

To the Honorable the Judges of the Court of Quarter
Sessions of the County of Cambria

The Petition of Samuel
L. Gorgas surviving Executor of the last will and tes-
taments of Joseph Kern deceased and Mary M. Kopelin
for herself and as Attorney in fact for the heirs of George W.
Kern deceased, respectfully represents.

That the said Joseph
Kern and George W. Kern, were at the time of their de-
cease seized in their demaine as of fee of and in a
certain piece of Ground adjoining Stony Creek in the
Borough of Johnstown, - that the said Joseph Kern by his
last will and testament duly probated, authorized his Execu-
tors to sell his interest in said land, whereby the right to the
same and its care custody and Control was committed to
his said Executors, and that Samuel L. Gorgas one of your
Petitioners, is his the said Joseph Kern, sole surviving Exec-
utor. That the said George W. Kern died intestate and
that the said Mary M. Kopelin and her Constituents under
the power of Attorney aforesaid, are the owners of the interest
of said George W. Kern in said piece of Ground.

That they find in the advertisements published in the
"Johnstown Tribune" an advertisement as follows.

ORDINANCE No. 116.
An Ordinance Opening Cambria
Alley in the Fifth Ward of
Johnstown Borough.

Be it ordained and enacted by the Burgess and
Town Council of the Borough of Johnstown,
and it is hereby ordained and enacted by the
authority of the same.

SECTION 1. That Cambria Alley, extending
from the southerly line to Dilbert street in the
Fifth Ward of the Borough of Johnstown, be,
and the same is hereby opened to the width of
twenty feet, and declared a public alley of the
Borough.

SECTION 2. That the westerly boundary line of
said Alley shall commence at the southerly line
of George Kuntz property and extend south
thirty feet to the southerly line of the
southerly boundary line of the property of
said Kuntz, and extend parallel therewith south 22° 31'
degrees east 60 feet to Dilbert street.

SECTION 3. That all ordinances of the Borough
relative to alleys be and the same are hereby
extended to and over the said Cambria alley as
opened.

Passed finally in Council Aug. 18, 1887.
ALEX. KENNEDY, President.
Attest: JOHN H. FISHER, Clerk.
Approved Aug. 18, 1887.
H. W. STOREY, Burgess.

That the Alley thus ordained and enacted, as your Pe-
titioners are informed and verily believe, occupies or is taken
from the piece of Ground above referred to formerly of the
said George W. Kern and Joseph Kern and now belonging to
your Petitioners and those whom they represent.

That your Petitioners had no notice, of the pending

Ordinance

of said ~~notice~~ in the Council of the Borough of Lehnstoun
was any notice, as they verily believe, given according
to the Act of Assembly in such case made and provided and
they had no opportunity to make known to Council their ob-
jections to said ordinance.

That the Alley as laid out is much wider than any other
Alley in the said Borough, will do great and unnecessary
damage to the lot of ground above specified, and is, as
your Petitioners believe ~~also~~ ^{an} ~~unnecessary~~ ^{unnecessary} and bur-
densome.

The Petitioners further represent that they are aggrieved
by the laying out said Alley, by the failure of the proper
Authorities of the Borough to give them notice of the
passage of said Ordinance and by the fact that they
had no opportunity to be heard when said Ordinance
was being considered in Council.

They petitioners further represent that said Alley
was not laid out according to the ^{of section 72} terms of the Act of
Assembly of 3 April 1887, which section provides "That
the proceedings shall be had for the opening, widening
and straightening of Roads, streets, ~~and~~ ^{and} Alleys ~~and~~ ^{and} laid
out and ordained according to the provisions of this
act as are provided by law for the laying out and widen-
ing of public Roads within this Commonwealth."

The Petitioners therefore pray your Honor to cause a
citation to issue summoning the said Borough of Lehnstoun
to answer this Complaint and after full hearing, "to take
such order as may be just and reasonable."

J. S. Gargas, Surviving
Eor of J. S. Kern
Mary M. Hopkin

1887

Cambria Co ff.

Samuel L. Gorgas being duly sworn saith that facts set forth in the above Complaint and petition are true and correct as he verily believes

sworn and subscribed before

me this 27 day of Aug^r 1887

W. H. Eastby J. P.

S. L. Gorgas

Cambria Co ff.

Rec'd remembered that on the 27 day of August A.D. 1887 before me a Justice of the Peace in and for said County personally appeared Samuel L. Gorgas and J. L. Hunt who acknowledged themselves to own and be indebted to the Commonwealth of Penna^a in the sum of one hundred dollars to be levied of their respective goods and chattels rights and credits lands and tenements conditioned that the said above petition shall be presented with effect otherwise they will pay the cost of said proceedings —

Taken and acknowledged at

before me this 27th day of

August A.D. 1887

W. H. Eastby J. P.

S. L. Gorgas

J. L. Hunt

No. 6 Sep Term 1887. R. D.
Quarterly Session of
Commons

Petition of Saml L.
George surviving Exe-
cut of Joseph Kerns decd
and M. M. Kopelen for
himself and as Atty in
fact for Geo M Kerns
been to ask said Ordi-
nance of Council of Sebes-
town Borough ordaining
Commons Alley —

And now to wit Sep 5-
1887. Petition read and
Citation awarded and
all proceedings under
the Ordinance ordaining
Commons Alley at aged
and the same time until
determination of proceedings
under said citation returned
all questions relating
to said ordinance and
proceedings under it
reserved. By the Court
Filed Sep. 5. 1887.

John

In the Court of Quarter Sessions of Cambria County
No. September Sessions 1887.

In the Matter of the petition of Samuel S. Gorges, surviving Executor of Joseph Kern, deceased, and M. M. Kopelin for herself and co. Attorney in fact for the heirs of George W. Kern, deceased, to set aside the Ordinance of the Council of Johnstown Borough Ordaining Cambria Alley.

Answer of Respondent.

John H. Fisher Acting Burgess and Alexander Kennedy, President of the Council of Johnstown Borough, Respondent above named, make answer to the several matters embraced in the Complaint of the petitioners above named as follows, viz:—

First That George W. Kern, the co-executor of the said S. S. Gorges of the said Joseph Kern, deceased, and decedent of the said M. M. Kopelin and those whom she claims to represent, during his lifetime, viz: About the year One Thousand Eight Hundred and fifty-three by a plat or plan made by him, the said George W. Kern laid out in lots all that portion of the said Borough of Johnstown embraced between the Stuyvesant River on the North and east and Apple Tree Alley on the West, and Liberty Street on the South. Said plat being numbered and designated on said plat or plan from one to twenty-one inclusive; and on which said plat or plan said George W. Kern marked and designated and named certain streets and alleys, and among which said streets and alleys so laid out and dedicated is a certain unnamed alley fronting east on the Stuyvesant River (now Cambria Alley, the locus in quo) of an undefined width.

That the Burgess and Town Council of the Borough of
Johnstown by reference to the said plat or plan of the
said George W. Kern, on the twenty-seventh day of May
A.D. one thousand eight hundred and fifty-seven duly
and legally enacted an Ordinance accepting and adopting
the said street and alleys as marked and designated
on the said plan, as public streets and alleys of the
said Borough of Johnstown, and by the provisions
of said Ordinance extended all laws, Ordinances,
and regulations of the said Borough of Johnstown
relating to streets and alleys to and over the said
streets and alleys so accepted and adopted by said
Ordinance. That the said Borough of Johnstown
from the date of said acceptance and adoption up to the
present time, has exercised exclusive jurisdiction and
control over all the streets and alleys so accepted and adopted,
as public streets and alleys of the said Borough.

Second - That lots numbered 60, 61, 62, 63, 64, 65, 66, 67 and
68 on said plan are designated and described as fronting
on the east side of Somerset^{Street} and extending back to an
alley of an undefined width (now Cambria Alley the "locus
in quo"). That during the life time of the said George W. Kern
viz: During the years 1836, 1837, 1838, 1839, and 1840, the said
S. L. Gorgas and the said George W. Kern as Executors
of the said Joseph Kern deceased sold and conveyed to
diverse persons said lots as numbered and designated on
said plan as Nos. 60, 61, 62, 63, 64, 65, 67, and 68, and in the
said deeds of conveyance executed and delivered to the said
purchasers thereof by the said S. L. Gorgas and George W.
Kern as Executors of the said Joseph Kern, deceased, the said
numbered lots are described as fronting on the east side of
Somerset Street and extending back two perches to an alley.

(Now Cambria Alley the "Locus in quo") of an undefined width.
Third. That ever since the laying out and dedication of the
said Street and Alleys by the said Geo. W. Kern, and the
acceptance and adoption of the same by the Borough of Johnstown,
(Thirty years and upwards) the said Alley (Now Cambria
Alley the "Locus in quo") ^{and unobstructed} has been open, and the public have had
free and uninterrupted use of the same. That since the
dedication of said Alley to public use by the said Geo. W. Kern
aforesaid, neither he, during his lifetime, nor his Co-Executor
L. L. Grogan, nor the said M. M. Kephau herself, or as Attorney,
in fact for the heirs of the said George W. Kern deceased
have been in possession of said Alley, or paid any taxes thereon;
neither have they exercised or attempted to ~~any~~ exercise any
acts of ownership over the same, until ~~at~~ or about the time
of presenting their said petition to this Court.

Fourth. Your Respondent is informed, and verily believes
that prior to the Adoption of said Ordinance a written, or
printed notice was posted in a public and conspicuous
place along the line of said Alley, and in which said notice
was set forth the time and place when said Ordinance
fixing the width of said Cambria Alley would come up
for consideration by the Town Council of the said Borough
of Johnstown.

Fifth. Your Respondent is informed and verily believes,
that the failure on part of said Borough of Johnstown to give
notice to the petitioners of the time and place when said
Ordinance would be considered does not affect the validity
or legality of the said Ordinance.

Sixth. That on the Application of the proper Officers of said
Borough of Johnstown under the provisions of the General
Borough Law of April 8, 1857, and the several Supplements
thereto, this Court has appointed as assessors, several disinterested

freeholders of said Borough to view and assess damages and award Contributions for advantages and disadvantages caused to properties along and adjoining the line of said Alley, by reason of ^{enlarging and or determined,} the width of the same and under which said proceedings, the Complainants will have their day in Court; And which proceedings every question touching and affecting said Ordinance, and the proceedings thereunder, can be raised by Complainants, and heard and determined by the Court.

Your Respondent therefore prays Your Honor to dismiss said petition at the Costs of said Complainants.

John H. Fisher

Acting Burgess of
Johnstown Borough
Alfred Kennedy
President of Township
Borough Council

Cambria County SS.

Before me a Justice of the Peace in and for the said County of Cambria personally came John H. Fisher Acting Burgess of the Borough of Johnstown, and Alexander Kennedy, President of the Town Council of the said Borough, Respondent above named, who being duly sworn and affirmed according to law, saith that from the best of their information and belief, the facts or statements as set forth in the foregoing answer are true and correct as therein stated.

John H. Fisher, acting
Burgess Johnstown Borough
Alfred Kennedy
President of Township
Borough Council

^{affirmed,}
Sworn and Subscribed this twenty-sixth day of September A.D. One Thousand Eight hundred and eighty seven.

Wm. S. Title
Justice of the Peace

No 6 September Session 1887
Road Book

In the matter of the petition
of S. L. Jones, surviving
executor of Joseph H. Jones
deceased, and M. M. Tupper
for herself, counsel as attorney
in fact for the heirs of
George W. Jones deceased,
to set aside the Ordinance
of Johnston Borough Ordinance
in Cambridge.

Answer of the Borough of
Johnston, Respondents
above named

Filed Sep 26. 1887.

Kuhn

Johnstown, Pa., May 9 1888

W. A. Shoemaker Esq.

Lebensburg Pa.

Dear Sir: Will

you be kind enough to send
me Judge Johnson's opinion
in the Leubus Alley proceedings;
I will take good care of same
and return to you.

Also send me under opportunity
some Leubus receiver instead
of W. H. Thompson removed from
the Borough, in extending Cherry
Prize Hickory & Spruce streets

Yours truly

Henry H. Kuhn

Opinion sent to H. H. Kuhn

6 Sep - 7, 1877 -

In the Court of Quarter sessions of Cambridge
County

On the matter of the petition of the author-
ities of Johnstown Borough said County for
viewers to ^{lay} out Cambridge Alley in Fifth ward
of said borough and assess damages done to
the owners of lands through which said alley
passes.

And now to wit Mar. 5th A.D. 1888 Jas. P.
Linton and O'Connor Esqs attys for the Kern
heirs object to the confirmation of the report
of said viewers and file the following exceptions.

~~First~~
First

That the view is premature for
the reason that proceedings were, at the
time of the appointment of said viewers, and
are still pending in this Court to test the
validity of the ordinance in accordance
with which this view was granted.

Second

That the damages awarded the land-
owners, and especially the Kern heirs were
insufficient compensation for the injury
done to the property.

Linton & O'Connor Esqs.

Attys for Kern heirs.

In the Court of Common

No. 6 Sept Sessions 1887
Road Sec.

In the matter of the pe-
tition of the Authorities

of Johnston-on-Borough
for leave to lay out
Canebrake Alley and report
same to property owners

Objections to the
Confirmation of the re-
port of Viewers.

Filed Mar 3-1888

Linton & O'Connor, Attys.
attys

In Re. of the opening of Cambria Alley
in the 6th Ward of Johnston Borough.

The report of viewers appointed to view, lay
out &c. said alley is excepted to for the follow-
ing reasons:

That the viewers in their report
say that they "find no lands taken ~~which belonged~~
the land owners along or adjacent to said
alley by reason of the opening thereof." In this
they exceeded their authority in as much
as they assumed the ~~provisional~~ and respon-
sibility of a jury on the trial of a suit in
Ejectment by passing upon the title to the
land along said alley.

2nd.

The Title of the Kern Heirs is ad-
mitted to said lands, when the authorities
proceeding for the opening of said alley
gave notice to the heirs and ^{disappeared} legal represent-
atives of Joseph and Geo. St. Kern.

Linton and O'Connor

Chas. b. Sep Term A.D. 1887.

In Re of The Opening of
Cumbria Alley in the 8th
ward of Johnston Boro.

Additional Exceptions

~~George H. Linton~~
~~James H. Linton~~

Filed Apr. 3. 1888.
by leave of Court
H. A. Shumaker
Prothy.

Linton and Olmstead
attys.

To the Honorable R. L. Johnson, President Judge of
the Court of Quarter Sessions for the County of Cambria,

We the Undersigned Viewers appointed by the Court
of Quarter Sessions of Cambria County to assess damages
and award Contributions by reason of opening and fixing
the width of Cambria Alley in the Fifth Ward of the
Borough of Johnstown in pursuance of the annexed
order of said Court do report that after having given
due notice of the time and place of our meeting, a
copy of which said notice is hereto annexed and
made part of this our report, and after being duly
sworn and affirmed according to law to perform
our duties under the act of General Assembly to
incorporate Boroughs, and its Supplements with
impartiality and fidelity, did proceed to view the
premises described in said order of Court, and
found that the opening and the fixing of the width
of said Alley did not take any part or portion
of any of the lots ^{of ground} or properties along and adjoining
the boundary lines of said Alley, and we further
report that none of the lots of ground or properties
along and adjoining the boundary lines of said
Alley are damaged by reason of opening and
fixing the width of said alley, and therefore, assess
no damages for disadvantages; And the said
viewers further report that none of the lots of ground
or properties along and adjoining the boundary lines
of said alley are benefited over and above the
disadvantages by reason of opening and fixing the
width of said alley, and therefore, neither award nor
assess Contributions for advantages. All of which

Said lots of ground along and adjoining the boundary lines of said alley are more particularly designated on a plat of said alley which is hereunto attached and made part of this report.

Witness our hands and seals, and dated the Third day of December, A.D. One thousand eight hundred and eighty-seven.

George Eckler 
John Ryan 
John Harman 
Samuel Morster 
Joseph Hunt 
B. S. Sperry 
David Robert 

16. September Sessions 1887.

Report of the assessors to the order to
assess and assess damages and
assess contributions for advantages
and disadvantages assessed for
opening and fixing the width of
Dunbrigh Alley in the Fifth Ward
of the Borough of Johnston.

And now December 5, 1887, the
within Report read and confirmed
and the same will lay over
three months for exceptions to be
filed thereto.

By the Court

Filed Dec. 5, 1887

Exceptions filed

Reburr

Juburston Per. November 21, 1887

To Samuel Griffith, Concord Smith, Mrs. Thomas Stages, Arthur
W. Hodgstone, David Griffith, George Markle, Aaron Singer, George Kintz,
Mrs. Robert Bagnare, Casper Herdenger, M. M. Kipelin for her own right as
Attorney in fact for W. H. Harns Deed S. S. Hoggis serving for W. H. Harns Deed
the undersigned, miners, appointed by the Court
of Quarter Sessions of Cumberland County to view
and assess damages and mineral contributions
for advantages and disadvantages to properties
along and adjoining the boundary lines of
Cumberland Alley in the Fifth Ward of the Borough
of Juburston, in the said County of Cumberland,
by reason of opening and delving the width
of said Cumberland Alley, hereby give notice that
they will meet for that purpose on the said
premises on Wednesday the 30 day of November
A. D. 1887, at 2 o'clock P. M. at which time
and place you can be present if you see proper.

Geo. H. Kipelin
John Ryan

John Harnan
Joseph Kintz
Samuel Masters
B. F. Spradley
Viewers
D. D. D. D.

Nov 28th 1882 Served, by copy left with Samuel
Hoff, John Arthur, George Markle, C. C. Smith
George Hurty Sr, Casper Kitzberger.

by copy left on the premises of the following named
persons, William Hochstetler, Aaron Singer, David Kiffth
Mrs Thomas Hayes, Mrs Robert Bayne. St John Reformed
Church. Copy left at the residence of Rev W. H. Bates
Pastor of St John Reformed Church, by copy left
with M. M. Koplin. in her own right as Attorney in
fact George H. Kearn Decd. Nov 30 Served by copy
left with Jno P. Linton Esq Attorney for S. L. Grogan surviving
Exr Joseph Kearn Decd.

So Answers Jno T. Harris
High Constable

Received

Cambria Cambry St.

At a Court of Quarter Sessions
of the Peace held at Edinburg
on Monday the Twelfth
day of September A.D.
1887. before Honorable R.

L. Johnston President Judge the petition of
H. H. Stoney, Burgess of the Borough of John-
stown was presented setting forth that -
"The Town Council of said Borough on the
18 day of August 1887 passed the following
Ordinance viz: Be it ordained and en-
acted by the Burgess and Town Council
of the Borough of Johnstown and it is hereby or-
dained and enacted by the authority of the same.

Section 1. That Cambria Alley extending
from the Southern line of George Kurby's prop-
erty to Delint Street in the Fifth Ward of the
Borough of Johnstown be and the same is
hereby opened to the width of twenty feet ^{and}
declared a public alley of the Borough.

Section 11. That the Westerly boundary line
of said Alley shall commence at the Southern
line of George Kurby's property and extend South
25.31 degree East 669. feet to Delint Street. That
the Easterly boundary line shall commence
at the Southern line of George Kurby's property
and twenty feet East of the Westerly boundary
line of said Alley, and extend parallel
therewith South 25.31 degree East 669. feet

to Albert Street.

Sec. III. That all ordinances of the Borough relating to Alleys be and the same are hereby extended to and over said Cambria Alley as opened.

Your petitioners therefore pray your Honor to appoint seven disinterested freeholders of said Borough who after being duly sworn or affirmed to perform their duties under the Act of Assembly in such case made and provided with impartiality and fidelity, shall proceed to view the premises described in said ordinance and petition having regard both to the advantages and disadvantages caused to the several properties along the line of and adjoining said Cambria Alley and shall assess and allow to all persons injured thereby such damages as they shall have sustained respectively over and above all advantages and who shall also make assessment for contributions upon all such properties as shall be benefited by the opening of said alley as a public Alley of said Borough such sums respectively as they may have been benefited over and above all disadvantages and the said viewers shall make a report of their proceedings in writing to the next Session of said Court describing the properties upon which assessments have been made specifically sta

ting whether for contributions or for damages
with the amounts respectively.

The Court upon due consideration had of
the premises appointed, George Fockler, John
Ryan, David Sibert, John Hainan, John
Kuntz, Samuel Masten, B. F. Spurdy as
viewers who after giving due and legal
notice of the time and place of meeting
shall proceed to view the premises and
make a full report of their proceedings
as herein prayed for, to the next Court of
Quarter Session of said County, and
in which report they shall state distinctly
that they had been sworn or affirmed
according to law,

By the Court.
H. A. Shaemaker.
Clerk C. J.

No. 6 Sep. Term 1887
R. D.

Order to view and assess
damages and award
Contributions caused
by opening of Cambridge
Alley

Wednesday Nov 30/87
2. P. M.

Viewers:

George Forkler,

John Ryan,

David Libbert

John Hamman

Joseph Kunk

Samuel Masters

B. F. Shredy,

Pro. Shumaker \$1.50

Keehn

STONY CREEK

CAMBRIDA

ALLEY

Casper Hershberger

Mrs Bayne.

HAYNES ST.

Aaron Singer.

John Arthurs.

Geo. Markle.

David Griffith.

Wm Hochstein.

Mrs Hayes.

Conrad Smith.

Conrad Smith.

Lemuel Griffith.

St Johns Reformed Church.

DIBERT ST.

SOMERSET ST.

444/87. - H.S. Reeler.
Scale: 50' = 1"

5th Ward.
JOHNSTOWN, PA.