. 76-77*) is very peculiar. It may be seriously questioned whether any assessment for damages or benefits can be made, unless there is a legal incapacity or absence of some owner, or inability to make a proper con-

tract where these causes do not exist. However that may be, the true construction of the act allows the Mayor to appoint the commissioners on proper application, whenever in the case of any owner such disqualification or inability exists. The jurisdiction to appoint is complete in either of such cases. Even after the appointment, I think that the Council could treat with any owners, and the commissioners be obliged to adopt in their estimate the result of such negotiation, and even if the effort to negotiate is imperative when the jurisdictional fact exists, which is very doubtful, there is 10 nothing in the proceedings to show that the Council did not do its duty in this respect. Further, the land owner does not complain, and if others are to be allowed to object it should be before the commissioners have acted, provided the notice required by the charter of this meeting had been given.

2. That the order appointing the commissioners did not sufficiently prescribe their duties. The answer is, that it refers to the ordinance to lay out, with a sufficient description to fairly identify it; it also recites the resolution and 20 application of the Council to the Mayor, and makes the appointment of commissioners, directing them to make a just and true estimate and assessment and report thereof, *as prescribed by law*. The application specifies the street to be laid out, and land or real estate to be taken, according to section seventy-seven. These appear in the order, and any omissions in following the further language of that section, or of section seventy-eight, are covered by the reference "as prescribed by law."

3. That the commissioners did not take the oath as pre- 30 scribed in section seventy-eight. That section requires an oath "fairly and impartially to execute the duties imposed upon them by the act." The oath actually taken was "that they will fairly and impartially execute the duties imposed upon them by the above appointment, and make a just and true report, according to the best of their skill and judgment." This latter part is surplusage. There is no analogy between the oath prescribed by section seventy-eight and that with reference to surveyors of the highways, so far as the strictures with which the courts, previous to a recent act, 40

required the surveyors to comply with their statutory oath. The peculiar language of the road act made a failure to take the oath provided, a refusal to serve, and a consequent vacation of the office. The oath taken by the commissioners is a substantial compliance with section seventy-eight. Instead of saying "imposed upon them by this act," it says, "imposed upon them by the above appointment." The appointment required them to execute the duties of the act, and the oath is a complete equivalent for that, and means the same  
10 thing.

4. That the notice of the meeting of the commissioners was insufficient. This notice was given by the Mayor, as was his duty. The object of it is that the parties interested may appear and be heard before the commissioners. The ordinance to lay out the street had been regularly passed, the proper notice of the intention of the Council to make the improvement having been given, and an opportunity had, according to law, for persons to present their objections. All persons, then, were concluded, so far as the passage of the  
20 ordinance was concerned, by reason of any want of notice of what the improvement would be. The notice recites the fact of the appointment of the commissioners, and states the general purpose. It also gives a description of the street, sufficiently definite, fixes the time and place when the oath of the commissioners will be taken, and where they would meet, and where to hear all parties interested, and states that after having viewed the land, they would make a just and true estimate and assessment, as required by law. This was  
30 a fair and substantial notice, and could not be more definite

so far as those to be assessed for benefits were concerned, as that matter had yet to be determined; and so far as the owners of land to be taken was concerned they could not be mistaken, and if they were, these prosecutors, who are none of them as far as we can see from the case, cannot complain.

5. That the assessment was unequal, unjust, and unfair. There are no facts before us to sustain this reason, as against the judgment of the commissioners.

6. Because persons assessed for damages for land taken are not assessed for benefits. It is evident that in making  
40 the assessment of damages that the commissioners in fact

regarded the benefits, and the charter does not require these to be assessed separately, so far as they relate to the owner whose land is taken. Section seventy-seven directs that in estimating and assessing the damages, the commissioners shall have due regard, as well to the value of the land or other real estate as to the injury or benefit of the owner or owners thereof. This is certified by the commissioners in their report. Neither is it necessary that the value of the land should be separately reported. The charter does not require it. 10

7. That it does not appear upon the face of the report that the whole costs of the improvement were assessed. This proceeding was to lay out and open a street. The charter requires the commissioners to make a just and true estimate and assessment of the damages, and the report on its face is a compliance with that. In the case of *The State, Gleason, pros., v. Bergen*, 4 *Vroom* 72, the charter of Bergen, in terms required the commissioners to estimate the whole costs of the improvement, in making a preliminary assessment. In other cases referred to by counsel of prosecutors, the charters re- 20 quired also in terms that the commissioners should examine the whole matter. In these cases it was necessary that the report should show a compliance with the peculiar features of the charters.

8. That the commissioners did not report that assessments for benefits were made upon all the lots, which in their opinion would be benefited. As under the last head, it is a sufficient answer to say that the charter does not require it. If all that the language of the act directs is embodied in the report, it is sufficient, and then if the commissioners have 30 adopted any principle in their action, or failed to do their duty, it should be shown. The true construction of section seventy-seven undoubtedly is, that benefits must be assessed upon all the lots that in the opinion of the commissioners will be benefited; but if the commissioners have in all material parts adopted the language of the law, it will be presumed, till the contrary appears, that their duty has been performed according to its proper legal meaning. The report in this case does not say that the commissioners assessed all the lots in their opinion benefited, but it does say that 40

they made a just and true estimate and assessment of damages and benefits which will be sustained and derived in the laying out and opening the said street as aforesaid, &c. "And also that in the laying out and opening of the proposed street as aforesaid, the following lots or sub-divisions of lots, and the owner and owners thereof, will be benefited in our opinion by said improvement," and then proceeds to make an assessment to different owners, whom they determine will be benefited, &c., having justly and fairly considered the amount of such benefit to the said lot, specifying them, &c. Section seventy-seven directs that the commissioners shall assess the amount, &c., "fairly and justly upon such lots or sub-divisions of lots," &c. The report virtually follows the language of the act, and I think it would be too strict to expect of the commissioners that they should do more. This objection is no doubt based on the case of *The State, Abrey, pros., v. Cannon, 4 Vroom* 222. There the return of surveyors in laying out a road was set aside for several reasons, and one that the return did not show a compliance with the fifteenth section of the act of March 23d, 1859, (*Nix. Dig.* 841), that directs the surveyors to assess the damages as equitably as may be upon the owners of land in the neighborhood of the road, which in their opinion will be benefited thereby, as nearly as may be in proportion to the benefits. The opinion says, that they do not certify that those (the lands assessed) are all the lands in the neighborhood which in their opinion would be benefited. This latter objection was sufficient to make the return illegal, because the law provided that the assessment should be made as nearly as may be in proportion to benefits, and that did not appear in the return. The other objection to that return, although recognized as valid in the opinion, has too much strictness in requiring the surveyors to report more than is prescribed in the language. It was not necessary to so hold in deciding that point as decided, and need not therefore be followed.

Reference has now been made to all the points material, and on none of them can these proceedings be reversed. But if in any of them there were found irregularities, these *certioraris* should be dismissed on account of such gross

laches on the part of the prosecutors, in obtaining their writs, as to make it unjust to the city to sustain them.

The judgment of the court is, that the proceedings be affirmed.

SCUDDER and DALRIMPLE, Justices, concurred.

**RULE FOR JUDGMENT.**

Of the term of June, A. D. eighteen hundred and seventy-one.

Witness,

M. BEASLEY, Esq., *Chief Justice.* 10

CHAS. P. SMITH, *Clerk.*

New Jersey, ss.—The parties to this cause having been heard by counsel, and the court having seen and inspected the assessment against the said prosecutors removed by said writ, and considered the testimony taken and read—

It is ordered, that said assessment be in all things affirmed, without costs.

Entered February 29th, 1872.

On motion of

JAMES S. AITKIN, *Att'y.*

Therefore, it is considered that the said Frederick R. 20  
Wilkinson, Alexander Roddy, George Callen, and Louisa  
Callen take nothing by their said writ of *certiorari*, and that  
the assessment removed thereby be in all things affirmed.

Judgment signed the twenty-ninth day of February, A. D.  
eighteen hundred and seventy-two.

M. BEASLEY, *Ch. Justice.*

I, Charles P. Smith, Clerk of the Supreme Court of the  
State of New Jersey, do certify that the foregoing is a true  
copy of the judgment, record, and proceedings in the above 30  
stated cause, as the same remain of record in my office.

In testimony whereof, I have hereto set my hand and the  
[L. s.] seal of said court, at Trenton, this thirteenth day of

June, A. D. eighteen hundred and seventy-two.

CHAS. P. SMITH, *Clk.*

### ASSIGNMENT OF ERRORS.

The plaintiffs in error, by Kingman & Johnson, their attorneys, come and say that in the record and proceedings aforesaid, and in giving the judgment aforesaid, there is manifest error in this:

*First.* That by the record aforesaid, the judgment aforesaid appears to have been given for the said The Inhabitants of the City of Trenton; whereas, by the law of the land, the said judgment ought to have been given for the said prosecutors, 10 against the said defendants.

*Second.* Because the said Supreme Court affirmed the proceedings of the defendants in laying out a street in the city of Trenton, between Warren and Quarry streets; whereas, by law, the said proceedings should have been reversed, set aside, and for nothing holden.

*Third.* Because the said court affirmed the assessments made by the commissioners against the prosecutors; whereas, by the law of the land, the said assessment should have been reversed and set aside, for the reasons in said record men- 20 tioned.

KINGMAN & JOHNSON,  
*Attorneys of Plaintiffs in Error.*

### JOINDER IN ERROR.

And hereupon the said The Inhabitants of the City of Trenton, by James S. Aitkin, their attorney, come and say, that there is no error either in the record and proceedings aforesaid or in giving the judgment aforesaid, and pray that this court may proceed to examine as well the record and proceedings aforesaid as the matters aforesaid assigned for 30 error; and that the judgment aforesaid, in manner aforesaid given, may in all things be affirmed, &c.

JAMES S. AITKIN,  
*Attorney for Defendants in Error.*