

necessary to question the property, in any possible case, of the issue of a writ of prohibition to the Recorder, or to his court. It is only necessary to examine under the demurrer whether there is alleged in this petition an excess of jurisdiction on the part of either of them. The reasons assigned in the petition, and all of which I have briefly noticed already, address themselves entirely, with the exception of two, which I will presently notice,—not to an excess of jurisdiction, by the Recorder of his court, but to grounds of illegality in the proceedings of the corporation itself, and the commissioners who acted under them, with respect to the opening of this street, and the imposition of the special assessment. The only two grounds set out in the petition for this writ which do not exclusively concern the question of illegality in the previous proceedings of the Corporation of the Commissioners are the 4th., and the last. The fourth sets up that the petitioner is not proprietor of some of the property seized—which, of course, can create no interest in any one but the real proprietor, to oppose it—and the last complains that the petitioner has been wrongly designated in the process issued against his property, which certainly can afford no grounds for a writ of prohibition to issue—though it may give rise to a proceeding in the inferior Court to set that matter right. This petition, therefore, does not in any manner make apparent the only ground on which it could legally issue. It does not show excess of jurisdiction by the inferior Court; but only alleges illegalities in anterior proceedings by the Corporation and Commissioners. It is impossible to say that the Recorder who attests a writ of any description that he has authority to issue in virtue to his office, (as he clearly had here, if these anterior proceedings had never been questioned by a proper course of action to which the Corporation should have been made a party,) commits excess of jurisdiction. He is the officer of the Corporation executing their commands for an object not illegal in itself, but only now alleged to be so, because of previous illegalities which could never be brought in question without making the Corporation a party to the discussion of them. I am clearly of opinion, then, that this writ does not lie in the present case under the allegations of the petition; and that, under the demur-