

Nor was the real property immediately benefited by the opening of Sunnyside avenue, the expense of which was proposed to be assessed upon the real property benefited thereby, ascertained and determined by the proposed assessment made under the said by-law, nor were the proportions in which the assessment of the cost thereof was to be made on the various portions of real estate so benefited ascertained and determined by the said proposed assessment.

The by-law treats the frontage or front line of the real property fronting or abutting upon Sunnyside avenue as real property, and imposes the special rate thereon instead of imposing it upon the real property fronting or abutting on Sunnyside avenue according to the frontage or front line thereof, when in truth and in fact this frontage or front line of the real property fronting or abutting upon Sunnyside avenue is not real property at all, but a mere mathematical line—length without breadth—and which could not be the subject of a lien or charge within the meaning of sec. 343 above quoted.

And all that was done by the proposed assessment made under the said by-law was to set down the names of the owners of the real property fronting or abutting upon Sunnyside avenue, the frontage of the real property of each so fronting or abutting, the annual payment to be made by each, and the number of each upon the assessment roll for 1892.

The by-law and proposed assessment thereunder, in my opinion, therefore, formed no lien or charge upon the real estate of the plaintiff, and forming no lien or charge upon it, the validating and confirming by the Legislature of the by-law and assessment created no lien or charge upon it.

The effect, however, in my opinion, of the validating and confirming by the Legislature of the by-law and assessment was to constitute a valid personal assessment of the plaintiff for an annual special rate for twenty years from the first day of January, 1892, of thirty-four cents and eight mills per foot of the frontage of her real property fronting or abutting upon Sunnyside avenue, which frontage is now agreed to be six hundred and twenty-one feet, collectable in the same manner and with the like remedies as ordinary taxes upon real estate are collectable under the provisions of the Assessment Act.

There was no valid reason why this special rate should not have been collected for the years 1892, 1893, 1894, 1895,