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Assessment maps – in pocket under back cover

Affidavit on Application for Writ.

(Filed January 13, 1923.)

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

John M. Contant of full age being duly sworn according to law on his oath says that he is the Secretary and Treasurer of the United Owners' Realty Company, that the General Assessment Board of the Borough of Lodi, in Bergen County, has assessed lands owned by said company for benefits said to have resulted from the construction of a sanitary sewer and sewage disposal plant in said Borough, and that said assessments were confirmed by the Mayor and Council of said Borough on February 27th, 1922.

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That the amount of said assessments and the description of said lands, is as shown on Schedule "A" annexed hereto and made a part hereof.

That said lands are so situate that no part of said sewer is adjacent thereto and by reason thereof said lands are not capable of a present appreciable benefit by direct connection with said sewer, and will receive no benefit from the construction of said sewer and sewage disposal plant until such time as extensions or laterals shall have been constructed adjacent to said lands, by which said lands may be connected with said sewer and disposal plant.

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That by reason thereof said assessments are in violation of the constitution of this State and of the statute by virtue of which said assessments purport to have been made. That upon the confirmation of

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said assessments as aforesaid, said Company by its representatives, requested the Mayor and Council of said Borough, by virtue of the authority vested in them by Section 42 of Article XX of the Act Concerning Municipalities, as amended by Chapter 112 of the Laws of 1922, to correct said assessments for the reasons aforesaid, and that negotiations to that end have continued until December 18, 1922, at which time the Mayor and Council refused to make such correction.

Deponent, in behalf of the aforesaid Company, therefore prays that a writ of certiorari may issue to have the aforesaid sewer assessment of the Borough of Lodi set aside and reviewed.

JOHN M. CONTANT.

Sworn to and subscribed before me,
this 11th day of January, 1923.

MADELINE BACHMAN,
Notary Public,
New Jersey.

SCHEDULE "A."

Lot.	Block.	Assessment.
2	177	$1622.
3	177	496.
13	159 a	16.55
16-17	159 a	10.34 each
1	159 b	60.40
19-20	211	10.33 each
63-64	217	10.33 each
	224	8181.36

Writ.

(Issued January 13, 1923.)

State of New Jersey, ss.:

The State of New Jersey to the Borough of Lodi in the County of Bergen:

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(Seal)

We being willing, for certain reasons appearing by the affidavit of John M. Contant filed in this cause, to be certified of a certain assessment purporting to have been made by the General Assessment Board of the Borough of Lodi, and confirmed by the Mayor and Council of said Borough on the 27th day of February, 1922, for benefits claimed to have accrued to lands of United Owners' Realty Company, by the construction of a sanitary sewer and sewage disposal plant in said Borough, which lands and the assessments thereon are as shown on the schedule annexed hereto.

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WE COMMAND YOU that the said assessment, together with the resolutions confirming the same and all matters touching and concerning the said assessment for said improvements to our Supreme Court of Judicature at Trenton on the second day of February, 1923, to certify and send, together with this writ, that therein may be done what of right and according to the laws of the State of New Jersey ought to be done.

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WITNESS WILLIAM S. GUMMERE, Chief Justice of the Supreme Court at Trenton, this 13th day of January, 1923.

MORRISON, LLOYD & MORRISON,
Attorneys of Prosecutor.

ENOCH L. JOHNSON,
Clerk Supreme Court.

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SCHEDULE.

Lot.	Block.	Assessment.
2	177	$1622.
3	177	496.
13	159 a	16.55
16-17	159 a	10.34 each
1	159 b	60.40
19-20	211	10.33 each
63-64	217	10.33 each
	224	8181.36

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Allocatur.

(Signed January 13, 1923.)

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This writ is allowed. Let it be sealed.

C. W. PARKER,
Justice of Supreme Court.

Jan. 13, 1923.

Acknowledgement of Service.

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(January 20, 1923.)

Service of the within writ is acknowledged this 20th day of January, 1923.

WALTER G. WINNE,
Attorney for Defendant.

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Return.

(Filed February 2, 1923.)

To the Honorable Justices of the Supreme Court of New Jersey:

I, Joseph D. Pacella, Clerk of the Borough of Lodi, in the County of Bergen, in obedience to the command of the writ hereto annexed, directed to said Borough, do hereby certify and send to you, the said Justices, the assessments against lands of United Owners' Realty Company for benefits by the construction of a sanitary sewer and sewage disposal plant in said Borough, made by the General Assessment Board of said Borough, and confirmed by resolution of the Mayor and Council of said Borough on February 27, 1922; the report of the General Assessment Board of said Borough dated February 13, 1922; and a resolution of the Mayor and Council of said Borough passed February 27, 1922, confirming said report; as appears by the schedule hereto annexed.

IN WITNESS WHEREOF I have hereunto set my hand and seal of said Borough this first day of February, 1923.

JOSEPH D. PACELLA,
Borough Clerk.

(Boro. Seal.)

New Jersey State Library

Report of Assessment Commissioners.

(February 13, 1922.)

To the Mayor and Council of the Borough of Lodi:

We, the undersigned, General Assessment Board, created by ordinance in the Borough of Lodi, Bergen County, New Jersey, under and by virtue of the provisions of an act of the Legislature of the State of New Jersey entitled "An Act concerning municipalities" approved March 17, 1917, and the supplements and amendments thereto, being charged with the duty of estimating and assessing the benefits conferred upon any lands or real estate in the Borough of Lodi by reason of the construction of a sanitary sewer and disposal plant therein, do hereby certify and report that having first taken and subscribed the oath required by law, which oath is filed in the office of the Clerk of the Borough of Lodi, we did proceed to organize on November 17, 1920, and did proceed to examine the said work and view all lands and real estate in the vicinity of said sewer and disposal plant benefited by said improvement.

We did, thereupon, fix a time and place for the hearing of all persons interested and gave notice of said time and place by publication in the Hackensack Republican upon December 8th, 1921, which paper is a newspaper circulating in the Borough of Lodi and proof of which publication is attached hereto.

We also caused to be mailed to the owners of all lands affected, directed to the last known post office address of such owners, notice of said hearing, a copy of which with proof of mailing, is attached hereto. Upon Thursday, the 22nd day of December, 1921, at 8 o'clock at the Municipal Building,

in the Borough of Lodi, which was the time and place so fixed, we met and heard all persons who presented themselves to be heard and gave all parties, interested or affected by the improvement, ample opportunity to be heard.

We thereupon made a just and equitable assessment of the benefits conferred upon lands or real estate by reason of said improvement having due regard to the rights and interests of all persons concerned as well as to the value of the land and real estate benefited.

WE DO FURTHER CERTIFY AND REPORT, that the cost of the whole work of such improvement is the sum of $448,522.64, being arranged under the following heads or divisions, to wit:

Construction—Paid to contractor	$243,014.82
" Force account	73,281.06
Engineering—Preliminary	939.75
" (Construction)	25,934.11
Legal	2,174.25
Inspection	147.50
Supervision	7,637.72
Advertising	751.82
Interest	65,928.16
Property acquired and rights of way..	9,591.01
" " searches & Legal fees	1,447.85
Miscellaneous (insurance, fence construction, bond issue, etc.)	7,674.59
	$438,522.64
Cost of legal, engineering, accounting, advertising & printing, commissioners, clerk and clerk hire (cost of assessment)	10,000.00
Total cost of sewer	$448,522.64

WE DO ALSO CERTIFY AND REPORT, that we considered the question of damages occurring to any property by reason of the making of said improvement for the purpose of deducting the amount of any such damages from the amount of any benefits assessed upon said property.

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AND WE DO FURTHER CERTIFY AND REPORT, that we made an estimate of the benefits derived by lands and real estate from said improvement and did thereupon assess in proportion to the peculiarly benefited advantage or increase in value which the respective lots and parcels of land and real estate received by reason of said improvement and in no case did we assess any parcel of land or real estate in excess of the amount of such peculiarly benefited advantage or increase in value.

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AND WE DO FURTHER CERTIFY AND REPORT, that attached hereto and made a part of this report is the description of each property so benefited, the name of the owner and the amount of the assessments so made by us.

AND WE DO FURTHER CERTIFY AND REPORT, that the total amount of benefits assessed upon said lands and real estate for said improvement is the sum of $440,050.16 and the amount by which the whole cost of the improvement exceeds the amount of the assessment, to wit: the sum of $8,472.48 shall be paid by the Borough and raised by general taxation.

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AND WE DO FURTHER CERTIFY AND REPORT, that the annexed survey and map, which are made a part of this report, show the lots or parcels of land and real estate actually, peculiarly and specially benefited by said improvement and

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that the schedules hereto annexed and made part of this report contain the numbers by which said lots or parcels of land and real estate are designated, the names of the respective owners of said lots or parcels of land and real estate so far as they can be ascertained and the amount of the estimate and assessment to each schedule for each of such lots or parcels of land and real estate for said benefits. Such estimates and assessments have been made upon the lots or parcels of land and real estate as they stand upon the assessment map of the Borough of Lodi, except in such instances where the plottings on said assessment map do not conform to the actual plotting of the lands, or where by reason of the kind and character of the improvements made upon such lots or parcels of land and real estate, a different subdivision or plotting than that so recorded was necessary.

AND WE DO FURTHER CERTIFY AND REPORT, that in no case has any property or owner been assessed beyond the amount actually, peculiarly and specially derived from said improvement and that no lands or real estate other than those so assessed have received or acquired any actually, peculiarly or specially benefit, by reason of such improvement.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 13th day of February, 1922.

DAVID BROWN (L. S.)
PETER CONTANT (L. S.)
MICHAEL SANTIMAURO (L. S.)

ASSESSMENTS AGAINST LANDS OF UNITED OWNERS' REALTY COMPANY.

Lot	Block	Assessment
2	177	$1622.
3	177	496.
13	159 a	16.55
16-17	159 a	10.34 each
1	159 b	60.40
19-20	211	10.33 each
63-64	217	10.33 each
	224	8181.36

Resolution Confirming Assessments.

(Passed February 27, 1922.)

WHEREAS, The Board of Assessment for the Borough of Lodi has certified to the governing body of said Borough by report in writing signed by said Board, their assessment for the cost of the construction of the sanitary sewer and disposal plant, which report was accompanied by a map showing the lands and real estate taken, damaged or benefited by said improvement for which damages or benefits have assessed; and

WHEREAS, said report has been considered by this governing body at the meeting held February 13th, 1922, of which meeting two weeks' previous notice has been given by publishing in a newspaper circulating in the Borough of Lodi once a week for two weeks prior to said meeting and also by mailing a copy of the notice of said meeting to the owner or owners named in said report directed to their last known post office address which notice stated the object of said meeting; and

WHEREAS, at that meeting after consideration of said report and map said governing body con-

tinued at the consideration to the next regular meeting, to wit: February 27th, 1922, at which meeting said report and map has been further considered; and

WHEREAS, all persons appearing before this governing body have been given ample opportunity to be heard as to their objections, if any, to said report; 10

BE IT RESOLVED:

That said report be and the same is hereby adopted and confirmed without alterations,

And further that a duplicate of the same duly certified by the Clerk of this Borough be delivered to the Tax Collector and that said Assessments shall be payable immediately and said Collector shall immediately send out bills for such assessments, 20

And further that any assessment not paid within two months after February 27th, 1922, shall bear interest thereon from the said date at the rate of seven per cent. per annum.

And be it further resolved that the owner of any lands upon which any assessment shall have been made may pay the same in five equal yearly installments with legal interest thereon provided said party shall have the privilege of paying the whole of said assessment or any balance of installments with accrued interest thereon at one time and in case any such installment shall remain unpaid for thirty days from and after the time when the same shall have become due and payable, the whole assessment or balance thereon shall become and be immediately due and payable with interest at seven per cent. per annum. 30

(Signed) PETER LOOI,
PHILIP ANNICHIARICO,
SAL. CHAS. LASCARI,
Sewer Committee. 40

Stipulation as to Submission of Assessment Maps.

(Filed February 2, 1923.)

NEW JERSEY SUPREME COURT.

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UNITED OWNERS' REALTY COMPANY, Prosecutor, vs. BOROUGH OF LODI, Respondent.	On Certiorari. STIPULATION.

It is hereby stipulated that the assessment maps referred to in the report of the General Assessment Board of the Borough of Lodi which is part of the return to the writ in this case, being very voluminous, be submitted to the court with the State of Case, and that the filing of said maps with the return, be and is hereby waived.

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MORRISON, LLOYD & MORRISON,
Attorneys for Prosecutor.

WALTER G. WINNE,
Attorney for Respondent.

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Rule to Show Cause as to Additional Parties Entered, January 27, 1923.

NEW JERSEY SUPREME COURT,

UNITED OWNERS' REALTY COMPANY, Prosecutor, vs. BOROUGH OF LODI, Defendant.	On Certiorari. RULE TO SHOW CAUSE AS TO ADMITTING ADDITIONAL PARTIES UNDER RULE 171.

10

Certain assessments on lands of the above named prosecutor for benefits by the construction of a sanitary sewer and sewage disposal plant in the defendant Borough, having been brought into this Court by a writ of certiorari allowed January 13th, 1923, by Hon. Charles W. Parker, one of the Justices of the Supreme Court, and application having been made on January 27th, 1923, by F. C. Becker Realty Company; Commonwealth Building Company; Jacob Groot, John Groot, Nicholas Groot; Jacobus Wisse, Marie Wisse, his wife; Sam Liengme; Thomas May and Anna May, his wife; Louis Vonder Vliet and Nellie Vonder Vliet, his wife; The Gregg Company, Ltd., on affidavits in behalf of each of them respectively, presented by Morrison, Lloyd and Morrison, their attorneys, in the presence of Walter G. Winne, attorney for the Borough of Lodi, for a writ or writs of certiorari to review certain assessments on properties of each of said applicants respectively, and it appearing from said affidavits and the statements of counsel that all of said assessments were made as part of the same assessment proceedings and for the same public improvement as that brought into this Court by the writ allowed in this case as aforesaid; it is

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on motion of Morrison, Lloyd and Morrison, attorneys for United Owners' Realty Company, prosecutor, and for the said applicants ORDERED that the defendant, Borough of Lodi, show cause before the New Jersey Supreme Court on Tuesday, the 20th day of February, 1923, at ten o'clock in the forenoon, at the State House, in Trenton, why the said F. C. Becker Realty Company, Commonwealth Building Company; Jacob Groot, John Groot, Nicholas Groot; Jacobus Wisse, Maria Wisse, his wife; Sam Liengme; Thomas May and Anna May, his wife; Louis Vonder Vliet and Nellie Vonder Vliet, his wife; The Gregg Company, Ltd., should not be made parties to this suit, under Rule 171 of this Court.

Let this rule be entered.

C. W. PARKER,
J. S. C.

Affidavits on Application for Rule. Filed January 27, 1923.

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

Paul Delmont, of full age, being duly sworn, according to law on his oath says that he is the President of the Commonwealth Building Company, and that the General Assessment Board of the Borough of Lodi, in Bergen County, has assessed lands owned by the Commonwealth Building Company for benefits said to have resulted from the construction of a sanitary sewer and sewage disposal plant in said Borough on February 27, 1922.

That the amount of said assessment and the description of said lands is as follows:

LOT	BLOCK	ASSESSMENT
42	117	$10.33
43	117	10.33
44	117	10.33

That said lands are so situate that no part of said sewer is adjacent thereto and by reason thereof said lands are not capable of a present appreciable benefit by direct connection with said sewer, and will receive no benefit from the construction of said sewer and sewage disposal plant until such time as extensions or laterals shall have been constructed adjacent to said land, by which said lands may be connected with said sewer and disposal plant.

That by reason thereof said assessments are in violation of the constitution of this State and of the statute by virtue of which said assessments purport to have been made.

That upon the confirmation of said assessments as aforesaid the Commonwealth Building Company,

by its attorneys, requested the Mayor and Council of said Borough, by virtue of the authority vested in them by Section 42 of Article XX of the Act Concerning Municipalities, as amended by chapter 112 of the Laws of 1922, to correct said assessments for the reasons aforesaid, and that negotiations to that end have continued until December 18, 1922, at which time the Mayor and Council refused to make such correction.

Deponent, for the said Commonwealth Building Company, therefore prays that a writ of certiorari may issue to have the aforesaid sewer assessments of the Borough of Lodi set aside and reviewed.

COMMONWEALTH BUILDING COMPANY,
By PAUL DELMONT,
President.

Sworn to and subscribed before
me this 16th day of January, 1923.

LAURA E. SMITH,
(Seal) A Foreign Commr. of
Deeds for New Jersey
in New York.

An affidavit in the same form was made by Paul Delmont in respect to the lands of F. C. Becker Realty Company as follows:

LOT	BLOCK	ASSESSMENT
24-29 inclusive	116	$10.33 each
35-45 inclusive	116	10.33 each
2 and 3	117	10.33 each
5-16 inclusive	117	10.33 each
19-21 inclusive	117	10.33 each
24-28 inclusive	117	10.33 each
30-41 inclusive	117	10.33 each
45 and 46	117	10.33 each
1 and 2	118	10.33 each
6		10.33
9		10.33
11 and 12		10.33 each
14-23 inclusive		10.33 each
41-47 inclusive	120	10.33 each
49	120	10.33 each
51-60 inclusive		10.33 each
62-69 inclusive		10.33 each
71-72		10.33 each
1-12 inclusive	121	10.33 each
17-19 inclusive		10.33 each
23-41 inclusive		10.33 each
43-68 inclusive		10.33 each
70-72 inclusive		10.33 each
1-19 inclusive	123	10.33 each
24-36 inclusive		10.33 each

and an affidavit in the same form was made by Jacob Groot in respect to lands of Nicholas Groot, John Groot and Jacob Groot, as follows:

LOT	BLOCK	ASSESSMENT
1	174	$2,996.00
2	174	2,500.00

and an affidavit in the same form was made by Jacobus Wisse in respect to lands of Jacobus Wisse and Maria Wisse, his wife, as follows:

Lot 1 Block 175 Assessment $3,874.00

and an affidavit in the same form was made by Sam Liengme in respect to lands of said Sam Liengme as follows:

Lots 7 and 6 Block 122 Assessment $5,454.24

10 and an affidavit in the same form was made by Louis Vonder Vliet in respect to lands of said Louis Vonder Vliet and Nellie Vonder Vliet, his wife, as follows:

Lot 21 Block 230 Assessment $1,901.00

and an affidavit in the same form was made by Thomas May in respect to lands of said Thomas May and Anna May, his wife, as follows:

Lot 1 Block 100 Assessment $2,934.00

20 and an affidavit in the same form was made by Louis D. Gregg in respect to the lands of The Gregg Company, Ltd., as follows:

LOT	BLOCK	NAME	AMOUNT	TOTAL
HANCOCK ST. EAST SIDE				
1	205	Gregg Co., Ltd.	$93.90	$450. $543.90
1	208	" " "	93.90	450. 543.90

TOTAL FOR EAST SIDE
30 HANCOCK ST..... $1,087.80

LOT	BLOCK	ASSESSMENT
1	177	$909.00
1-51 inclusive	186	10.33 each
1-23 inclusive	187	10.33 each
24	187	14.71
25	187	9.84
26-47 inclusive	187	10.33 each
1-21 inclusive	188	10.33 each
40 22	188	15.21
23	188	6.02

	27, 1923.	
24-34 inclusive	188	10.33 each
1-10 inclusive	189	10.33 each
11	189	12.00
12	189	9.29
13-21 inclusive	189	10.33 each
1-2	190	10.33 each
13-68 inclusive	190	10.33 each
79	190	10.33
80	190	10.33
21-60 inclusive	191	10.33 each
1-80 inclusive	192	10.33 each
1-80 inclusive	193	10.33 each
1-13 inclusive	194	10.33 each
16-80 inclusive	194	10.33 each
1-13 inclusive	195	10.33 each
16-61 inclusive	195	10.33 each
62	195	5.17
64	195	5.17
65-80 inclusive	195	10.33 each
1-18 inclusive	196	10.33 each
21-59 inclusive	196	10.33 each
62-80 inclusive	196	10.33 each
1-56 inclusive	197	10.33 each
57½	197	5.17
59½	197	5.17
60-66 inclusive	197	10.33 each
70-80 inclusive	197	10.33 each
27	198	5.17
28-57 inclusive	198	10.33 each
33	199	5.17
34-51 inclusive	199	10.33 each
38-45 inclusive	200	10.33 each
	203, 205, 206, 207, 208, 213, 214, 215, 216, 221, 222	5,786.67

Reasons.

(Filed Feb. 5, 1923.)

NEW JERSEY SUPREME COURT.

UNITED OWNERS' REALTY COMPANY, Prosecutor, vs. BOROUGH OF LODI, Defendant.	On Certiorari.

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The prosecutor, United Owners' Realty Company, a New Jersey corporation having its principal office at Hackensack, Bergen County, New Jersey, comes and prays that the assessments against its lands for benefits by reason of the construction of a sanitary sewer and sewage disposal plant in the Borough of Lodi, made by the General Assessment Board of said Borough and confirmed by the Mayor and Council of said Borough, may be reviewed, set aside and for nothing holden, for the following reasons:

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1. The prosecutor's lands upon which the assessments set forth in the writ and return have been made, are not so placed as to permit a present connection with the sewer and cannot be assessed for benefits.

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2. The prosecutor's lands upon which the assessments set forth in the writ and return have been made, are not capable of a present appreciable benefit, by direct connection with the sanitary sewer, and the assessments on said property for the construction of said sewer are unwarranted.

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3. The prosecutor's lands upon which the assessments set forth in the writ and return have been made are not subject to assessment for benefits from the construction of the sanitary sewer and sewage disposal plant until the benefits thereof shall be extended to said lands by the construction of lateral sewers. 10

MORRISON, LLOYD & MORRISON,
Attorneys for Prosecutor.

Supreme Court Opinion.

(Filed June 7, 1923.)

NEW JERSEY SUPREME COURT.

(February Term, 1923.) 20

UNITED OWNERS' REALTY COMPANY, Prosecutor, vs. BOROUGH OF LODI, Defendant.	On Certiorari.

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Submitted February Term, 1923; decided June 7th, 1923.

Before Justices Kalisch, Black and Katzenbach.

For the Prosecutor, Messrs. Morrison, Lloyd and Morrison.

For the Defendant, Mr. Walter G. Winne.

PER CURIAM:

The certiorari in this case was allowed to review assessments made for the building of a sanitary 40

sewer and disposal plant in the Borough of Lodi, N. J. The main trunk sewer and disposal plant cost $107,000. This cost was assessed generally on all property in the Borough according to benefits. The total cost of the sewer was $448,522.64 of which $8,472.48 is to be paid by the Borough and raised by general taxation. The work was begun in the year 1916. It was completed and accepted in 1921. The assessments were confirmed on February 27th, 1922. The writ was applied for and allowed January 23rd, 1923. Rule allowed on January 27th, 1923, why thirteen other property owners should not be made parties to the suit under Rule 171 of the Supreme Court.

The assessments were made under the provisions of P. L. 1917, page 378, Art. XX, par. 21, page 380, par. 24, page 381, par. 25 as amended by P. L. 1921, page 162. This is known as the Municipalities Act. The phraseology in P. L. 1921, page 162, is substantially that of P. L. 1895, page 95, which was repealed by P. L. 1917, page 699.

There are no reasons for setting aside the assessments printed in the record book furnished the Court. The prosecutors however argue in the brief and states, there are but two questions involved in the case, first: may properties which have no access to the sewer be subjected to an assessment under P. L. 1917, page 378, The Municipalities Act. Second, should the property owners, named in the rule to show cause, be made parties under the Supreme Court Rule No. 171.

We think the writ of certiorari and the rule to show cause should be dismissed and the assessments confirmed on the ground of laches under P. L. 1921, page 515, par. 56, no certiorari shall be allowed after thirty days shall have elapsed from the date of the confirmation of such assessment. By the Certiorari Act, P. L. 1907, page 109, 1 Comp. Sts.,

page 407, par. 15, no certiorari shall be allowed to review any assessment for benefits for the construction of sewers, unless application shall be made for a writ within sixty days after such assessment shall have been confirmed by a Court of competent jurisdiction. It is argued, these statutory limitations as to time do not apply, citing cases referred to by Mr. Justice Dixon in the case of United N. J. R. R. Co. vs. Gummere, 69 N. J. L., 111. That class of cases do not apply to the assessments under review. We fail to see the force of the prosecutors' argument, that the statute, under which the assessments were made is unconstitutional. Promptness to act in this class of cases is not only illustrated, but enjoined by many cases in our reports. The statutes above cited, with many others contain provisions limiting the time in which reviews may be obtained. In Durrell vs. Mayor, &c., of Woodbury, 74 N. J. L., 206. The report of the Commissioners was confirmed January 19th, 1906. The writ of certiorari was allowed May 23rd, 1906.

The writ of certiorari and the rule to show cause are dismissed. The assessments are confirmed with costs.

Judgment.

(Entered June 14, 1923.)

NEW JERSEY SUPREME COURT,

UNITED OWNERS' REALTY COMPANY, Prosecutor, against BOROUGH OF LODI, Respondent.	On Certiorari. Judgment.

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The transcript and proceedings of the sewer assessment in the Borough of Lodi having been inspected by the Court as returned with the certiorari in this cause and the Court having considered the reasons for reversing said assessment and heard the argument of counsel thereon and having duly considered the same.

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IT IS on this 14th day of June, 1923, ORDERED that the writ of certiorari heretofore granted and the Rule to Show Cause be and the same hereby are dismissed and the assessments confirmed with costs.

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Entered June 14, 1923.

On motion of Walter G. Winne, attorney for respondent.

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Notice of Appeal and Grounds of Appeal.

(Filed July 25, 1923.)

NEW JERSEY SUPREME COURT.

UNITED OWNERS' REALTY COMPANY, et als., Prosecutors, vs. BOROUGH OF LODI, Defendant.	On Certiorari.

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To

WALTER G. WINNE, Esq., Attorney of Defendant:

20

Sir:

Take notice that United Owners' Realty Company, prosecutor, and F. C. Becker Realty Company, Commonwealth Building Company, Jacob Groot, John Groot, Nicholas Groot, Jacobus Wisse, Marie Wisse, his wife, Sam Liengme, Thomas May and Anna May, his wife, Louis Vonder Vliet and Nellie Vonder Vliet, his wife, and The Gregg Company, Ltd., parties applying on rule to show cause for leave to join as prosecutors, appeal to the Court of Errors and Appeals from the whole of the judgment entered in the above stated cause, on the following grounds:

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1. The Supreme Court confirmed the sewer assessments set forth in the writ and return, and in the affidavits on the rule to show cause, on lands of the prosecutor and the parties on the rule to

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show cause, which lands are not so placed as to permit a present connection with the sanitary sewer; and dismissed the prosecutor's certiorari and the rule to show cause.

2. The Supreme Court confirmed the sewer assessment set forth in the writ and return, and in the affidavits on the rule to show cause, on lands of the prosecutor and parties on the rule to show cause, which lands are not capable of a present appreciable benefit by direct connection with the sanitary sewer; and dismissed the prosecutor's certiorari and the rule to show cause.

3. The Supreme Court confirmed the sewer assessment set forth in the writ and return, and in the affidavits on the rule to show cause on lands of the prosecutor and parties on the rule to show cause, which lands are not subject to assessment for the construction of the sanitary sewer and sewage disposal plant until the benefits thereof shall be extended to said lands by the construction of lateral sewers; and dismissed the prosecutor's certiorari and the rule to show cause.

MORRISON, LLOYD & MORRISON,
Attorneys for Prosecutor and
parties on rule to show cause.

New Jersey Court of Errors and Appeals

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UNITED OWNERS' REALTY COMPANY, *et al.*, Prosecutors-Appellants, vs. BOROUGH OF LODI, Defendant-Respondent.	On Certiorari Appeal from Supreme Court.

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APPELLANTS' BRIEF.

Statement.

Appellants attack as unconstitutional, sewer assessments presently payable which have been levied on their lands which have at present no access to the sewer. The sewer for which these assessments have been made, is a sanitary sewer (Case, page 6, lines 15-20), i. e., one used for sewage only, so that no question of drainage of lands as distinguished from sewerage of buildings, enters into this case. There are two classes of properties involved:—first, large tracts of undeveloped or farm land more or less isolated from the sewer by other properties;—and second, building lots on streets in which no sewer has been laid. The location of each parcel and the amount of the assessment thereon is discussed in detail under Point IV below.

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The following is a chronological summary of the proceeding heretofore taken in this matter:—

Feb. 13, 1922—Assessments reported by Assessment Board (Case, page 6, *et seq.*).

Feb. 27, 1922—Assessments confirmed by Borough Council (Case, pages 10-11) and made payable immediately (Case, page 11, lines 18-21), with the privilege of paying in five yearly installments, with interest (Case, page 11, lines 26-30).

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Feb. 27, 1922
to
Dec. 18, 1922—Negotiations with Borough for correction of assessments (Case, page 1, line 40; page 2, lines 1-14; page 15, lines 39-40; page 16, lines 1-14).

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Jan. 13, 1923—Certiorari allowed to review assessments on lands of United Owners' Realty Company (Case, pages 3-4).

Jan. 27, 1923—Rule to show cause made why other appellants should not be made parties to the certiorari under rule 171 (Case, pages 13-14).

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Feb. Term, 1923—Matter argued before Supreme Court (Case, page 21, line 31).

June 7, 1923—Supreme Court opinion filed, dismissing certiorari and rule (Case, page 21, lines 17, 31).

June 14, 1923—Judgment entered in Supreme Court (Case, page 24).

July 25, 1923—Notice and grounds of appeal filed (Case, pages 25-26).

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I.

Assessments in excess of benefits are unconstitutional.

This is familiar law and is settled by many decisions of which the following are, perhaps, the leading cases:

In Tidewater Co. vs. Coster, 18 N. J. Eq., 518, this Court (opinion by Chief Justice Beasley) held that:— 10

> "The cost of a public improvement may be imposed on the property peculiarly benefited; but the cost beyond this measure must be levied from the public at large.
>
> "To compel the owner of property to bear the expense of an improvement except to the extent of his particular advantage is, *pro tanto,* to take private property for public use without compensation." 20

In Agens vs. Newark, 37 N. J. L., 415, this Court (opinion by Chief Justice Beasley) held that:—

> "Assessments for local improvements * * * may be made against the property peculiarly benefited, but such assessments must be made to the extent only of such peculiar benefit." 30

In Doughton vs. Camden, 72 N. J. L., 451, Chancellor Magie, delivering the opinion of this Court, said at page 454, that it is—

> "settled law in this State that the cost of local public improvements may be imposed under the power to tax, upon lands peculiarly benefited thereby, but only to the extent of the benefits so conferred." 40

II.

Properties which cannot connect with a sanitary sewer until laterals or extensions have been constructed, cannot be subjected to assessments which are payable before such laterals or extensions have been constructed.

An examination of the statutes and cases pertaining to sewer assessments discloses a long struggle between two conflicting principles and the final development of the rule stated above as giving effect to both without impairing either. The first principle is that lands which cannot connect with a sewer are not benefited and cannot be assessed. The second is that when by the construction of laterals or extensions such lands can connect, not only with the newly constructed line, but through that with the mains and other sewer appliances theretofore constructed, such lands should in fairness be assessed not only for the cost of the lateral but also for the cost of the mains. But to permit an assessment for the mains to be collected before the laterals were built is unfair and unconstitutional, for if the laterals are never built, payment has been exacted for a benefit which is never received. On the other hand, if such lands are not assessed when the mains are built, they may escape payment for the benefit from the mains if, when the laterals are built, there is then a lack of statutory authority to assess them not only for the laterals but also for the mains. Our Legislature has in the past steered skillfully between this *Scylla et Charibdis* by providing that, when assessments for mains were made, prospective assessments might be laid on properties which might later acquire the benefit of the mains

by the construction of laterals or extensions, but that such prospective assessments should become payable only when the laterals or extensions had actually been constructed. And this court approved the "seamanship" of the Legislature in steering this course.

While there are cases which hold that lands which have no direct frontage on a street may still be assessed for a public improvement in such street, these cases will be found upon examination to be concerned with pavements, opening new streets, change of grade, width or alignment or similar improvements. It is apparent that the rule in such cases is different from the rule as to sanitary sewers, for one may use a street for more easy or more direct access to his property even though that property does not front directly on the street, while one cannot use a sanitary sewer unless his property can be connected to it.

The following citations illustrate the development and establishment of the rule as to sewers as stated at the head of this point.

In N. J. R. & T. Co. vs. Elizabeth, 37 N. J. L., 330, assessments on lands which could not be drained into a trunk sewer until laterals were built were set aside and Mr. Justice Depue, delivering the opinion of the Supreme Court in 1874, said, at page 334:

> "The sewer, for the construction of which this assessment was made, does not cross or touch the lands of the prosecutors. Its location at the nearest point is from one-third to one-half a mile distant from the premises on which the assessment is laid and none of its connections extend in that direction. It does not afford a means of drainage of prosecutor's lands, the surface water therefrom being dis-

charged in another direction into the Elizabeth River, and is incapable of being used for such drainage without being connected therewith by means of other sewer connections which have not yet been projected. The proof is that the sewer in its present condition is of no benefit to prosecutor's lands * * *. The ordinance projecting this improvement, contemplated nothing beyond the construction of the sewers which have been built. No ordinance has been passed or proposed for the extension or connecting sewer which, in its operation, will benefit prosecutor's lands by draining them. Such connection may never be made. The authorities who may have the control of public affairs, may never conclude to construct a sewer for drainage of prosecutor's lands, and if they do, they may locate it in such a way that its connections may not be with the present sewer. It is manifest that a probability depending on so many contingencies will have no appreciable influence on the value of the lands on which this burden is imposed, and therefore is not an equivalent for the moneys which the prosecutors are required to disburse under this assessment."

In Kellog vs. Elizabeth, 40 N. J. L., 274, assessments on lands which could not be drained into a trunk sewer until laterals were built, were set aside, and Mr. Justice Dixon delivering the opinion of the Supreme Court in 1878, said, at page 275:

"The area of assessment embraces all the territory which it is expected will be drained when the whole system of laterals is completed,"

and while assessments on lands then having no access to the sewer were set aside, he suggested the liability of such lands to an assessment to be levied when the laterals or extensions had been constructed, which suggestion, as shown below, has now been enacted as part of the Municipalities Act.

In McKevitt vs. Hoboken, 45 N. J. L., 482, the Supreme Court in 1883, held that: 10

> "No person whose lands are not so placed as to permit of a present connection with the sewer can be assessed for benefit."

In Morris vs. Bayonne, 53 N. J. L., 299, the Supreme Court in 1891, in an opinion by Mr. Justice Magie, held that:

> "An assessment on property, as presently benefited by the construction of a sewer, must be presumed to have been made on the ground of some present appreciable benefit. When it is shown by clear proof that the property cannot, without the construction of lateral sewers, connect with the main sewer for drainage, and that surface water is not carried therefrom by said sewer in a mode appreciably better than that previously afforded by the configuration of the land and natural water courses, no benefit has been conferred on the property sufficient to justify a present assessment." 20 30

Until this time, all assessments whether on lands along the sewer, or on lands having no access thereto, had apparently been those commonly called "direct assessments" i. e. assessments which were payable immediately; and such assessments when on lands having no access to the sewer, had always been set aside as unconstitutional. 40

In order to compel lands not presently assessable to pay for benefits from a main sewer which might be made available to them by the subsequent construction of laterals or extensions, the Legislature by P. L. 1887, page 231, provided that sewer assessments might be made

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> "Upon all the property benefited and to be benefited within the entire drainage district, and where a direct tapping benefit is or may be secured, either by connecting with the trunk line or lateral sewers already constructed, the assessments when finally confirmed shall be collectible at once, as in other cases, and where the benefit is prospective and depends upon the construction of lateral and connecting sewers not yet built, in every such case the assessments made upon such property shall constitute a first lien thereon at and from the time when the lateral sewer is constructed, connecting the property assessed with such trunk line, and shall be collectible at the same time the benefits assessed thereon for the construction of such connecting lateral sewer is * * * collectible."

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In Vreeland vs. Bayonne, 58 N. J. L., 126, the Supreme Court in 1895 held this act invalid:

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> "So far as it aims to require a present ascertainment of the special benefits which will accrue to the property from the main sewer now built, at an unknown period in the future, when a connecting branch shall have been laid."

But on appeal (Vreeland vs. Bayonne, 60 N. J. L., 168), this Court reversed the Supreme Court because under the statute:

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"such assessments become liens only after connecting sewers are built and draw interest only from the date of the confirmation of the assessment for the connecting sewers."

Acts permitting prospective assessments which were to be paid in the future when extensions were constructed, were sustained in many later cases. 10

In St. Vincent's Church vs. Madison, 85 N. J. L., 131, the Supreme Court in 1913 set aside a sewer assessment for the reason, as stated by Mr. Justice Voorhees, at page 134 (last paragraph):

"* * * to warrant an assessment for the construction of a sewer the property must be capable of a present appreciable benefit by direct connection with such sewer, and proof of inability to connect with it, and that the waters will not by it be carried off, avoid such inference." 20

But this Court, in St. Vincent's Church vs. Madison, 86 N. J. L., 567, reversed the Supreme Court, holding that:

"The lands of the respondent being within the sewerage area or district of the Borough, at least indirectly, will find an outlet for sewage through the general system, and, therefore, are liable to an assessment for benefits, under the act of February 19, 1895." 30

It is clear that this means a present assessment for a present benefit from direct access, and not a presently payable assessment for a benefit to be had only by subsequent extensions of the sewers, because although the act referred to (P. L., 1895, page 95, 3 C. S., page 3580, Sec. 458) does permit assessments on all lands in the entire sewerage area, it expressly provides (Sec. 2): 40

"That the assessment upon all lands which at the time * * * front or abut on * * * the main sewer * * * *or any other sewer or drain already constructed and connected directly or indirectly therewith* * * * shall be collectable at once, and that where such benefit is prospective only * * * such assessment shall be collectible * * * only from the time when the assessment to be made for * * * the construction of laterals or extensions has been confirmed."

Chancellor Walker, delivering the opinion of the Court of Errors and Appeals in this case, points out (page 572) that while the Church lands had in fact no frontage on the Wilmer Street sewer for which they had been assessed, some of the buildings on the St. Vincent Church lands were actually connected with another part of the sewer system by pipes running through lands of the Public School, i. e. (in the words of the act), by an "*other sewer already constructed* and connected directly or indirectly" with the main sewer, and therefore had a present appreciable benefit for which a present assessment might be made. But this Court did not confirm the assessment as made (for benefits from the Wilmer Street sewer to which the Church lands had no access) but (page 575) sent the case back to the Supreme Court to make an assessment for the benefit actually and presently received from the connection through the Public School lands with the main sewer.

In other words, this Court held that while a direct assessment could not be made for the Wilmer Street sewer to which there was no access, an assessment could and should be made for benefits from the general sewer system to which said lands did have access through the Public School lands,

thus applying again the rule that assessments presently payable are dependent upon benefits presently available.

When these earlier sewer assessment acts and the multitude of other acts pertaining to municipalities were destroyed by the repealers of 1917 and the new Municipalities Act arose Phoenix-like from their ashes, the procedure for assessing such properties was changed although the principle, as stated in the rule at the head of this point, was retained. Prospective assessments were no longer permitted, but instead, the Legislature apparently adopted the suggestion made by Mr. Justice Dixon in 1878 in Kellog vs. Elizabeth, 40 N. J. L., 274, in which he held that while assessments on lands which could not be drained into the trunk sewer until laterals had been built, were illegal and must be set aside, yet (page 277):

> "It by no means follows * * * that the property lying on the line of intended laterals must escape assessment for the expense of making the trunk sewer. The constitution guards it from such a burden only until the compensating benefit is actually received. When laterals are built, so that sewerage through the main is furnished to this property, then it will be lawful for the corporation to reimburse itself for the cost, not only of the laterals, but also of this principal sewer so far as the peculiar advantage then accruing to that property will warrant. But in the meantime, the corporation whose officers have expended public funds must itself bear the load,"

for the new Municipalities Act provides that:

> "All assessments levied under this act for any local improvement shall in each case be as

near as may be in proportion to the peculiar benefit, advantage or increase in value which the respective lots and parcels of land and real estate shall be deemed to receive by reason of any such improvement, and in no case shall any assessment on any parcel of land exceed in amount such peculiar benefit, advantage or increase in value" (P. L., 1917, page 380, Art. XX, Sec. 24).

"Whenever a main sewer or drain, or a sewerage disposal plant, or an outlet or connecting sewer, either within or without the municipality, or any improvement or addition to a sewerage system has been or shall hereafter be constructed in a municipality, and the benefits thereof shall be extended to land or real estate in the municipality by the subsequent construction of any lateral sewer or sewers, drain or drains, and the municipality has paid or is obligated to pay for such main sewer, or drain, or sewerage disposal plant, or outlet or connecting sewer, or any improvement or addition to the sewerage system, or any part of the cost thereof, out of general funds, either by reason of such work having been done at the general expense or by reason of the fact that the assessments therefor did not equal the total cost thereof, such lands or real estate to which the benefits thereof shall have been extended may be assessed therefor to an amount not exceeding the amount of the benefits actually received by such lands or real estate, notwithstanding that the municipality shall have paid such indebtedness or part thereof either in whole or in part. Such assessment may be made in connection with and as part of the assessment for such lateral sewer or drain or as an independent assessment, and shall be made

and collected in accordance with the provisions of this act. * * *" (P. L., 1917, page 381, Art. XX, Sec. 25, as amended, P. L., 1921, p. 162.)

This statute, which is the law under which these assessments were made, provides in short, first, that assessments shall not be made in excess of benefits (nor where there are no benefits), and second, that when a sewer is extended by newly constructed laterals, lands which thereby are given the use, not only of the new laterals, but also of the main sewer system, may then and not until then, be assessed, not only for the laterals but also for the main sewer.

IT IS RESPECTFULLY SUBMITTED THAT THE CASES CITED ABOVE AND THE MUNICIPALITIES ACT, ESTABLISH THE RULE THAT PROPERTIES THAT CANNOT CONNECT WITH A SEWER UNTIL LATERALS OR EXTENSIONS HAVE BEEN CONSTRUCTED, CANNOT BE SUBJECTED TO ASSESSMENTS WHICH ARE PAYABLE BEFORE SUCH LATERALS OR EXTENSIONS HAVE BEEN CONSTRUCTED.

III.

Neither laches nor statutory time limitations bar appellants.

These assessments were confirmed February 27, 1922 (Case, pages 10-11). The certiorari was allowed January 13, 1923 (Case, pages 3-4). The rule to show cause was made January 27, 1923 (Case, pages 13-14).

The Municipalities Act, as last amended, provides that:

"No certiorari * * * shall be allowed * * * to set aside any assessment * * * made for any improvement after thirty days shall have elapsed from the date of the confirmation of such assessment * * *" (P. L., 1921, page 515, Sec. 56).

10 The Certiorari Act provides that:

"No writ of certiorari shall hereafter be allowed or issued to review any assessment * * * for benefits for the construction of * * * sewers * * * unless application for such writ shall be made within sixty days after such assessment * * * shall have been confirmed by a Court of competent jurisdiction * * * (P. L., 1907, page 109, 1 C. S., page 407, Sec. 15)."

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But the appellants' complaint is that these assessments are unconstitutional because they are compelled to pay their money now for public use without compensation in benefits, for they receive no benefits now and may never receive any. Neither laches nor statutory limitations bar relief in such cases.

If the Municipalities Act could be construed to authorize these direct assessments where there are as yet no benefits, the act would be unconstitutional for the reasons stated in the cases cited in Points I and II above. But as the act does not authorize these assessments, the officials of the Borough have failed to keep within the authority delegated to them by the Legislature; and have made assessments which are contrary to both the statute and the constitution.

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In Traphagen vs. West Hoboken, 39 N. J. L., 232, the Supreme Court held in 1877, in an opinion by

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Mr. J. Van Syckel (affirmed by this Court, 40 N. J. L., 193, on the Supreme Court opinion) that:

> "When an inferior tribunal fails to pursue the provisions of a legislative grant and to keep within it, the right of this Court to review the erroneous proceedings attaches, and it is beyond the power of the lawmaker to arrest the employment of the appropriate writ for that purpose. A legislative act prohibiting a writ of certiorari in such case is unconstitutional and void."

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In Kirkpatrick vs. Commissioners, 42 N. J. L., 510, in 1880, the Supreme Court in an opinion by Mr. Justice Dixon held that:

> "Laches in suing out a writ to review an assessment, or a statutory limitation as to time, will bar all complaint except as to the constitutionality of the law under which the assessment was levied."

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In the case last cited the assessment was made in 1873, the writ was issued in 1880, the statutory limitation was then six months, but the act was held to be unconstitutional and the assessment was set aside.

In Peckham vs. Newark, 43 N. J. L., 576, the Supreme Court, in 1881, held that:

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> "The legislature cannot deny to the citizen the right to invoke the judgment of this Court upon a void assessment."

And at page 578, Mr. Justice Dixon said:

> "It is not in the power of the legislature to give any substantiality to a special assessment

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for a public improvement unless it direct it to be levied in proportion to the peculiar benefit which the property shall have received * * * the legislature is unable to withhold from the citizen that relief against it which the appropriate writ of this Court affords."

10 In Culver vs. Jersey City, 45 N. J. L., 256, the Supreme Court in 1883, held (Opinion by Mr. Justice Scudder) that:

"Where the objection to assessments is based on the unconstitutionality of the law under which they are made, the laches of the prosecutors is no bar to the writ of certiorari brought to set them aside, nor cause for its dismissal."

In Speer vs. Essex Road Board, 47 N. J. L., 101
20 (affirmed by this Court in 48 N. J. L., 372, on the Supreme Court Opinion), Mr. Justice Van Syckel said (page 101):

"therefore, plaintiff by his laches, has lost his remedy unless the assessment is wholly without authority and void."

And at page 104 he said:

"The legislative grant * * * of the right
30 to assess for the mere transfer of the franchise is an authority to lay a burden where no possible benefit can accrue and is to this extent unconstitutional and void. It sanctions the taking of private property for public use without compensation. In such case the prescribed limitation of the time within which a writ of certiorari must be sued out is inoperative."

In Meredith vs. Perth Amboy, 63 N. J. L., 520,
40 Mr. Justice Dixon delivering the opinion of the Supreme Court in 1899 said, at page 522:

"But this statutory limitation upon the allowance of a prerogative writ cannot be enforced for the protection of an assessment which the legislature could not constitutionally authorize."

In United N. J. R. R. Co. vs. Gummere, 69 N. J. L., 111, Mr. Justice Dixon, delivering the opinion of the Supreme Court in 1903, reviewed the earlier cases and (page 112) stated the rule deduced therefrom to be that: 10

The statutory limitation will not bar:
1. where a statute is unconstitutional;
2. where the tribunal confirming the assessment is without jurisdiction of the matter;
3. where the circumstances are such that no assessment can constitutionally be made. 20

And in Prince vs. Ireland, 80 N. J. L., 265, the Supreme Court held in 1910 (opinion by Mr. Justice Minturn) that:

"Alleged laches * * * cannot confer jurisdiction * * * to impose an assessment where the 'assessing body' is without power or authority to assess in the first instance."

Because they have been assessed unconstitutionally, as they cannot use the sanitary sewer; and without authority, as the statute subjects them to an assessment only after laterals have been built to serve their property; these appellants are not barred by delay. No injustice will be done the Borough by setting aside these assessments, for the Municipalities Act expressly provides that if the benefit of the main sewer and disposal plant shall hereafter be extended to these lands by the construction of laterals, such lands may then be 30 40

assessed, not only for the new laterals, but for the main sewer and disposal plant. (P. L., 1917, page 381, Art. XX, Sec. 25, as amended, P. L., 1921, page 162.) This statute permits a re-assessment at the proper time, against these lands for the benefits they will then receive from the sewer system which has now been constructed. In such case laches does not bar relief. In Frevert vs. Bayonne, 63 N. J. L., 202, the Supreme Court held, in 1899 (Opinion by Mr. Justice Collins) that:

> "Laches is not an absolute bar to relief against an assessment for a public improvement, if there is a legal provision for a re-assessment."

IT IS RESPECTFULLY SUBMITTED THAT THESE ASSESSMENTS ARE UNCONSTITUTIONAL AND UNAUTHORIZED AND THAT THE APPELLANTS SHOULD NOT, BY REASON OF LACHES NOR STATUTORY LIMITATIONS, BE DENIED RELIEF.

IV.

Appellants' lands have no access to the sewer and the Borough's attempt to levy assessments on these lands and require immediate payment of said assessments is unconstitutional.

For convenience the properties of the several appellants will be described in two classes: First, large tracts of undeveloped or farm lands more or less isolated from the sewer by other properties, and second, building lots on streets in which no sewer has been laid.

CLASS I.

LANDS OF APPELLANT UNITED OWNERS' REALTY COMPANY.

Lot 2, Block 177 (Map #12) assessed $1622 (Case, page 10, line 7) is a tract of 13 1/10 acres lying just within the easterly boundary of the Borough not divided into lots, having no streets or highways through it or adjacent to it, completely separated by surrounding properties from any of the street of the Borough and at a distance of over 1500 feet from the nearest sewer. This property has no access to the sewer now and will have none until new streets are laid out to and through it, and laterals have been built in such streets.

Lot 3, Block 177 (Map #12) assessed at $496 (Case, page 10, line 8) is a tract of four acres, having no streets or highways through it nor adjacent to it, completely separated by surrounding properties from any of the streets of the Borough and at a distance of over 1000 feet from the sewer. This property has no access to the sewer now and will have none until new streets are laid out to and through it and laterals have been built in such streets.

Block 224 (Map #10) assessed at $8,181.36 (Case, page 10, line 14) is a tract of 66 acres lying just within the easterly boundary of the Borough not divided into lots, having no streets or highways through it, and (except at the southerly side as stated below) no highways adjacent to it and (except at the southerly side as stated below) completely isolated by surrounding property from any of the streets of the Borough. Adjacent to the southerly side of this parcel is another parcel of land which has been divided into lots and through which streets have been laid out. One of these streets is Garibaldi Avenue lying about 200 feet

south of and approximately parallel with the southerly boundary of the 66-acre tract, in about one-half of the length of which there is a sewer. There are two streets (not named on the map) extending northward from that part of Garibaldi Avenue in which there is a sewer, and terminating at the southerly boundary line of the 66-acre tract. This
10 property has no access to the sewer and will have none until new streets are laid out through it, and laterals have been built to and through it.

LANDS OF APPELLANTS NICHOLAS, JOHN and JACOB GROOT.

Lot 1, Block 174 (Map #11) assessed at $2996 (Case, page 17, line 36), is a tract of 24 2/10 acres lying just within the northerly boundary of the Borough, not divided into lots, having no streets,
20 no highways through it nor (except at the southeasterly end) none adjacent to it. It is almost completely surrounded by other undeveloped property and has no sewer near it. This property has no access to the sewer, and will have none until new streets are laid out to and through it, and laterals have been built in such streets.

Lot 2, Block 174 (Map #11), assessed at $2500 (Case, page 17, line 37), is a tract of 20 15/100 acres lying immediately within the northerly
30 boundary of the Borough, fronting on Essex Street, in which there is no sewer. It is as yet undeveloped, and has no access to the sewer, no part of which is shown on Map #11, as no part of the sewer runs anywhere near this property.

LANDS OF APPELLANTS JACOBUS AND MARIA WISSE.

Lot 1, Block 175 (Map #9 and 11), assessed $3874 (Case, page 17, line 41), is a tract of 31¼
40 acres adjoining the two parcels last above described. It is as yet undeveloped and although it

lies in part on either side of Main Street there is no sewer in that part of Main Street, for the sewer ends, as shown on Sheet #9, at a point south of this property. It has no access to the sewer and will have none until the sewer is extended northerly in Main Street and new streets have been laid out through it in which laterals have been constructed. 10

LANDS OF APPELLANT SAM LIENGME.

Lots 6-7, Block 122 (Map #6-7) assessed $5,454.24 (Case, page 18, line 8), are two long, narrow adjacent parcels, containing in all 44 acres of undeveloped land. While a 10″ sewer is shown on sheet #6 as crossing this land the narrow way there is no street through which the sewer runs and this sewer is clearly not a benefit to these lands in their present undeveloped condition, but runs across them merely for the convenience and benefit of other parts of the Borough. These lands have no access to any other part of the sewer system and without a street along the sewer which does cross them, are not available for the erection of any buildings which would use the sanitary sewer. 20

LANDS OF APPELLANTS LOUIS AND NELLIE VON DER VLIET.

Lot 21, Block 230 (Map #3) assessed at $1901 (Case, page 18, line 15), is a tract of 32 acres lying just within the southerly boundary of the Borough, undeveloped and almost entirely cut off from access to any of the Borough streets. The streets which do run to its boundaries have no sewer, the nearest sewer being at Kipp Avenue and Hillcrest Avenue, about 1400 feet away. 30

LANDS OF APPELLANTS THOMAS AND ANNA MAY.

Lot 1, Block 100 (Map #6) is assessed at $2,934 (Case, page 18, line 19). The attack on this assess- 40

ment is abandoned. While the assessment is excessive in amount, there is a sewer on two sides of the plot, so that an assessment can constitutionally be made, and any attack on the amount of the assessment is now barred by the statutory time limitations.

10 LANDS OF APPELLANT THE GREGG CO., LTD.

Lot, 1, Block 177 (Map #12) assessed at $509 (Case, page 18, line 33), is a plot of 7 3/10 acres entirely cut off by surrounding properties from the streets of the Borough and from the sewer. This land has no access to the sewer now and will have none until the streets have been opened to and through it and laterals have been laid in such streets.

20 Blocks 203, 205, 206, 207, 208, 213, 214, 215, 216, 221, 222 (Map #9-10) assessed at $5786.67 (Case, page 19, lines 37-40), comprise a tract of 48 acres total area, actually used as a large factory yard, the streets indicated on the map by dotted lines being projected and not actually opened. On this property, in addition to the last mentioned assessment, there are assessments as follows:

Lot 1, Block 205 (Hancock St.—East side) Map #9, $543.90 (Case, page 18, line 25).

30 Lot 1, Block 208, $543.90 (Case, page 18, line 26).

The only sewer to which access can be had from this property is one in Hancock Street at the westerly end of these two blocks. The assessments last mentioned clearly represent the direct assessment for the direct benefit at this point. The other assessment of $5786.67 first above mentioned is clearly for prospective benefits to the remainder of

40 the tract, which has now no direct benefit to support such an assessment at this time.

CLASS II.

LANDS OF UNITED OWNERS' REALTY COMPANY.

Lots 63-64, Block 217 (Map Sheet 9) assessed at $10.33 each (Case, page 10, line 13), are two building lots 25 x 100 each on the southeast corner of Avenue E and Grant Street, and the nearest sewers are at Grant Street and Avenue C, approximately 400 feet away, and in Main Street approximately 800 feet away. These lots have no access to the sewer and will have none until a lateral is built in Avenue E or Grant Street.

Lots 19-20, Block 211 (Map #9) assessed $10.33 each (Case, page 10, line 12), are two building lots each 25 x 100 on the north side of Avenue C 25 feet west of Grant Street. There is a sewer in Avenue C east of Grant Street and in Grant Street south of Avenue C, the two meeting at the corner of said streets. These lots cannot be connected with the sewer in the ordinary manner, as the sewer is not laid in front of them. It is possible and perhaps not expensive to connect with the sewer at the corner, but perhaps this will not be done before a lateral is constructed in Avenue C, and the assessment should not be payable until the connection is made, or the lateral is built.

This appellant does not now urge the vacating of the assessments on the following parcels: Lot 13, block 159 a; lots 16-17, block 159 a; lot 1, block 159 b (Case, page 10, lines 9-10-11).

LANDS OF APPELLANT COMMONWEALTH BUILDING CO

Lots 42-43-44, Block 117 (Map #7) assessed $10.33 each (Case, page 15, lines 21-23), are building lots lying on Paterson Avenue between Woodside and Brookside Avenue. There is no sewer in this street.

LANDS OF APPELLANT F. C. BECKER REALTY COMPANY

Lots	24-29	incl.	Blk.	116	(Map	#7)	assessed	$10.33	each	(Case	p. 17,	L. 6)
							and					
"	35-45	incl.	"	116	("	#7)	"	10.33	"	("	" 17,	L. 7)
"	2 & 3		"	117	("	#7)	"	10.33	"	("	" 17,	L. 8)
"	5-16	"	"	117	("	#7)	"	10.33	"	("	" 17,	L. 9)
"	19-21	"	"	117	("	#7)	"	10.33	"	("	" 17,	L. 10)

are lots lying on Bell Avenue between Woodside Avenue and Brookside Avenue. There is no sewer in this block.

10

Lots	24-28	incl.	Blk.	117	(Map	#7)	assessed	$10.33	each	(Case	p. 17,	L. 11)
"	30-41	"	"	117	("	#7)	"	10.33	"	(Case	p. 17,	L. 12)
"	45-46	"	"	117	("	#7)	"	10.33	"	(Case	p. 17,	L. 13)
"	1-2		"	118	("	#7)	"	10.33	"	(Case	p. 17,	L. 14)
"	6		"	118	("	#7)	"	10.33		(Case	p. 17,	L. 15)
"	9		"	118	("	#7)	"	10.33		(Case	p. 17,	L. 16)
"	11-12		"	118	("	#7)	"	10.33	"	(Case	p. 17,	L. 17)
"	14-23	"	"	118	("	#7)	"	10.33	"	(Case	p. 17,	L. 18)

are lots lying on Paterson Avenue between Woodside and Brookside Avenues. There is no sewer in this block.

20

Lots	41-47	incl.	Blk.	120	(Map	#7)	assessed	$10.33	each	(Case	p. 17,	L. 19)
"	49		"	120	(Map	#7)	"	10.33	each	("	p. 17,	L. 20)
"	51-60	"	"	120	(Map	#7)	"	10.33	"	("	p. 17,	L. 21)
"	62-69	"	"	120	(Map	#7)	"	10.33	"	("	p. 17,	L. 22)
"	71-72		"	120	(Map	#7)	"	10.33	"	("	p. 17,	L. 23)
"	1-12	"	"	121	(Map	#7)	"	10.33	"	("	p. 17,	L. 24)
"	17-19	"	"	121	("	#7)	"	10.33	"	("	p. 17,	L. 25)
"	23-36	"	"	121	("	#7)	"	10.33	"	("	p. 17,	L. 26)

are lots lying on Bell Avenue between Oak Grove Avenue and Woodside Avenue. There is no sewer in this block.

30

Lots	37-41	incl.	Blk.	121	(Map	#7)	assessed	$10.33	each	(Case	p. 17,	L. 26)
"	43-68	incl.	"	121	("	#7)	"	10.33	"	("	p. 17,	L. 27)
"	70-72	"	"	121	("	#7)	"	10.33	"	("	p. 17,	L. 28)
"	1-19	"	"	123	("	#7)	"	10.33	"	("	p. 17,	L. 29)
"	24-36	"	"	123	("	#7)	"	10.33	"	("	p. 17,	L. 30)

are lots lying on Paterson Avenue between Oak Grove Avenue and Woodside Avenue. There is no sewer in this street.

40

LANDS OF APPELLANT GREGG CO., LTD.

Lots	1-51	incl.	Blk.	186	Map	#11,	assessed	$10.33	each	(Case	p. 18, L. 34)
"	1-23	"	"	187	"	#11	"	10.33	each	("	p. 18, L. 35)
"	24		"	187	"	#11	"	14.71		("	p. 18, L. 36)
"	25		"	187	"	#11	"	9.84		("	p. 18, L. 37)
"	26-47	"	"	187	"	#11	"	10.33	each	("	p. 18, L. 38)
"	1-21	"	"	188	"	#11	"	10.33	"	("	p. 18, L. 39)
"	22		"	188	"	#11	"	15.21		("	p. 18, L. 40)
"	23		"	188	"	#11	"	6.02		("	p. 18, L. 41)
"	24-34	"	"	188	"	#11	"	10.33	"	("	p. 19, L. 5)
"	1-10	"	"	189	"	#11	"	10.33	"	("	p. 19, L. 6)
"	11		"	189	"		"	12.		("	p. 19, L. 7)
"	12		"	189	"			9.29		("	p. 19, L. 8)
"	13-21	"	"	189	"			10.33	"	("	p. 19, L. 9)

all lie on the "dead ends" of streets running West of Russell Avenue in which there are no sewers.

Lots 1-2, Blk. 190, Map #12, assessed $10.33 each (Case p. 19, L. 10)
" 13-40 incl. Blk. 190, Map #12, assessed $10.33 each (Case p. 19, L. 11)
" 41-60 " " 191 " #12 " 10.33 " (" p. 19, L. 14)

are lots lying on Simons Avenue between Russell and Norma Avenues. There is no sewer in this Block.

Lots 41-68 incl. 79, 80, Blk. 190, Map #12, assessed $10.33 ea. (Case p. 19, L. 12, 13, 14)

are lots lying on Sutton Avenue between Russell and Norma Avenues. There is no sewer in this block.

Lots 21-40 incl. Blk. 191, Map #12, assessed $10.33 each (Case p. 19, L. 14)
" 41-80 " " 192 " #12 " 10.33 " (" p. 19, L. 15)

are lots lying on Parker Avenue between Russell and Norma Avenues. There is no sewer in this block.

Lots 1-40 incl. Blk, 192, Map #12, assessed $10.33 each (Case p. 19, L. 15)
" 41-80 " " 193 " #12 " 10.33 " (" p. 19, L. 16)

are lots lying on Kaplan Avenue between Russell and Norma Avenues. There is no sewer in this block.

Lots 1-40, Blk. 193, Map #12, assessed $10.33 each (Case p. 19, L. 16)

lie on Essex Street between Russell and Norma Avenues. There is no sewer in this block.

Lots 1-13, incl. Blk. 194, Map #12, assessed $10.33 each (Case p. 19, L. 17)
" 16-40 " " 194 " #12 " 10.33 " (" p. 19, L. 18)

lie on Essex Street between Norma and Porter Avenues. There is no sewer in this block.

Lots	41-80	incl.	Blk.	194,	Map	#12,	assessed	$10.33	each	(Case	p. 19,	L. 18)
"	1-13	"	"	195	"	#12	"	10.33	"	("	p. 19,	L. 19)
"	16-40	"	"	195	"	#12	"	10.33	"	("	p. 19,	L. 20)

lie on Kaplan Avenue between Norma and Porter Avenues. There is no sewer in this street.

Lots	41-61	incl.	Blk.	195,	Map	#12,	assessed	$10.33	each	(Case	p. 19,	L. 20)
"	62		"	195	"	#12	"	5.17		("	p. 19,	L. 21)
"	64		"	195	"	#12	"	5.17		("	p. 19,	L. 22)
"	65-80	"	"	195	"	#12	"	10.33	"	("	p. 19,	L. 23)
"	1-18	"	"	196	"	#12	"	10.33	"	("	p. 19,	L. 24)
"	21-40	"	"	196	"	#12	"	10.33	"	("	p. 19,	L. 25)

lie on Parker Avenue between Norma and Porter Avenues. There is no sewer in this street.

Lots	41-59	incl.	Blk.	196,	Map	#12,	assessed	$10.33	each	(Case	p. 19,	L. 25)
"	62-80	"	"	196	"	#12	"	10.33	"	("	p. 19,	L. 26)
"	1-40	"	"	197	"	#12	"	10.33	"	("	p. 19,	L. 27)

lie on Simmons Avenue between Norma and Porter Avenues. There is no sewer in this street.

Lots	41-56	incl.	Blk.	197,	Map	#12,	assessed	$10.33	each	(Case	p. 19,	L. 27)
"	57½		"	197	"	#12	"	5.17		("	p. 19,	L. 28)
"	59½		"	197	"	#12	"	5.17		("	p. 19,	L. 29)
"	60-66	"	"	197	"	#12	"	10.33	"	("	p. 19,	L. 30)
"	70-80	"	"	197	"	#12	"	10.33	"	("	p. 19,	L. 31)

lie on Sutton Street between Norma and Porter Avenues. There is no sewer in this street.

Lots 41-57, incl. Blk. 198, Map #12, assessed $10.33 each (Case p. 19, L. 33)

lie on Sutton Street east of Porter Avenue. There is no sewer in Sutton Street.

Lot	27,	Blk,	198,	Map	#12,	assessed	$5.17	(Case	p. 19,	L. 32)		
"	28-40	incl.	Blk.	198,	Map	#12,	assessed	$10.33	each	(Case	p. 19,	L. 33)
"	41-51	"	"	199	"	#12	"	10.33	"	("	p. 19,	L. 35)

lie on Simons Avenue east of Porter Avenue. There is no sewer in this block.

Lot	33,	blk.	199,	Map	#12,	assessed	$5.17	(Case	p. 19,	L. 34)		
"	34-40	incl.	blk.	199,	Map	#12,	assessed	$10.33	each	(Case	p. 19,	L. 35)
"	41-46	"	"	200	"	#12	"	10.33	"	("	p. 19,	L. 36)

lie on Parker Avenue east of Porter Avenue. There is no sewer in this street.

Lots 38-40, Blk. 200, Map #12, assessed $10.33 each (Case p. 19, L. 36)

lie on Kaplan Avenue east of Porter Avenue. There is no sewer in this street.

IT IS RESPECTFULLY SUBMITTED THAT NONE OF THESE LANDS HAVE NOW ANY ACCESS TO THE SEWER, AND THAT FOR THAT REASON THE BOROUGH CANNOT CONSTITUTIONALLY LEVY UPON THEM THESE ASSESSMENTS WHICH ARE IMMEDIATELY PAYABLE, AND THAT THE ABOVE ASSESSMENTS SHOULD, THEREFORE, BE SET ASIDE. 10

V.

It is respectfully submitted that the judgment of the Supreme Court should be reversed, and that the assessments on lands of appellants should be set aside as unconstitutional and void. 20

MORRISON, LLOYD and MORRISON,
Attorneys of Appellants.

WILLIAM J. MORRISON, JR.,
of Counsel.

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New Jersey Court of Errors and Appeals

UNITED OWNERS' REALTY COMPANY, Prosecutors-Appellants, *against* BOROUGH OF LODI, Defendant-Respondent.	On Certiorari. Appeal from Supreme Court.

BRIEF OF RESPONDENT.

A sanitary sewer and disposal plant was begun in the Borough of Lodi, in the year 1916, and work thereon was continued until the final completion and acceptance was accomplished in 1921. The assessment was made under the provisions of the Home Rule Act, P. L. 1917, Chapter 152. An assessment board was created by ordinance in the Borough of Lodi according to Article 20, Section 17. The provisions of the Act pertaining to the assessments of sewers are properly set out in the brief of the prosecutor.

The main trunk sewer and disposal plant cost $107,000 and this cost was assessed generally on all property in the borough according to what the commissioners thought were the proper benefits. There was placed upon approximately every lot of the standard area of 25 feet by 125 feet an assessment for the cost of this main trunk sewer and disposal plant as a present immediate assessment supported by real benefit regardless of the ability to connect the property with the disposal plant by existing laterals.

That such an assessment may be sustained depends upon whether or not any benefit has been derived by the property in question. The amount of the assessment cannot be disputed.

See

Breckenbridge & Tichenor v. *Newark,* 94 N. J. L., 361; 95 N. J. L., 436;
Florenzie v. *East Orange,* 88 N. J. L., 438.

The assessment of property not on the direct line of the improvement has been upheld in street improvements and in sewer improvements.

St. Vincent's Church v. *Madison,* 86 N. J. L., 567;
Jenkinson v. *Parmly,* 101 Atl., 390.

In *St. Vincent's Church* v. *Madison,* 85 N. J. L., 131, the Supreme Court held in favor of the contention of the prosecutors before the Court of Errors and Appeals reversed the Supreme Court (86 N. J. L., 567). This case is authority for the assessment in question as made and also for the position taken before the Justice who allowed the writ, namely that the prosecutors were out of time because they delayed eleven months to make application for their remedy.

It is, of course, agreed that if there is no benefit the levying of the assessment would be taking the property of the prosecutor without compensation and unconstitutional, but it has been repeatedly held by the Court of Errors and Appeals that land situated similarly to the prosecutor's receives a benefit from a sewer improvement regardless of whether or not there is an immediate opportunity of tapping.

The case of

Kellogg v. *Elizabeth,* 40 N. J. L., 274,

is counted on by the prosecutor to sustain the writ allowed herein because a similar assessment was set aside in that case, but it was expressly upon the testimony of the commissioners that the assessment was for the benefit the land would receive, when laterals were thereafter constructed that caused the Supreme Court to say:

> "The special peculiar benefit which will legalize an assessment for the expense of a local improvement must be a present benefit immediately accruing from the construction of the work in question."

This case was followed in

King v. *Reed,* 43 N. J. L., 186.

and

McDavitt v. *Hoboken,* 45 N. J. L., 482;
Vreeland v. *Bayonne,* 58 N. J. L., 126;

but the last mentioned case was taken to the Court of Errors and Appeals, the opinion of which Court is reported in 60 N. J. L., 168.

Justice Van Sickle said:

> "The judgment of the Supreme Court is erroneous and must be set aside in so far as it adjudges that the assessments for future benefits are illegal and must be vacated. * * * The benefits flowing from the existing sewer can be ascertained as readily before the connecting sewers are completed as afterwards. Like assessments are frequently made on lands not fronting on the line of the improvement as in the case of opening new streets. Lands not on the line of such new streets may be held to be in the area of assessable property and benefits accruing to them included in the assessment."

This case, it will be noted, expressly overrules

Kellogg v. *Elizabeth.*

As early as 1887 (P. L. 1887, p. 719), an act was passed by the Legislature providing for the collection of assessments upon lands similarly situated to those of the prosecutor after the construction of laterals permitting the assessment but delaying collection thereof until the tapping privilege was obtained by the construction of laterals.

The Court of Errors and Appeals in

Central Land Co. v. *Bayonne,* 56 N. J. L., 297,

through Justice Van Sickle held that the Legislature could impose an assessment upon lands not fronting on a sewer improvement, after first assessing all the frontage at its full benefit.

At page 302, the Court said:

> "If lands not on the line of the improvement may be wholly exempted, it must follow that the assessment on the frontage will not be invalidated by the fact that some burden is cast upon the lands which need not be assessed at all."

In 1895 (P. L. 1895, p. 95) the provisions of the 1887 act were extended to all municipalities, the first act applying only to cities and the Home Rule Act contains substantially the same provisions.

The act of 1895 was repealed, P. L. 1917, page 699.

The decision of the Supreme Court (Case, p. 21) should be affirmed because:

(1) The assessments complained against are assessments for immediate present advantages.

(2) The prosecutors delayed eleven months before applying for the writ of certiorari during

which time and subsequent to which time property owners of the Borough have paid assessments levied upon their property and it would be manifestly unjust to set aside the assessments in the case at bar in view of the laches of the prosecutors.

(3) The statutory provisions in the Municipalities Act (P. L. 1921, p. 515) of thirty days after confirmation for the allowance of writ of certiorari and the limitation in P. L. 1907, page 169, of sixty days after confirmation for the allowance of a writ, are a bar to the prosecutors.

See

Goodwin v. *Millville*, 75 N. J. Eq., 270.

It is, therefore, respectfully submitted that the judgment of the Supreme Court should be affirmed.

WALTER G. WINNE,
Attorney for and of Counsel
with the Respondent.

KEY SHEET.

BOROUGH OF LODI,
BERGEN CO. N.J.

BY
McCLAVE & McCLAVE,
BORO: ENGRS.
SCALE: 1" = 100'

SCALE:
50' 0 100' 200 FEET

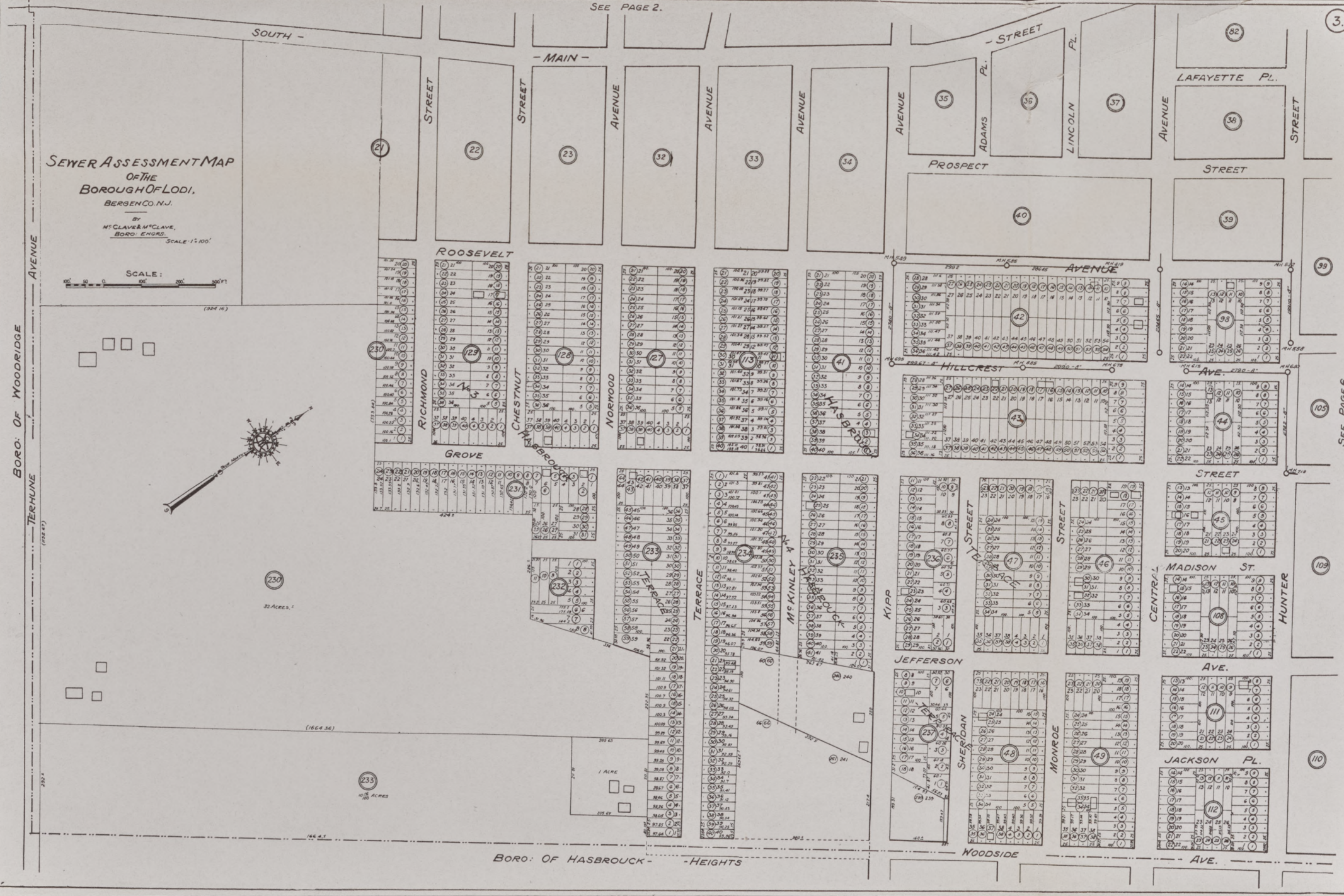
SEE PAGE 2.

SEWER ASSESSMENT MAP OF THE BOROUGH OF LODI, BERGEN CO. N.J.

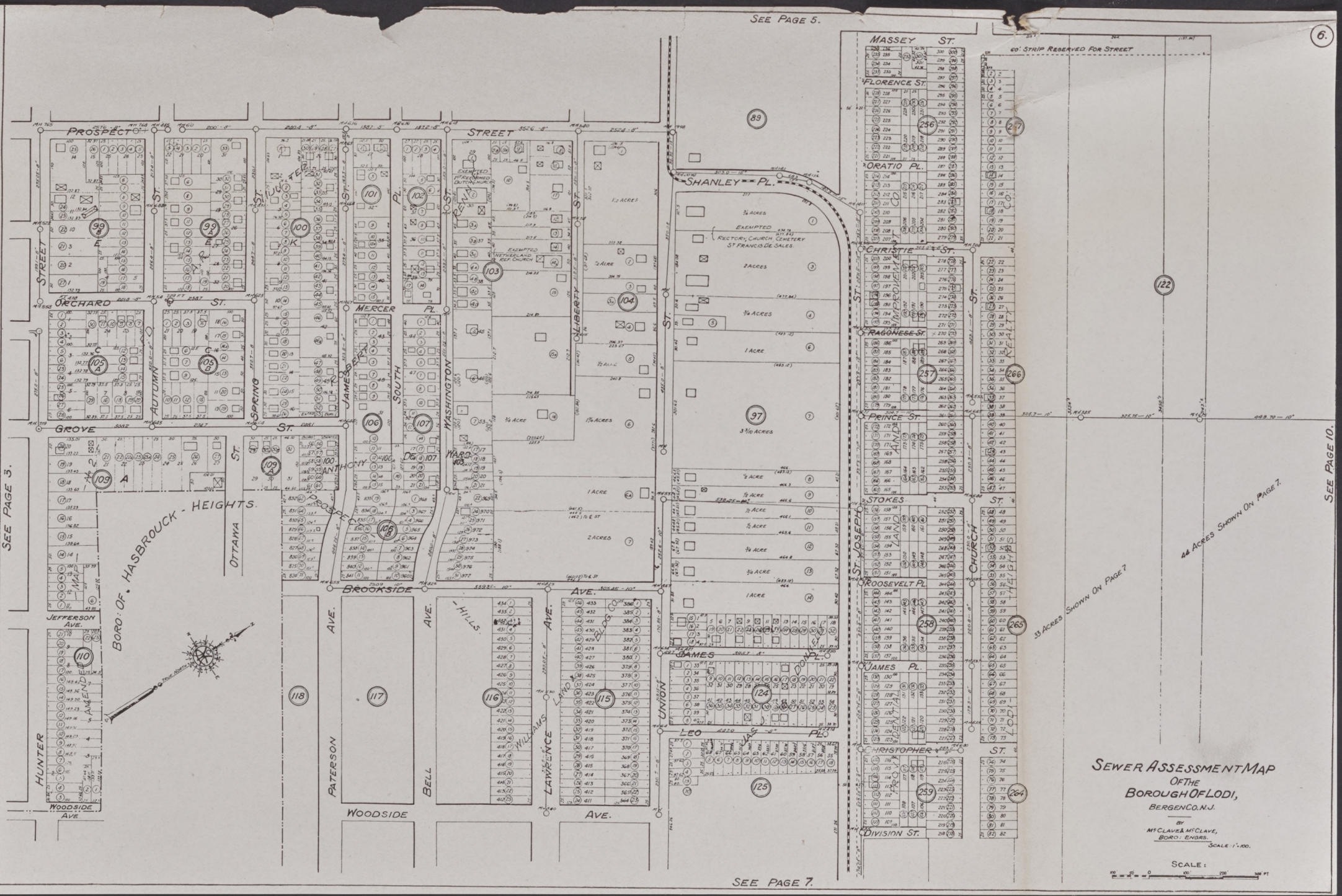
BY McCLAVE & McCLAVE, BORO: ENGRS.

SCALE: 1" = 100'

SCALE: 100' 50 0 100' 200' 300' FT



SEE PAGE 6.


SEE PAGE 5.
6.
SEE PAGE 3.
SEE PAGE 10.
SEE PAGE 7.
PROSPECT STREET
ORCHARD ST.
GROVE ST.
BROOKSIDE AVE.
WOODSIDE AVE.
JEFFERSON AVE.
HUNTER ST.
AUTUMN ST.
SPRING ST.
JAMES ST.
SOUTH ST.
WASHINGTON ST.
LIBERTY ST.
UNION ST.
ST. JOSEPH ST.
CHURCH ST.
MASSEY ST.
FLORENCE ST.
ORATIO PL.
CHRISTIE ST.
RAGONESE ST.
PRINCE ST.
STOKES ST.
ROOSEVELT PL.
JAMES PL.
CHRISTOPHER ST.
DIVISION ST.
SHANLEY PL.
MERCER PL.
ANTHONY PL.
WARD PL.
LEO PL.
PATERSON AVE.
BELL AVE.
LAWRENCE AVE.
OTTAYA
BORO. OF HASBROUCK HEIGHTS.
HASBROUCK HEIGHTS LAND IMPROVEMENT CO.
HASBROUCK HEIGHTS REALTY CO.
HASBROUCK HEIGHTS LAND CO.
HASBROUCK HEIGHTS BLDG. CO.
WILLIAMS LAND CO.
EXEMPTED RECTORY, CHURCH CEMETERY ST. FRANCIS DE SALES.
EXEMPTED NETHERLAND REF. CHURCH
60' STRIP RESERVED FOR STREET
44 ACRES SHOWN ON PAGE 7.
33 ACRES SHOWN ON PAGE 7.
SEWER ASSESSMENT MAP OF THE BOROUGH OF LODI, BERGEN CO. N.J.
BY McCLAVE & McCLAVE, BORO. ENGRS.
SCALE 1" = 100.
SCALE:

SEE PAGE 6.

BROOKSIDE AVE.

WOODSIDE AVE.

BOROUGH LINE

PATERSON AVE.

BELL AVE.

LAWRENCE AVE.

UNION ST.

LODI AVE.

OAK GROVE AVE.

JAMES PLACE

LEO PLACE

KEYSTONE BUILDING CO.

LODI - HACKENSACK ELECTRIC R.R.

JOSEPH ST.

DIVISION ST.

CARMINE ST.

SAVOYE ST.

FORD ST.

NEBRODSI ST.

CLARA ST.

WILLIAMS ST.

PAULINE ST.

CHURCH ST.

PEDDIE LAND IMPROVEMENT CO.

PEA HILL

44 ACRES SHOWN ON PAGE 6.

55 ACRES SHOWN ON PAGE 6.

20 ACRES SHOWN ON PAGE 10.

SEE PAGE 10.

BOROUGH LINE

THE NORTH

BOROUGH OF LODI,

BERGEN CO. N.J.

BY

McCLAVE & McCLAVE,

BORO: ENGRS.

SCALE: 1" = 100'

SCALE:

100' 50 0 100' 200' 300' FT

SEE PAGE 8.
9.
MAIN
STREET.
SADDLE
RIVER
PUBLIC SCHOOL EXEMPTED.
JOHN
MONEY
LODI REALTY INVESTMENT Co.
HOPE
ST.
MAP
POND
SIDNEY
BROOK
MILLBANK
VICTOR
GARIBALDI
MILL
ADDITION TO LODI
GRANT
HANCOCK
AVE.
STREET
TOTAL AREA - 148 ACRES.
LODI BRANCH N.Y.S.&W.R.R.
SEE PAGE 5.
SEE PAGE 11.
SEE PAGE 10.
BOROUGH OF LODI,
BERGEN CO. N.J.
BY
McCLAVE & McCLAVE,
BORO. ENGRS.
SCALE: 1" = 100'
SCALE:

SEE PAGE 12.

SEE PAGE 9.

SEE PAGE 6.

BOROUGH OF LODI,
BERGEN CO. N.J.
BY
McCLAVE & McCLAVE,
BORO: ENGRS.
SCALE: 1" = 100'

SCALE:

AMENDED MAP OF HACKENSACK ADDITION TO LODI

BOROUGH OF HASBROUCK HEIGHTS

LODI BRANCH N.Y.S. & W.R.R.

GARIBALDI AVENUE

MILL ST.

MILLBANK ST.

VICTOR ST.

4 ACRES

66 ACRES

TOTAL 48 ACRES SHOWN ON PAGE 9

2.07 ACRES

3.96 ACRES

12 ACRES

5.97 ACRES

20 ACRES ±

222

215

214

207

206

203

155

153

150

224

135

134

122

136

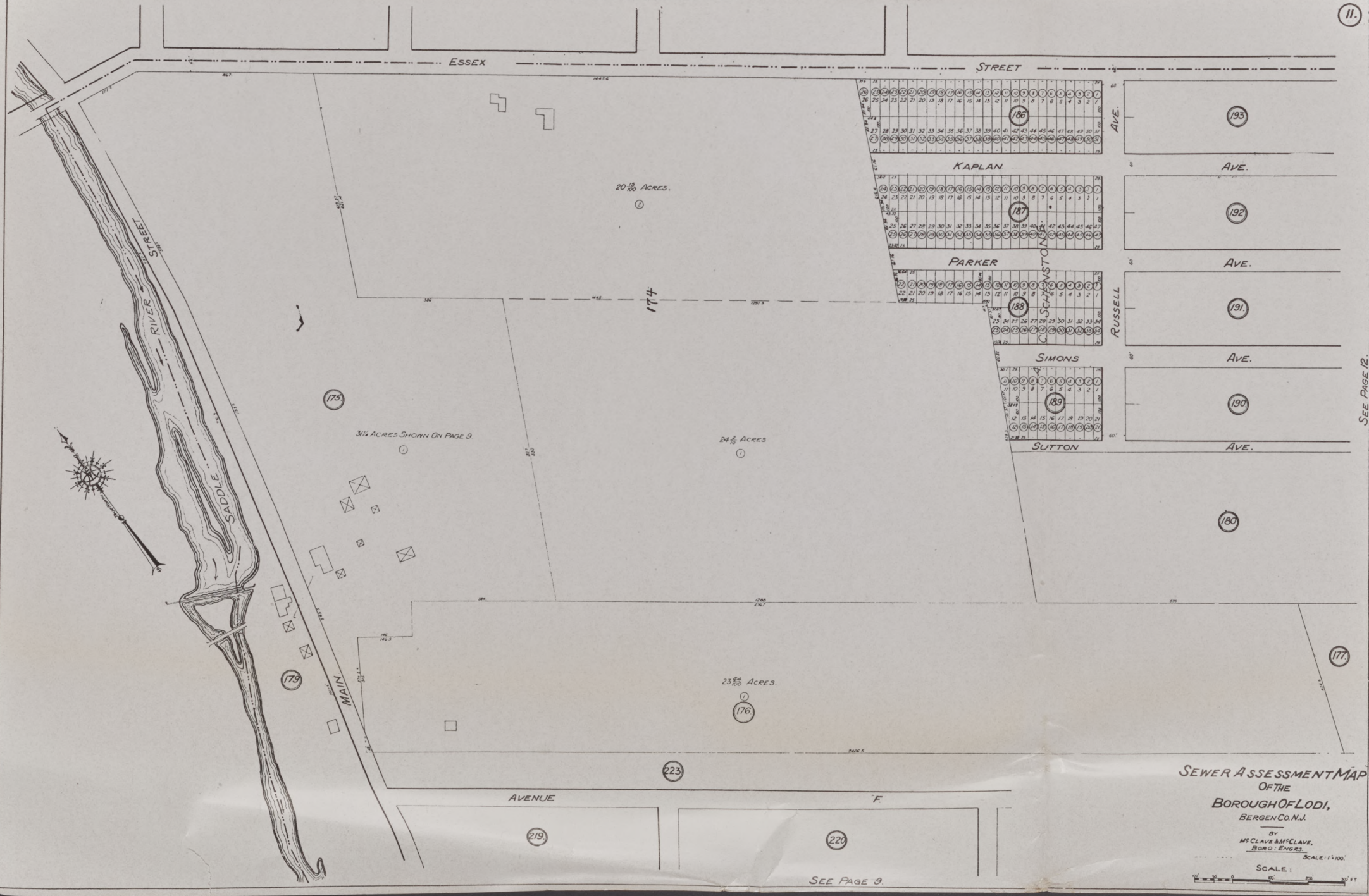
137

138

139

140

141



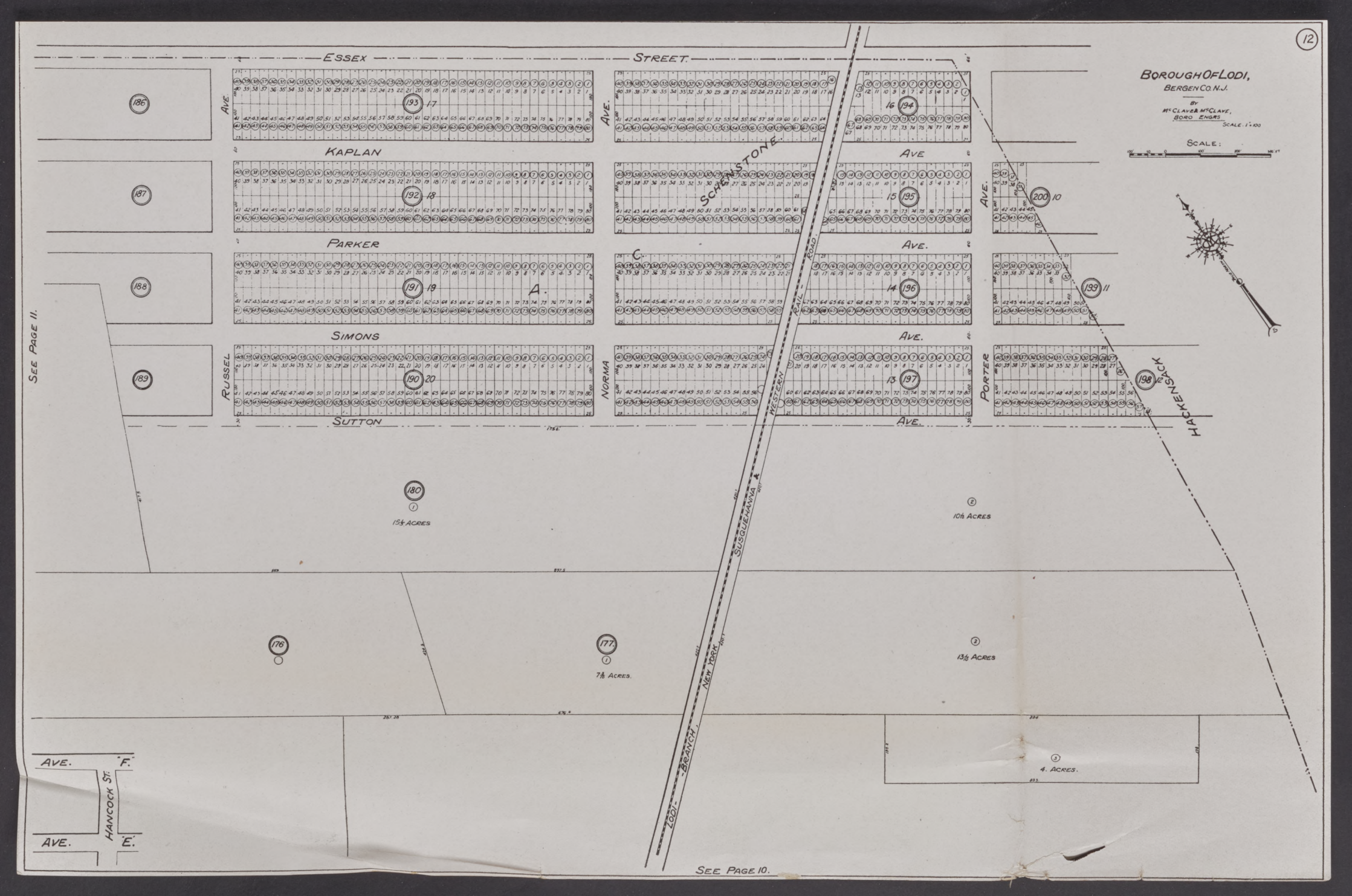
SEWER ASSESSMENT MAP
OF THE
BOROUGH OF LODI,
BERGEN CO. N.J.

BY
McCLAVE & McCLAVE,
BORO: ENGRS.

SCALE: 1" = 100'

SCALE:

BOROUGH OF LODI,
BERGEN CO. N.J.

BY
McCLAVE & McCLAVE,
BORO ENGRS.
SCALE: 1" = 100'

SCALE: