

In the Matter of the Opening
of Streets in the proposed Extension
of the Ward of Finsbury
Borough.

Exceptions

1st That the assessment of damages
to the following parties of Finsbury
Island Leasing Works & Dredge
Harbour, Chiswick, London
Conrad, William, John and
Henry Gold and Mary P. Poy
an excessive, unreasonable and
no corresponding benefit.

2nd That the said Gold Land is as-
sessed with damages when this
is not more than one third
which will have no benefit
of the Street to be opened.

3rd That said Gold Land is assessed
by the Board or one of them
that they need not consider
the value as they would only be
increased by the land adjacent
to the Street.

4th That by reason of the flood and
the present condition of the
Borough there is no present
necessity for same.

Inverness
Alta for
Fronk's Estate
Dund J. Keenan
John Keenan
Golden
Lynn Stortz
Mary P. Boyer

No. 6 Sept Term 1888,

In the Matter
of the proposed
Opening of Street
between Grand
Avenue and
Whitcomb Br

"E. Leathers"

Filed Aug 26 Aug 1889

Prothonotary

In relaying out & opening the { In the Court of Quarter
several Streets & Alleys in the { Sessions of Cambria
new Addition of 7th Ward in the Bor^y { County Pa,
of { of Sept, term a.d. 1888, No. 6. R. D.
Johnstown, Pa,

Deposition of witnesses
produced, sworn, affirmed & examined by me,
the 8th day of April a.d. 1891, at my office at
No 89 Franklin Street, Johnstown, Pa, between
the hours of 10 o'clock A. M. and 10 o'clock P. M., by
virtue of the annexed rule of Court of Quarter
Sessions, and notice hereto attached, for the exam-
ination of witnesses in a certain cause depending
in said Court,

Mr John Thomas sworn, I reside in the 4th
Ward Johnstown, Pa, I was appointed by
the Court a viewer to lay out Streets & Alleys
in the Seventh Ward of Johnstown, now the
City of Johnstown,

Question, State whether or not if a
question arose among the viewers whether
they could assess any of the damages
against the Borough of Johnstown,

Ans. I think we had instructions not
to assess any damages against the Borough,

Ques. Mr Thomas do you remember if any
conversation among the viewers that it could

1
2 be laid out to better advantage, but, had to
3 follow the lines as given.

4 Ans. I think it was talked off, and we
5 had to conform to the other streets in
6 order, ^{not} to conform to those streets, it would
7 cut up property.

8 Question. In this view did you take in
9 consideration that it would be a benefit
10 to Meadowvale in laying out the streets
11 that way, and did you assess damages on
12 the East parts of Meadowvale and land lay-
13 ing beyond the Railroad track.

14 Objected to by Mr Walters for the reason
15 that the question is misleading, and further
16 that the view did not contemplate or take
17 in that portion of Meadowvale referred to
18 nor does the original Plot show, and further
19 more that the viewers were sworn and re-
20 ported wholly and solely as to the streets
21 and alleys in the 7th ward addition.

22 Answer. Yes I think we assessed some down
23 at the lower end, We assessed Mr Baumer
24 & some lots running on to Messenger Street
25 there was perhaps 4, 5 or 6 lots.

26 Quest. Do you remember of the proper-
27 ties of the Lathrop Lumber Co and Mr Baumer
28 being assessed.

29 Objected to for the reason that the
30 best evidence would be the report of the viewers
31 itself, of what assessments they did make.

32 Ans. I think they were assessed that is my

1 recollection now

2 Cross examined by Mr Walters.

3 Question, Mr Thomas, state whether or
4 not it was simply an impression or an
5 incidental remark you say you are under
6 the impression that the Borough could
7 not be assessed, and informed by what
8 Authority,

9 Objected to by Mr Zimmerman, that the whole
10 question ~~is~~ with the exceptions of the last
11 part of it is leading and indicates to the
12 witness what the gentleman desires him
13 to say, and the witness having said that
14 this was their instructions, it cannot
15 now be changed to simply say that it
16 was an impression.

17 Ans, I don't know where we got our Authority
18 but we had an idea we could not assess
19 the Borough.

20 Question State whether or not you were
21 on the former view of the 7th Ward of the
22 Streets & Alleys, and if it is not identical
23 with it.

24 Ans, I think there were identical.

25 Ques. State whether or not when the form-
26 er view was made you were under the
27 impression the Borough could not be ass-
28 esed or not.

29 Ans, It appears to me that before we made
30 the view we saw Mr Kuhn, that is my
31 recollection will not say positive, that he
32 informed us we could not assess the Borough.

1 Question, State whether or not this recollection
2 of instruction of the former view influenced
3 you any whatever, in your award of con-
4 tributions and assessment of damages in
5 the latter view.

6 Objected to by Mr Zimmerman for the
7 reason that the report of the viewers having
8 been filed under oath, that just what
9 influenced them in making those damages
10 or awards is out side of the matter, as regards
11 to particular damage or award against
12 any particular property.

13 Q. Ans. ~~The~~ As far as I was concerned I thought
14 we could not assess the Borough. and of course
15 it did not influence me.

16 Question State whether or not you received
17 any instructions while acting as one of the
18 viewers in the last view not to assess
19 the Borough of Johnstown with any damages.

20 Objected to by Mr Zimmerman, because it
21 is leading and indicating the answer desired.
22 Q. and further the ~~question~~ ^{witness} has answered
23 the question, that throughout he was govern-
24 ed by that instruction.

25 Ans. I can't say that we got any instructions
26 the last time but was under the impression
27 ~~we could not assess the Borough & we~~ ^{we were} governed by the first, and
28 not clearly on that, ~~about~~ ^{and} that we ~~got~~ ^{did not} get any
29 instructions the last time.

30
31 John Thomas
32

Mr B. F. Speedy sworn I was one of the viewers
to view the laying out the Streets and Alleys
in the 7th Ward of the Borough of Johnstown,
I was on both views.

Question, State if there was any conversation
~~among~~ or understanding among the viewers
that this could have been laid out to a
better advantage if it had not been intend-
ed or the lines run to meet the streets in
Meadowvale.

Objected to for the following reasons,
1st that the question is improper irrelevant
& immaterial, and for the further reason
that an opinion given by a witness now as to
what would have been the better way in
laying out the Streets & Alleys in the 7th Ward
addition that would in any way differ or con-
flict with the view or report already made
by the viewers might seem stultifying.

Answer, No Sir I have no recollection as
that there was any conversation or understand-
ing of that kind.

Question, By the laying out of the Streets
and by adjoining them with the Meadow-
vale Streets being diagonal necessarily
cutting through the different properties in-
terfering with the established property lines
did not the question then arise that these
lines could have been left more intact
by running the street lines so as not to
meet those of Meadowvale.

Objected to by Mr Walters for the reason

1 that the question is duplex, immaterial
2 misleading & irrelevant to the matter in con-
3 traversey.

4 Ans. We were governed by the map and
5 in the cutting of the streets diagonally we
6 considered each case in the matter of awards
7 and damages, Mr. Baumer was assessed,

8 Ques. Is not the property of Mr. Baumer
9 & Latrobe Lumber Co. beyond the Cemetery and
10 Railroad track and not connected with
11 Meadowvale.

12 Objected to for the reason that the Plot of
13 the 7th Ward Addition showing the streets
14 and Alleys as recommended to be opened up
15 by the viewers is of record in the Court
16 of Quarter Sessions of Cambria County, the
17 same having been approved by the viewers
18 will show the respective & relative localities
19 of any matter material to this controversy,
20 And therefore the best evidence.

21 Answer. The property of Mr. Baumer & Latrobe
22 Lumber Co. is South of the railroad and as
23 to be connecting with Meadowvale I do not
24 know.

25 Question. Had you anything to do with that
26 map or the approval of it.

27 Ans. No sir. It was furnished by the City
28 Engineer.

29 Question. Are you acquainted with Conrad
30 Golde.

31 Ans. I know a young man named Golde.

32 Ques. State at or about the time you were

Q^y laying out and viewing these streets whether
you had a conversation with him in regard
to the damages for the opening of the Streets
and you were instructed by the Borough
Solicitor that you could not award any
damages against the Borough.

Ans. At the time set for the Citizens to ap-
pear before us Mr Golde appeared to hear
his award, but further than that I do not
remember that we ^{were} advised by the Solicitor.
I have no recollection of the conversation between
Mr Golde that we were instructed by the Solicitor
that we could not assess anything against
the Borough.

Question, Had you an impression that you
could not assess anything against the
Borough.

Ans. Yes sir I had.

Cross examined,

Quas. State if you remember of attaching
the map to your report,

Ans. Yes sir.

B. F. Speckly

Mr W. J. Rose affirmed, I was ~~not~~ over of
the views to make awards & assess damages
in the 7th Ward of Johnston,

Quas. State if there was any conversation
among the viewers that Streets could have
been laid out to better advantage if it had
not been that they had been laid out to
meet the streets of Meadowvale, that is

1 as to saving and keeping in fact established
2 proprieties lines

3 Objected to for the same reasons given be-
4 fore when a similar question ^{or objection} was asked
5 to of either of the witnesses heretofore examined,
6 Ans. there was general talk it was more
7 by property holders when they came to see
8 their awards,

9 Ques. State if you remember if there ^{was} any
10 conversations, ~~or~~ instructions or impression
11 that no damages could be assessed against
12 the Borough,

13 Ans. We had no instructions as we could
14 hardly get any officer to give other lines &c
15 it was a general impression and they all
16 felt ^{that} way,

17 Cross Examined

18 Ques. The cause of the feeling of the jurors
19 that the Borough should not be assessed,

20 Ans. I can not tell you

21 Wesley J Rose

22
23 Now Fred W. Stammeler Sworn. I live at No
24 245 Locust St. Johnstown Pa; my wife is
25 one of the heirs of the Froehner Estate.

26 Question. State if this calculation regards the
27 Assessment and awards for damages to parties
28 in the 7th Ward and the amount of ground
29 taken from the different property owners.
30 was made by you or if you assisted in making
31 it,

32 Ans. Yes sir it was made by self and is offered

1 in evidence, & marked Exhibit "A"

2 Objected to for the reasons that the same is
3 not a proper copy of the Assessments and made
4 in the matter in controversy, and for the further
5 reason that it is incompetent and not per-
6 mitted to the legality to these proceedings as the
7 same does not show a complete list & data
8 of the Assessments & awards, as of record in the
9 Court of Quarter Sessions of Cambria County Pa,
10 admitted & marked Exhibit "B"

11 Ques. State if paper as regards parties as
12 to Assessments & awards was obtained from
13 the published report of the viewers,

14 Objected to for the reason that there is no
15 legal publication of the awards & assess-
16 ment & therefore the witness is incompetent
17 to prove the results of the labors & report of
18 the viewers in this controversy,

19 Ans. It was,

20 Ques. State by what means or from what
21 source in addition to this paper you cal-
22 culated the number of feet of ground taken
23 from the different property owners,

24 Ans. I used a true copy of the drawing of
25 the first map prepared by the Borough
26 Surveyor, & offered by Mr. Zimmerman
27 a Draft or Plot showing the original
28 property lines, also the Streets and alleys
29 of the 9th Ward showing the names of the
30 lot owners affecting the awards & damages
31 as reported by the viewers, & marked Exhibit "C"

32 Objected to for the reason that if the Draft
or Plan is a copy of the original Plot as

1 alleged gift is but secondary evidence which is
2 inadmissible in all legal proceedings un-
3 less the actual loss of the original be proved,
4 which is not true in this case, as the same
5 is now incorporated in the proceedings in this
6 case and filed of record in the proper Court
7 of Cambridge Co,

Admitted & marked Exhibit "B."

Question, Please state by what means you prepared this map.

Ans. The original drawing in the shape of a tracing, was laid upon a plate of glass, prepared paper was placed upon this properly covered and drawing exposed to the light, hereafter the paper was washed off leaving white lines upon blue ground where the tracing showed black lines, and would be an exact counterpart of the original.

Ques Please look at this map and show street lines and where they cut through the property lines of the Fronheiser Estate, leaving ground on the street front belonging to other individuals so as to leave any property to the Fronheiser's so as ^{to} give them street frontage and give numbers & names of parties who get property along street line.

And Holland Heirs on Oak Street, this party
surrenders taking the whole street frontage from
Cedar to Gold Street also on Wood Street
where Andy Foster's property takes the frontage
from the Fronheiser Heirs, on Pine Street
it is upon Conrad Glitch and Geo. Feight.

1 property on Messenger Street the property
2 taken for widening this street is only taken
3 from the one side the Ironhiser side,
4 Ques. State if the property of J. M. Messenger
5 fronting on Messenger Street is assessed
6 with any damage being having a frontage
7 of 120 feet.

8 Ans. It is not assessed as shown in the
9 newspaper report.

10 Ques. State if the property adjoining on the
11 ~~app~~ same side of ~~adjoining~~ Messenger namely
12 R. Reighard, Mrs J. Tarke, Geo. Bantley, ~~Bocher~~
13 ~~have~~ others have been assessed.

14 Ans. They have been assessed & awarded, &
15 L. Messenger

16 Ques. Would that interfere with a sale
17 of lots fronting on Oak Street from Cedar
18 to Golde Street, they having no frontage,
19 Ans. Certainly it would.

20 Ques. The only way to get a frontage would
21 frontage be by buying from other parties.

22 Ans. We could only get it by buying ^{they} & selling

23 Ques. If the party refused to sell you would
24 not have any street frontage.

25 Ans. No sir

26 Ques. Is there any other property left in that
27 way if so name it

28 Ans. Most of the property owners are in that
29 ^{same} shape, according to the Awards & damages
30 the Ironhiser heirs are assessed twice on
31 Messenger Street.

32 Ques. State if the Ironhiser Estate

1 were awarded any damages,

2 Ans. It only states here it was awarded \$150⁰⁰

3 Ques. State if you know for what that amount
4 was awarded,

5 A. Objected to for the reason that as most
6 of the above questions are, that the witness
7 was not a viewer neither has he seen the
8 Official report as filed in Court, and his
9 answers are mostly hearsay and based upon
10 newspaper publications and copies as
11 he is already testified to, therefore his
12 answers can only be conjectures, & therefore
13 not evidence in this proceedings.

14 Ans. The attention of the jurors was called
15 to the fact that a house belonging to the
16 Trouhser Estate on Horner Lane was
17 omitted in the Official Draft, this house
18 is to be moved to make room for Cedar
19 Street in consequence thereof they made
20 an allowance or award of \$150⁰⁰ In addition
21 to this we have 1 House & 1 barn to move on
22 Messenger Street, this is the only allowance
23 made and we ^{do} not know which it is for.

24 Q. Question, the allowance was only made
25 for moving and not for ground taken.

26 Ans. I only presume.

27 Ques. State what allowance if any was
28 made to Mrs L. Glitch for moving a house.

29 Ans. Mrs Glitch is awarded \$800⁰⁰

30 Ques. State if Mrs Glitch would have any
31 further to move her house than you would
32 to move your house or barn.

1 Ans. If you take them altogether it would be
2 about the same distance.

3 Quest. what was Valentine Ripple allowed for
4 moving a house and barn.

5 Ans. It was \$800.⁰⁰

6 Ques. State so that to move that house &
7 barn to come on the street front whether
8 it would cost any more than to move
9 the Ironhiser three buildings to the proper
10 place.

11 Ans. I do not think it would cost any more.

12 Question. As to the land taken from the Holland
13 Heirs and the Ironhiser Heirs what were
14 they assessed in portion to land from the
15 Ironhiser Heirs.

16 Ans. the Holland Heirs surrendering 29%
17 of their holdings and getting street front
18 on both sides of Oak St. are assessed \$151.⁰⁰
19 while the Ironhiser Estate surrendering
20 26% are assessed \$456.50, the award
21 allowed to the Holland Heirs is \$1400.⁰⁰
22 & the considering the advantages they are
23 getting on Oak St. this award is out of
24 proportion.

25 Cross examined.

26 Quest. State whether or not all of your know-
27 ledge concerning the Assessments & awards
28 in the 7th Ward addition to the Borough of
29 Johnstown is not simply hearsay.

30 Ans. the statement of assessments & awards
31 were published in the Johnstown Tribune
32 this so far is the only notification of them

1 in regard to sizes of properties and proportions
2 of surrenders I went over everything myself
3 taking as a basis the map offered in evidence,
4 Question. State what knowledge you have
5 as to the legal method in the assessment
6 of damages & award of contributions in the
7 opening of streets & alleys under the law
8 governing Boroughs.

9 This question objected to as the witness
10 is only a layman and not a Lawyer and
11 is not presumed to know or properly
12 answer legal questions.

13 Ans. I think my knowledge is limited
14 Re direct.

15 Ques. Taking the property surrendered
16 by the Fronheiser heirs along Messenger
17 Street, from Fronheiser St to Oak, and from
18 Wood to Pine St, ^{about 900 ft} there was no award
19 to the Fronheiser Estate for the land
20 taken from them.

21 Ans. No Sir.

22 Ques. That on the same side of the street
23 150 ft property of A. Leuhart, or the Leuhart
24 heirs, were they awarded damages.

25 Ans. Yes sir they were awarded \$200.00

26 Fred W. Gammeter

27
28 Mr Conrad Golde affirmed, I reside in
29 the 7th Ward of the City of Johnstown Pa,

30 Question. State whether or not at any time
31 when these views were held, ^{for} assessing
32 & awarding damages for taking lands

1 in the 7th Ward of Johnstown, that when
2 the view did not assess any of these dam-
3 ages against the Borough or whether they
4 intended to do so, what did they say?

5 Q. Ans. Objected to for the reasons Ist that
6 the question is duplex and indefinite and
7 leading and that the testimony if the ques-
8 tion asked is indicative to answer in
9 the affirmative it would be improper.
10 Answer, They said they were instructed by
11 the Borough Solicitor not to put any
12 damages against the Borough.

13 Ques. Could or do you remember the
14 names of any particular viewer who said
15 this,

16 Ans. Yes sir, W. J. Speedy, Wesley J. Rose
17 and Louis Wehn, that is all I heard from
18 direct.

19 Cross-examined.

20 Ques. What year & month was that in?

21 Ans. It was in April 1889.

22 Ques. State why ~~was~~ they said this

23 Ans. Because I asked them.

24 Ques. How many viewers were there,

25 Ans. There was seven.

26 Ques. How many told you that

27 Ques. Are you ~~positive~~ there were only
28 three told you,

29 Ans. Yes I am sure as I only remem-

30 ber three of them, am positive that

31 Mr. Speedy & Mr. Rose told me that

32 Question, Was there anyone told you

1 that on the last view

2 ~~Ans.~~ No, I did not see them they were
3 not on our place,

4 Question. Are you aware that the first
5 view was swept away in the flood,

6 Ans. Not to my knowledge,

7 Ques. Do you know why they held the
8 second view?

9 Ans. I do not

10 Objected to for the reason, that the cross-
11 examination of the witness to any other
12 point but the one asked of him in chief
13 namely as to the what the witness said
14 in regard the assessment of damages a-
15 gainst the Borough, is improper, and
16 the Gentlemen in his cross examina-
17 tionⁱⁿ asked to confine himself to this
18 one question alone, as the cross exam-
19 ination outside of that is not proper
20 and is irrelevant,

21 Question whether or not he is aware that the
22 view held proceeding the flood of May
23 31st 1889, that all the proceedings connected
24 with the same were swept away in that
25 flood and that a new view was had,

26 Ans. I did not.

27 Re direct.

28 Quest. was any of the second viewers
29 among the first viewers.

30 Objected to for the reason in answering
31 the question in the Re direct examination
32 in view of questions already asked

in the cross examination the witness
my unconsciously contradict and stultify
himself, & therefore the question,

Ans. Yes sir Mr ~~and~~ Speedy & Mr Wehr
& Re cross examination,

Ques. Mr Golde you have already stated
in your examination in chief that you
were not present when the second view
was held, how then do you know of your
own knowledge that Mr Speedy & Mr
Wehr were on the second view

Ans. when they notified us to meet
them in the Council Chamber,

Conrad Golde

Mr John M. Rose sworn. I reside in the
City of Johnstown am an Attorney at Law.

Any Question, when were the City officers
elected and when did they take their seats.

Objected to for the reason that the best
evidence would be the record evidence

as found in the City archives and the
County Court of Cambria County, and

further more that the evidence to be dem-
onstrated by this witness could not be

material and therefore irrelevant in
this Collateral proceeding,

Ans. My best recollection is that the
first Officials for the new City of John-

stown were chosen at the general election
held on the Third Tuesday of February

A.D. 1890, and they were qualified on the

1 first Monday of April in the same year,
2 Cross examined none.

3
4 Jno. M. Rose
5 Notice is given to the Solicitor of the
6 City of Johnstown that any evidence
7 on the records of the Court tending to
8 the Election of Officers of the new City
9 at the time of taking hold or oath of
10 Office as well as the Charter will be
11 given in evidence, as well as such
12 other original papers as are on file in
13 Court and could not be produced here

14 I hereby certify that the above
15 witnesses were duly qualified and examined
16 at the time and place stated in the above
17 Caption, and subscribed their depositions in
18 my presence,

19 E. D. Fisher
20 Notary Public
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In re laying out
and opening the several
streets and alleys in the
new addition of 7th ward
in the Borough

In the Court of ^{Quarter Sessions} ~~Common Pleas~~
of Cambria County, Pa.

Of Sept Term, A. D., 1888, No. 6 R D

Johnstown

And now, to wit, the eleventh day of March A. D. 1891

Rule on part of Exceptants to take depositions of
witnesses to be read on the hearing of the above stated case.

CAMBRIA COUNTY, SS:

Extract from the Record of said Court. Certified

the 11 of March 1891

Jas. B. Darby

Prothonotary.

black

To James M. Waters Esq. Solicitor
of the City of Johnstown

TAKE NOTICE That in pursuance of the above Rule the depositions of witnesses to be read
in evidence on the Argument of the above stated cause on part of

the Exceptants will be taken at the E. O. Fisher City

of Johnstown Pa on Tuesday & Wednesday

the 7th & 8th days of April A. D. 1891, between the hours

of 9 o'clock, A. M., and 10 o'clock, P. M., before said

E. O. Fisher in and for said City

or by some other person of competent authority, at the time and place aforesaid, when and where
you may attend if you think proper.

James M. Waters
Esq.
Exceptant

Nov 6 Sept 2. 1888 R.D.

In re. 7th ward
of
Johnstown

RULE ON PART OF *Exce. Stants*
Filed 14 Apr 1891

J. J. Munn
THE CAMBRIA FREEMAN JOB PRINT, EBENSBURG.

In the matter of the
Opening and laying out
John M. Clark & Sons,
Philadelphia.
Streets and alleys in
the Seventh ward,
Johnstown Pa

In the Court of Quarter Sessions
Cambria County

"Exceptions"

- 1st That the Streets as now proposed to be laid out and shown on the plot would cleave lots out of all proportion and shape leaving them diagonal and portions or parts of lots, and no basis upon which these matters can be adjusted between the different lot-holders effected.
- 2nd That the Exceptants are asked to pay and contribute damages, whilst whole Streets and alleys are taken from them for the benefit of lot owners remote from them viz: Meadowdale which Streets were laid out years before, being to the benefit of said Meadowdale lot-owners and injury of the Exceptants -
- 3rd That the Exceptants were informed that the Viewers were instructed by the Borough Solicitor not to assess any Contributions against the Borough for damages viz: the first set of Viewers and a majority of whom constitute the present Viewers -
- 4th In the award of damages and Contributions there is an unjust discrimination against your Exceptants -

5th In the plot or map accompanying the report of Viewers, there are omissions of houses belonging to the Exceptants which should have been shown and the necessity of the removal would be apparent—

6th That some of the Viewers themselves agree that the plot or plan should have been different as to the running of the Streets or alleys but that they had to follow the plot or plan submitted to them—

7th That the damages assessed against your Exceptants are excessive and out of all proportion to the damages assessed against others there being an unjust discrimination—

Jacob Zimmerman
Att'y for
Heirs of
Jesse Zimmerman
Estate,

No. 6 Sept. Term 1888,
R20

In the Matter of the
Opening of Subpoena
Allied to the
Grand Jury of
Baltimore.

Exception to
the Report of
Verdict

Aug 26 July 1891

W. J. Quinn

To the Honorable A. V. Barker, President Judge of the Quarter Sessions of Cambria County.

We, the undersigned viewers, appointed as per annexed order of Court to assess damages and award contributions for advantages and disadvantages caused by reason of the laying out and opening the several Streets and alleys in the New Addition to the Seventh Ward in the Borough of Johnstown, that after giving due notice according to law, and being each first duly sworn or affirmed, we met November 20, A.D. 1890, and adjourned from day to day, hearing all parties interested who desired to be heard, that we proceeded to view the premises and consider the advantages and disadvantages to the various property holders, along the lines of the several streets and alleys in and adjoining the said Seventh Ward addition to the Seventh Ward of Johnstown, and we report the assessments and awards hereinafter stated. Accompanying this report will be found a map exhibiting the number of feet of frontage of property and rearage of the same owned by the severall property holders on and along both sides of the streets and alleys, and the lines of the streets and alleys showing upon them the assessments and contributions are made.

All of which is respectfully submitted, with the following statement of costs.

Johnstown, Pa.,

Nov. 29, 1890.

* Thomas G. Bone
* B. J. Speedy
* Louis W. Hahn
* John Thomas
* Joseph H. Hunt
* John G. Gais
Wesley C. Rose
Viewers

-- REPORT OF SEVENTH WARD VIEWERS--

Amounts to be paid by the several property owners along the several streets and alleys affected by laying out the New Addition to the Seventh Ward of the Borough of Johnstown.

Mrs.C. Golde Estate, Horner, Elder and Messenger Streets.....	\$200.00
Mrs. C. Glitch, Horner and Messenger Streets.....	315.00
Valentine Ripple, Golde and Pine Street.....	300.00
Allandorfer, Horner Street.....	60.00
Evangelical Church, Horner Street.....	60.00
A. Horner, Horner Street.....	30.00
D. Strayer, Horner Street.....	45.00
A. Strayer, Horner Street.....	30.00
Conrad Glitch, Pine Street.....	60.00
J. A. Metzler, Pine Street	30.00
George Feihgt, Pine Street.....	20.00
A. Miller, Pine Street.....	35.00
J. W. Lininger, Pine Street.....	35.00
Fronheiser Heirs, Pine, Wood and Golde Streets.....	1230.00
Andrew Foster, Wood, Golde and Messenger Streets.....	100.00
John Von Ault, Oak Street.....	90.00
W. H. Thompson, Oak Street.....	60.00
James Murphy Heirs.....	45.00
Holland Heirs, Oak Street.....	150.00
Fronheiser Heirs, Oak, Cedar and Messenger and Ash Streets.....	3225.00
J. Freidhoff, Cedar Street.....	50.00
E. Crouse, Cedar Street.....	30.00
C. Golde, Messenger Street.....	90.00
Herman Baumer, Messenger Street.....	150.00
Latrobe Lumber Company.....	225.00
Mrs.C. Golde, Messenger Street.....	100.00

Mrs. Prosser, lot on Alley.....	15.00
Charles Hobbs Lot on Alley.....	15.00
Gustav Bostart..Lot on Alley.....	15.00
Gustav Bostart....."....."	15.00
E. Horner....."....."	15.00
S.C. Horner " " <i>lot on alley</i>	15.00
James Resly " " "	15.00
J. Fockler " " "	15.00
J. Fockler " " "	15.00
August Young Estate" "	15.00
August Young Estate" "	15.00
C. Hornick " " "	15.00
Mr. Hesselbein lot on alley	15.00
Mr. Hesselbein " " "	15.00
H.H. Horner " " "	15.00
J.C. Horner " " "	15.00
J.C. Horner " " "	15.00
J.C. Horner " " "	15.00
J.C. Horner " " "	15.00
Gotleib Bantlen, Messenger and Fulton Streets	180.00
Lincoln Messenger, Messenger Street	110.00
Robert Reighard, Messenger Street	50.00
Fronheiser Heirs Messenger Street	110.00
Charles Earnes, Messenger Street	120.00
Mrs. Mary Rodgers, Murdock Street	160.00
W. Horner, Fronheiser and Fulton Streets	20.00
D. J. Horner, Fronheiser and Fulton Streets	30.00
Samuel Horner, <i>lot</i> " "	15.00
Mrs. C. Clitch, Messenger and Horner Street	250.00
Mrs. P. Phillips, Messenger and Horner Street	30.00
Mrs. J. Lohr, Messenger and Horner Street	60.00
Joseph Belter Messenger Street	60.00

Mrs. Gantz,	Woods Street	20.00
R.H. Horner,	Oak Street	20.00
Mrs. L. Cobaugh	<i>Murdock St</i> Wood Street	10.00
Jacob Horner	<i>Murdock St</i> Wood Street	170.00
Mrs. Nancy Good,	Oak Street	10.00
Jefferson Horner Heirs	<i>Murdock St</i>	30.00
Jacob Horner,	Murdock and R.R. Street	30.00
Mrs. C. Horner,	Fronheiser Street	10.00
Total amounts of Assessments.....		\$9245.00

Amounts to be paid to the several property owners along the several streets affected by laying out the new Addition to the Seventh Ward of the Borough of Johnstown.

Mrs. Golde	\$545.00
Mrs. Casper Glitch Estate	800.00
Valentine Ripple	800.00
D.C. Strayer	200.00
Conrad Glitch	1450.00
Samuel Lenhart Heirs	200.00
Holland Heirs	1400.00
Mrs. John Park Estate	900.00
Messenger Heirs	1700.00
Mrs. George Millinger	250.00
Lincoln Messenger	200.00
Christ Ripple	200.00
Conrad Golde Estate	300.00
Aaron Horyer	50.00
James Murphy Estate	100.00
Fronheiser Estate	150.00
Total.....	

Johnstown, Pa. Nov. 29, 1890.

City of Johnstown,

to

Dr.

Thomas Gore, Five Days

\$5.00

E.F. Speedy, Five Days

5.00

Louis Wehn, Five Days

5.00

John Thomas, Five Days

5.00

Joseph Kuntz, Five Days

5.00

John Geis, Five Days

5.00

Wesley J. Rose, Five Days

5.00

William Williams, taking affidavit of viewers, clerical work

for viewers and writing this report

5.00

Total.....

40.00

State of Pennsylvania:
County of Cambria

SS.

Personally appeared before me the subscriber, a Notary Public in and for said County, Thomas Gore, B. F. Speedy, Louis Wehn, John Thomas, Joseph Kuntz, John Geis and Wesley J. Rose, who being by me sworn according to law, say that they will as viewers to view and assess damages and award contributions for advantages and disadvantages caused by reason of laying out and opening the several streets and alleys in the New Additions to the Seventh Ward of the Borough of Johnstown, perform their duties as such with impartiality and fidelity and shall proceed to view the premises described in the petition hereto annexed, having regard to both the advantages and disadvantages caused to the several properties along the lines of the several streets and alleys in the New Additions to the Seventh Ward in the Borough of Johnstown aforesaid, and shall assess and allow to all persons injured thereby, such damages as they shall have sustained respectively, over and above all advantages; and shall also make assessments for contributions upon all such properties as shall be benefitted thereon by reason of laying out and opening the several streets and alleys in the said New Addition to the Seventh Ward in the Borough of Johnstown, such sums respectively as they may have been benefitted over and above all disadvantages, and in all respects perform their duties as viewers to the best of their skill and judgment.

Sworn and subscribed before me
this 20th day of October,
A. D. 1890.

Wm. Williams
Notary Public

Thomas Gore
B. F. Speedy
Louis Wehn
John Thomas
Joseph Kuntz
John Geis
Wesley J. Rose

Bamburgh Co. S.S.

At a Court of Quarter Sessions
held at Bamburgh in and for
the County aforesaid on
Monday Sept. 8. A.D. 1890
before Hon. C. L. Johnston
President Judge of said Court the
petition of W. Horace Rose Esq.

Mayor of the City of Johnstown filed, setting forth, that
prior to the incorporation of the City of Johnstown upon the
petition of Chalmers L. Dick, Burgess of the Borough of
Johnstown, in the Court of Quarter Sessions praying for the
appointment of viewers to view and assess damages
and awards contributions for advantages and dis-
advantages caused by reason of laying out and opening
the several Streets and Alleys in the new addition to the
Seventh Ward in the Borough of Johnstown, Your Honor
in accordance with the prayer of the petitioner, appointed
the following named viewers viz: James C. McComaughy,
Thomas Gore, B. F. Speedy, Louis Melin, John Thomas,
John S. Little and Joseph Kintz. That James C. Mc-
Comaughy and John S. Little declining to qualify and
act as viewers, Your Honor subsequently upon
motion appointed the following seven disinterested
free holders as said viewers, viz: B. F. Speedy, Louis
Melin, Thomas Gore, John Thomas, Joseph Kintz,
John Reis and William Updegrave, who as your petitioner
is informed and verily believes, gave the regular legal
notice to all persons interested in said view and
were regularly sworn upon the premises.

held their view, assessed damages and awarded
contributions for advantages and disadvantages, caused
by the opening of the streets and alleys in the new addition
of the Seventh Ward of the Borough of Johnstown duly
made out their return and placed the same in the hands of the
Borough Solicitor for presentation to Your Honor for the June term
of Court, 1889. That while in the custody of the Borough Solicitor
Your petitioner is informed the same was swept away and
destroyed in the flood of May 31, 1889. Your petitioner
therefore showing that it is impossible to make a legal
and regular return of the same in the premises, prays Your
Honor for the re-appointment of the last named former
Seven disinterested free holders as viewers to view and
assess damages and award contributions for advantages
and disadvantages caused by reason of laying out
and opening the several streets and alleys in the new
additions to the Seventh Ward in the Borough of Johnstown.
They to make their return at the next term of this Honorable
Court. And he will as in duty bound ever pray. The
Court upon due consideration had of the premises appointed
Thomas Gore, B. F. Speedy, Louis Helm John Thomas
Joseph Kuntz John Lewis Wesley J. Rose, 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 Sessions of said
County and in which report they shall state dis-
tinctly that they had been sworn or affirmed according
to law

By the Court
Jos. L. Darby
Clerk C.S.

Order to view & assess damages
& award contributions for advant-
ages and disadvantages
caused by reason of laying
out and opening the several
streets and alleys in the new
additions to the Seventh Ward
in the Borough of Johns town

Viewers =

Thomas Lane
D. F. Speedy
Lewis Hahn
John Thomas
Joseph Kunk
John Greig
Wesley J. Ross

Let Dancy \$1.00

Mathus

No. 6 Sept 11 Dec 1893

PCO

Return of Viewers appointed
by the Court, to an Order
to view and assess damages
and award contributions
for advantages and dis-
advantages caused by
reason of laying out
and opening the several
Streets and Alleys in the
New Addition to the Seventh
Ward in the Borough of,
Johnstown.

tt
Filed 1. Dec. 1890

Jan 15 1891 Read & confirmed nisi.

4 May 1891 Confirmed absolutely
(an opinion) By the Court

(Walters)

In the Matter of the Return of Breves
Opening Streets in the proposed
Extension of the Seventh Ward
Christchurch Borough,

Exceptions on part of Inver Ironheiser
Estate,

- 1 That there is no present necessity for
the opening of said Streets as propos-
ed. The Addition of Real Estate caused
by the flood leaving large number
of lots vacant will retain the
value of the exceptants lots - and they
will be in market many years
before any sales can be effected
- 2 The assessment upon the exceptants
being very heavy nearly their household
income. This will be within any
corresponding returns would not
be possible to be further
and great - and further it would
be impossible for the exceptants
to pay this amount under present
circumstances,
- 3 That the exceptants are asked to
pay contributions on Streets and alleys
taken entirely from their own lands
for the benefit of lands owned remote
from the lands

4th - The acceptants have been informed that the referees were instructed by the City Solicitor not to assess any contributions against the Borough which caused the referees to enter upon New York prepared against the wishes of said acceptants.

5 The streets as proposed to be opened are laid out to conform with the streets of Melrose and adjoining district for the benefit of the residents of said Melrose and residents of the District to the prejudice of the acceptants - and for whose advantage the said residents of Melrose are not assessed with any contribution whatsoever. And said streets are not laid out to conform wholly with the existing streets and alleys with the 7th Ward as laid out by the plot in William Moore's estate, adjoining the Farmers' estate.

6th In the annex of the referees there is an unjust determination as to the respective damages and contributions.

7th In the map submitted to the referees there are omissions (pieces of houses) on ground of the acceptances on the line of street which were entirely omitted in the map and not taken into consideration by the referees.

14 I trust there will be an enormous
opening and outlay commencing
the opening of said streets as to
grading, fencing and drains and
side walks that will be assessed
land or around against the expense
will be no nothing in the end - but
by delay when our Town and Market
are in shape will perhaps justify the
opening of said streets.

Respectfully
Yours
Wm. H. H. H. H. H.

At 6 Sep Sess 1888

In the Matter of
The Relinquishment
as to the Opening
of Streets in West
Virginia
John and John
Brough

Expenses on
part of West Virginia
State

Filed 27 July 1889

Indorsed

JAS. M. WALTERS.
Attorney-at-Law,
Room 2, Alma Hall.

Johnstown, Pa., *Mar 31st* 1891...

*Jas C Darby Esq.,
(Brooklyn)
Ebensburg
Pa*

Dear Sir!—

*Please send me
by return Mail Rule & copy
to take testimony on the part
of the Petitioners, In The Opening
of the Streets & Alleys, in the New
Addition to the 7th ward, of the
Boro' of Johnstown, and same
In Re, Annexation of part of East
Taylor Trp, to the 12th ward City
of Johnstown. & oblige*

*Yours truly
J M Walters
City Solicitor*

Jan. 6 Dec. 1, 1885 R20

In re streets &
alley in 7th Mo.
Johnston

Prasche for
Rule & take Decy

Hutchins

Seventh Ward Extension. Properties West of Messenger St.

Owner	Size of Property Square feet.	Surrender f. Streets x Alley. sq. ft. per sq.	Assessment \$	Award. \$	
Franker Heirs.	1092000	276040	26.1230 3225 110.	150.	House to move on Cedar St. House - " - Messenger Barn. " " " "
Holland Heirs.	79500	13195	29	150	1400
Jas Murphy Heirs.	18000	6600	37	45	100
C. B. Cover.	8250.	2540	30	.	.
W. Thompson.	17250.	3220	13	60	.
J. Vonalt	17500	1380	8	90	.
Sam. Zerkant Heirs.	25500	4800	18	.	200
Andrew Foster	92075	27620	30	100	.
Chas Zimmerman.	76125	8680	11	.	.
Conr. Glitch.	14220	6320	44	60	1450
Sco. Feight.	8250.	2800	33	20	.
S. Metzler	8250	2200	26	30	.
A. Miller.	9750	2600	26	35	.
J. W. Rininger.	9750.	1755	19	35	.
John Stork.	7500
A. Strayer.	7500	720	9	30	.
D. Strayer.	9750	1300	13	45	.
A. Horner	6000	800	13	30	.
D. C. Strayer.	12000	2000	16	.	200
- Allenderfer.	9000	1680	18	60	.
C. Pipples.	9000	2275	25	.	200
V. Pipples.	114000	29360	15	300	800
Mrs C. Glitch.	114000	30515	26	315	800
				250	.
C. Gotdie Heirs.	307125	61040	20	900	545
				90	300
				100	.
Ev. Church.				60.	on Horner. St.
J. Friedhoff				50	- Cedar St. } not marked
E. Brouse.				30.	" " " " } on plan.
Latrobe Lumber Co.				225	.
Herman Baumer				150	.

Seventh Ward Extensions East of Messenger Street.

Owner.	Size of Property square feet.	Surrender for Settling by ft	Per in Cent	Assessment \$	Award \$	
Mrs C. Glitch.	203000	38235	19			
Mrs Mary Rodgers.	162000	44692	22	160		
S. Horner.	37975	7000	18	15		
A. Horner.	48565	8060	16		50	House to be moved.
Frankfurter Heirs.	117437	27980	24			
Horner Heirs.						
W. Horner.	52280	10500	20	20		
B. J. Horner.	46500	14800	31	30		
Mrs C. A. Horner.	47010	8080	17	10		
Mrs Q. Mellinger.	47575	12720	26		250	
C. Barnes.	82225	11780	14	120		
L. Messenger.	4025	920	23	110	200	
Messenger Heirs.	10500	9940	94		1700	Takes House to move
J. M. Messenger.	98525	12120	13			
Mrs J. Parks.	60750	32960	54		900	
G. Bantley.	66800	6336	9	180		
R. Reigardt.	28125	1460	5	50		
Mrs P. Phillips.				30		
Mrs Lohr.	Meadow Vale.			60		
Jos Butler.				60		
Mrs Gantz.	Wood St.			20		
P. H. Horner.	Oak St.			20		
Mrs L. Coburn.	Wood St.			10		
Jac Horner.	Wood St.			170		
Mrs Nancy Good.	Oak St.			10		
Jefferson Horner Heirs.	Oak St.			30		
Jac Horner.	Mandook & R.R. Tr.			30		
Mrs Prosser.	Lot on May.			15		
Chas Hubbs.	do			15		
Eust. Bostart.	do			15		
Eust Bostart.	do			15		
E. Horner.	do			15		
S. C. Horner.	do			15		
James Resley.	do			15		
J. Fackler.	do			15		
J. Fackler.	do			15		
Aug. Young.	do			15		
Aug Young.	do			15		
C. Hornick.	do			15		
- Herrelbein.	do			15		
- Herrelbein.	do			15		
H. H. Horner.	do			15		
J. C. Horner.	do			15		
J. C. Horner.	do			15		
J. C. Horner.	do			15		
J. C. Horner.	do			15		

Meadow Vale

Exhibit "A"
C. O. Fisher

Sept Dec 1888 - Road Docket.

Sept 3 1888, Petition C. L. Dick, Burgess filed
" " " James B Macdonagh, Thomas, John
B F Speedy, Louis Dehu, John
Thomas, John S Little & Joseph Henry
appointed ~~jurors~~ jurors.

Dec 3/88 Report of Jurors filed.

" " " The Court appointed the following jurors
jurors, B F Speedy, Louis Dehu,
Thomas, John, Thomas, Joseph
Henry, John Deis and William Macdonagh.

Jan 7/89, John Brady appointed a juror
in lieu of John Deis released

March 4/89
1889, W J Pross substituted for John
Brady who refused to act.
Aug 2nd 1889 Exception filed.

Sept 8/90 Petition for reapportionment
jurors filed

4565
Sept 8/90 Thomas, B F Speedy,
Louis Dehu, John Thomas,
Joseph Henry, John Deis, Mark
J Pross jurors.

" " " Order to jurors issued.

Dec 1/90 Report of Jurors filed.

Three petitions to open streets & alleys In the Court of *Leicester Sevens* Common Pleas
of Cambria County, Pa.

John H. Johnston Of *Sept* Term, A. D., 1898, No. 6

And now, to wit, the *2nd* day of *April* A. D. 189*1*
Rule on part of *Petitioners* to take depositions of
witnesses to be read on the hearing of the above stated case.

CAMBRIA COUNTY, SS:

Extract from the Record of said Court. Certified
the *2nd* of *April* 189*1*
J. C. Danley Prothonotary.

To *Jacob Guinneman Esq. Atty for*
Exepts

TAKE NOTICE, That in pursuance of the above Rule the depositions of witnesses to be read
in evidence on the *Argument* of the above stated *case* on part of
the *Petitioners* will be taken at the *Office of M. B. Stephen*
Esq. Alma Hall, Johnstown on *Thursday*
the *9th* day of *April* A. D. 189*1*, between the hours
of *9* o'clock, A. M., and *10* o'clock, P. M., before *M. B. Stephen*
A Notary Public in and for said *County*
or by some other person of competent authority, at the time and place aforesaid, when and where
you may attend if you think proper.

J. M. Abbott
Atty for Petitioners

to 6 Sep 1888

In re opening
of
Streets & Alleys in
7th Wd. Johnston

Petitioners
RULE ON PART OF

Sept 4th 1888
Approved
J. J. Jones
Mayor

THE CAMBRIA FREEMAN JOB PRINT, EBENSBURG.

To the Hon W Barker Judge
of the Quarter Sessions of California
County

Testimony taken before me a
Notary Public at my office in the
City of Johnston on Thursday
the 19th day of April 1891 between
the hours of 10 AM & 10 PM
pursuant to the Rule attached
when and where the following
witnesses were sworn and their
testimony reduced to writing
to be read in evidence as part of the
City of Johnston in the matter of
opening of the streets and
alleys in Southward City of
Johnston

H. J. Rose produced and sworn

I state if you were one of the viewers appointed by the Court to assess damages and award contribution by reason of the opening of streets and alleys in the new addition to the 7th ward in the Borough of Johnston.

I was and the City also
state whether or one of the quins
you at any time entertained the
idea or intention of assessing any
damages against the Borough of
Johnstown because of the opening
of said streets and alleys.

No — I don't think we ever
had I always calculated that
the property ought to open itself
assuredly by
Jacob J. Mumford, Esq.
— I was not aware the cipher
in the opening of Lincoln Street

Q Do you know that damage ^{against the Borough} were assessed
in the case of opening Lincoln St
A I can't tell the affection man
Q But remember that there was trouble
while you were opposed to putting anyone
the Borough yet you do not propose
to say what a majority of the viewers
would have done, provided they had
been instructed that they should
not have put any of this assessment
on the Borough
A I am only speaking for
myself - I did not try to influence
the balance of the jury in any way

Re direct

Q I am positioned
to state whether or not you ever told Mr Galdy
that the Borough could not be assessed
with damage

A No I did not

Cross-ex

Q Was not your attention called to this very
matter yesterday in the evidence you gave
for before B. D. Fisher a case. and did you
not say that - "you did not remember saying
that you were not to put any of the damage
on the Borough"

A I say so now I don't remember
saying any thing to Galdy now
Wesley I Rose

John Thomas produced and sworn
I was one of the viewers to
assess damage and award contributions
in the opening of the streets and alleys
in the year addition to the 7th Ward
in the Borough of Johnston

Q State whether as one of the
members you at any time entertained
the idea or intention of assessing
any damages against the Borough of
Johnstown because of the opening
of the said street and alleys in
7th Ward

A No Sir I made no calculation
of assessing the Borough
Of course my idea is I always
think that in opening up a new
territory the property owners should pay
the damage because they would derive
the benefit. — I had an idea that
they ~~could~~ could not assess the Borough
John Thomas

B. F. Speedy produced and sworn
I was one of the members
appointed by the Court to assess
damages and award contributions in
the opening of the street and alleys
in the 7th Ward addition of the 7th Ward
of the City Borough of Johnstown Pa

Q State whether as one of the members
you at any time entertained the
idea or intention of assessing any
damages against the Borough of
Johnstown, because of the opening
of said street and alleys

A No Sir I did not

Cross examination by Mr Ginneman

Q If this matter of assessing part of the
damage on the Borough of Johnstown
had come up before the members
and it would have required in some
particular case compensated with it
that the Borough should have to

pay some damage and with your knowledge of who was at fault on Lincoln St, would you not in order to adjust the matter have put some damage on the Porcupine

I don't know that I could have been influenced at the time feeling as I did, to do other than as we did to put the damage on the property. We did not consider the Lincoln St matter. I felt that we were doing as our rights as we could get at.

B. F. Speedy

Frederick Messinger Swann
I live in Summit road City of Johnston — I have lived Johnston large my life — I am 44 years old and own a small piece of land in 7th Ward — If my land was put into lots I should have about 20 lots. I have one side of my land laid off in 40 foot lots — I am acquainted with the plan of the streets and alleys in the new addition to 7th Ward — The way the street are, now, badly has been a great deal for those who wish to buy ^{wait} ~~wait~~ lots with a view to street — The opening of the lots up is the only way to make the lots salable.

There are no streets and alleys there and no way to send a child to school with out trespassing on other people's land. I can give no estimate of how much it would increase the value of lots to have streets opened.

James Evans
Taking into consideration the great number of lots thrown into the market and the further fact that

property around will have to put
double paving and curb and change
fences, would it not have a tendency
to depreciate the price of lots at
same time.

I No Sir
Are you familiar with
I am acquainted with Walnut Grove
Sydney then lots are the most
and suddenly ~~too~~ ^{too} ~~valued~~ ^{additional} one thousand
are most would that have a
tendency to depreciate the price of
lots

Offered to by J. M. Walters for the reason
that it is not a proper cross street and that
the utility has not been brought here
for the purpose of giving his opinion
on hypothetical cases ~~but~~ to answer or
value.

I I don't think it would make
any difference. as far as lots being on
the ~~high~~ ^{high} in that locality they
are not. People want to buy lots
with out lots streets, that is along the
River

his
Frederick Messinger
works

J. A. Hill sworn

I am a resident and property
owner in 7th Ward Johnston
I am acquainted with the plan
of the streets and alleys as laid out
for 7th Ward addition

Property will be increased by
reason of opening up streets and alleys
through that ward at least double
because ~~that~~ they are ^{undoubtedly} ~~valuable~~
I know about where the franchises
lots lay - They would make very
valuable lots if laid out in streets
and alleys

~~cross examination~~

supposing lots were left by the plane
and sitting with strips of other people
ground in front of them along
the street, would you buy a lot
without having street frontage
I would not
S.A. Hill

Lambria County SS
I hereby certify that the
foregoing testimony was taken before
me and subscribed to by the
witnesses they having first being duly
sworn or affirmed at the time and
place set forth in the Caption
and Rule attached
M.B. Stephens
Notary Public

Ap. 6 Sept Jan 1891
In the County of
Harrison of
County

In the matter of the
Estate of John J. ~~the~~
deceased
second of the
Testimony taken & the
and in presence of
of the way
M. B. Stephens
Commissioner

Feb 14 1891

To the Honorable Robert L. Johnston, President Judge of the Court of Quarter Sessions of Cambria County.

6-11
The petition of W. Horace Rose, Mayor of the City of Johnstown, RESPECTFULLY REPRESENTS, That prior to the incorporation of the City of Johnstown upon the petition of Chalmers L. Dick, Burgess of the Borough of Johnstown, in the Court of Quarter Sessions praying for the appointment of viewers to view and assess damages and award contributions for advantages and disadvantages caused by reason of laying out and opening the several streets and Alleys in the New Additions to the Seventh Ward in the Borough of Johnstown, Your Honor in accordance with the prayer of the petitioner, appointed the following named viewers, viz: James P. McConaughy, Thomas Gore, B. F. Speedy, Louis Wehn, John Thomas, John S. Tittle, and Joseph Kuntz. That James P. McConaughy and John S. Tittle declining to qualify and act as viewers, Your Honor, subsequently upon motion, Appointed the following seven disinterested free holders as said viewers, viz: B. F. Speedy, Louis Wehn, Thomas Gore, John Thomas, Joseph Kuntz, John Geis, and William Updegrave, who as your petitioner is informed and verily believes, gave the regular legal notice to all persons interested in said view, and were regularly sworn, went upon the premises, held their view, assessed damages, and awarded contributions for advantages and disadvantages, caused by the opening of the streets and alleys in the New Addition of the Seventh Ward of the Borough of Johnstown, duly made out their return and placed the same in the hands of the Borough Solicitor for presentation to Your Honor for the June Term of Court, 1889. That while in the custody of the Borough Solicitor, your petitioner is informed the same was swept away and destroyed in the the flood of May 31, 1889.

Your petitioner therefore showing that it is impossible to make a legal and regular return of the same in the premises, prays Your Honor for the re-appointment of the last named former seven disinterested free holders as viewers to view and assess damages and award contributions for advantages and disadvantages caused by reason of laying out and opening the several streets and alleys in the New

Additions to the Seventh Ward in the Borough of Johnstown, they to make their return at the next term of this Honorable Court, And he will as in duty bound ever pray etc.

A. B. Brown
.....

Mayor of the City of Johnstown.

Cambria County ss.

Before me the subscriber, a Notary Public, in and for the said County of Cambria, personally came the above named petitioner, who, being duly sworn according to law, doth depose and say that the facts set forth in the foregoing petition are to the best of his knowledge and belief, correct and true.

A. B. Brown
.....

Mayor of the City of Johnstown.

Sworn and subscribed before me this...²⁸...day of August, A. D.,
1890.

Wm. Williams
Notary Public

No. 6 Sep. Term 1888.

Petition of W. Horace Rose, Mayor
of the City of Johnstown, for the
re-appointment of viewers to view
and assess damages and award contri-
butions for advantages and disadvan-
tages caused by reason of laying out
and opening the several streets and
alleys in the New Additions to the
Seventh Ward in the Borough of Johns-
town.

COURT APPOINT.

Thomas Gore
B. J. Speedy
Lewis Wehn
John Thomas
Joseph Kuntz
John Lewis
Wesley J. Rose

Filed & Sept. 1890.

(Matters.)

In the Court of Quarter Sessions of Cambria County.

In the matter of the exceptions filed to the report of viewers appointed to assess contributions and award damages for advantages and disadvantages caused by laying out the streets and alleys on the 7th Ward of the Borough of Johnstown:

On September 3rd, 1888, on petition of the Burgess of the then Borough of Johnstown, the Court appointed viewers to award damages and assess contributions for advantages and disadvantages caused by reason of opening of streets and alleys in the 7th Ward of the said Borough: By continuence and substitution of viewers, the proceedings were kept alive until March 4th 1889, but after that date the records show no further steps in the proceedings until September 8th 1890, when the petition of the Mayor of the City of Johnstown was presented setting forth that the viewers, appointed as above stated, met and performed the duties of their appointment, and prepared a report to be filed at the June Sessions 1889, but that the same was swept away in the flood of May 31st, 1889, and, therefore, praying the Court for a re-appointment of said viewers. The same viewers were re-appointed by the Court, and they filed their report Dec. 1st 1890, awarding damages to a large number of property owners, amounting in the aggregate to \$9,245.00, and assessing contributions for a corresponding amount on other properties.

To the above report, the heirs of Jacob Fronheiser filed exceptions, the property owned by them having been assessed with contributions amounting to \$4,565.00; There are several of these exceptions, but they may be divided into two classes; first, those attacking the regularity of the proceedings, and the legality of the appointment of viewers; second, those relating to the amounts of damages awarded them, and contributions assessed on their properties.

We have already stated in another case that the Court has nothing whatever to do with the location of streets and alleys, that being a matter entirely in the control of Councils, and therefore we may without further comment, dismiss such exceptions as complain of the manner in which the streets are proposed to be laid out and opened by the Borough ordinance.

In an opinion previously filed by us, (see opinion filed in re widening of Locust Street), we decided that in all cases of this character, instituted by the officers of the Borough, the proceedings survive for the benefit of the city, and that the city officers could legally pursue them to completion, without commencing de novo; We still adhere to that opinion, and therefore it was proper for the Mayor of the City to take up the proceedings where he found them, and continue them, and in view of the fact that the ordinance by virtue of which it is proposed to open the streets and alleys was adopted by the Borough, we are of the opinion that ^{it} was proper for the Court to appoint seven viewers, the number provided for by the Act relating to boroughs, *and it was further held that the proceedings should be continued in the Quarter Sessions.*

The most formidable objection, however, to the irregularity of the proceedings seemed to us at the time of the argument to be the one arising from the fact that the proceedings had been allowed to slumber from March 4th, 1889 to September 8th 1890, a period of eighteen months, without any action on the part of the City authorities. But that objection is overcome by the fact that the petition for the re-appointment of viewers, by its recitals, connects itself with the former proceedings, and the viewers, although the same persons as originally appointed, commenced their proceedings de novo, by giving notice, meeting regularly, and filing a report entirely disconnected with their former appointment. If the viewers had undertaken to file their original report

without re-appointment, on Dec. 1st 1890, it would have been fatal, as the term ~~to~~ which their report was returnable, had gone by without a report, and without an order enlarging the time. We have been able to find but one authority on this subject; In the matter of the opening of Chew Street, reported in 1st Leg. Gaz. Rep. page 19, where the petition was filed and the jury appointed more than six years after the report of a former jury had been set aside, Judge Ludlow held that the second petition connected itself with the first, and that the whole became one regular proceeding; The same reasons would apply to a case where the first report has not been filed at all. We fail therefore to find any illegality in the proceedings that would warrant us in setting them aside.

We have with great care and attention, reviewed the evidence produced as to the allegation of an excessive assessment of contributions, and with much interest examined an ingenious and comprehensive table produced by Mr. Stammelar, showing the ~~percentage~~ ^{percentage} of the respective properties taken for streets and alleys, and the amounts assessed on the same properties for contributions, but we have failed to find anything in the evidence that would warrant us in concluding that there was an unjust discrimination against the exceptants as alleged, or that would justify us in modifying the report of viewers, nor do we find anything that would warrant the conclusion that if the report were referred back to the same or other viewers the result would be any different.

Considerable stress was laid on the fact, that the viewers were of the impression that it was beyond their power to assess any contribution on the City, but, if we understand the testimony of the viewers themselves, the result would not have been different, had the contrary impression existed in their minds, and therefore no injustice was done to the owners of the property.

In view of our opinion as above expressed, we are constrained to over-rule the exceptions, and confirm the report.

And now, May 4, 1891, report of viewers confirmed absolutely.

By the Court,

No. 6 Sep. Term 1888 R.R.

In the Court of Quarter Sessions
of Cambria County.

In re exceptions filed to the
report of viewers appointed to
assess contributions and award
damages, for advantages and dis-
advantages caused by laying out
streets and alleys of the 7th
Ward of the City of Johnstown.

Opinion of the Court.

Filed May 4th 1891.

H. H. KUHN,
Attorney-at-Law.

Johnstown, Pa., Sept. 24, 1888

A. A. Shrewster Esq.
Pq. Pa.

Sir:

Will you please
oblige Mr. Kuhn by sending the
draft of Haynes St. given in
evidence by Johnstown Bord.
Said draft to be used by Viewers
on Thursday next. The Bord. Surveyor
has not time to make a new one.
We will return the original draft
if necessary after View has been
made. Mr. Kuhn is out of town,
and I know he would esteem it a
favor. A prompt reply is asked.

Very Respectfully

W. P. Reese

Address
W. P. Reese

Tosco, Pa.

+ never returned

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

We the Undersigned Viewers, appointed by the
Court of Quarter Session of Cambria County
to view and assess damages and assess Con-
tributions for advantages and disadvantages
caused by reason of laying out and opening the
several streets and alleys in the new addition to
the Seventh Ward, in the Borough of Johnstown,
in pursuance of the annexed order of said Court,
report that James R. McConnally and John
S. Little, two of the Viewers named in said order,
declining to qualify themselves and act as Viewers,
and the order requiring the whole seven to qualify
and act, do hereby respectfully return the within
order unexecuted, believing that a less number
than the whole seven can not act.

B. J. Specky
Louis Welch
Thomas Gore
John Thomas
Joseph Runtz

No 6. September Deco 1888. R.D.

Relation of members to em-
pider to their and others
dunings and annual
contributions for advertising
and subscriptions completed
by reason of leaving with
and offering the offering
street and all days in the
new editions to the Senate
round in the Bureau of off
Johnston

12. 5. 19

Dec. 3. 1888. Cont. Appoint.

13. 7. 19

Lewis Nelson

Thomas Gore

John Thomas

Joseph Smith

John Reid & J

Wm. W. H. H. H.

John S. H. H. 1888

R.D.

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

The petition of the Hon. C. L. Dick, Burgess
of the Borough of Johnstown, respectfully represents
that the Town Council of said Borough,
on the twenty-fourth day of July A. D. 1888, passed the
following Ordinance, viz:

Whereas, Harry Peltor, Surveyor of the Borough of
Johnstown, has made a draft or plan of the
several streets and alleys in the new addition
to the Seventh Ward of the Borough of Johnstown,
and dated May, 1888, and,

Whereas, said streets and alleys, as marked and
designated on said draft or plan, being of the width
designated by the Ordinances of the Borough, therefore,
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.

Sec. 1. That the said several streets and alleys,
as designated on the above-mentioned draft or
plan, be and they are hereby ordained, laid out, and
opened as public streets of the Borough of Johnstown,
of the width therein designated, and by the several
courses and distances thereof, as therein set forth, and
by the names in said map specified.

Sec. 2. That all laws and ordinances of the
Borough respecting streets and alleys be and the
same are hereby extended to and over the said
streets and alleys as fully to all intents and
purposes as they extend to and over the other

streets and alleys of the Borough.

1 Sec. 3. And be it further enacted, That the Burgess
2 and Borough Clerk shall endorse on the above
3 mentioned draft or map a proper certificate, and
4 shall sign the same, and shall affix thereto the
5 Borough Seal, and the same shall be placed in
6 the official keeping of the Borough Surveyor.

7 Passed in Council July 24, 1888.

8 Alex. Kennedy, President
9 Attest John H. Fisher, Clerk.

10 Approved July 28, 1888.

11 Chas. L. Nick, Burgess

12
13 Your petitioner therefore prays Your Honorable
14 Court to appoint seven disinterested freeholders
15 of said Borough, who, after being duly sworn or
16 affirmed to perform their duties under the act of
17 Assembly in such case made and provided,
18 with impartiality and fidelity, shall proceed to
19 view the premises described in said ordinance
20 or petition, having regard both to the advantages
21 and disadvantages caused to the several properties
22 along the line of and adjoining said streets and
23 alleys, and shall assess and allow to all persons
24 injured thereby such damages as they shall have
25 sustained respectively over and above all advantages;
26 And who shall also make assessment for con-
27 tributions upon all such properties as shall be
28 benefited by the opening of said streets and alleys
29 such sums respectively as they may have been benefited
30 over and above all disadvantages, and the said
31 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 stating whether for
contributions or for damages, with the amounts re-
spectively, and, as in duty bound, your petitioner
will ever pray.

Wm L. D. K.

Cambria County S.S.

Before me a Justice of the Peace in
and for the said County of Cambria personally
came the above-named petitioner, who, being duly
sworn or affirmed according to law, doth depose
and say that the facts set forth in the
foregoing petition are to the best of his
knowledge and belief correct and true.

Wm W. D. K.

Sworn and subscribed before me this 9th day
of August A.D. 1888.

John St. Fisher
Justice of the Peace

No 6 September Term 1888

Petition of Sheel & Dick
Bridges of the Borough of
Johnstown for the appointment
of assessors to assess and assess
dunnage and arrival contri-
butions for advantages and
disadvantages caused by
opening up of highway and
opening the several streets and
alleys of the several streets and
the several roads in the
Borough of Johnstown

Which appoints
James P. M. Conarty
Thomas Gue
B. J. Speedy
Louis Wehr
John Thomas
John S. Tuttle
Joseph Kuntz
By the Court

Filed Sep 3. 1888

Reuben

In the Matter of Inlet Com- of
Inlet Com- of } United States
Inlet in the } of United States
7th and 8th } of Inlet Com-
of Inlet } of Inlet
of Inlet } of Inlet

Receipts

And now on 27th 1890. Inlet Com-
Council for Inlet has filed the
following additional receipts to the
Comptroller of the Report of
Inlet.

1st That the appointment of said Inlet
on the 8th day of Sept 1890, was
not legal or in accordance with
the laws regulating the appointment of
Inlet.

2nd That all acts done by said Inlet
in relation to their appointment
was illegal - said Inlet having
no power to act.

Inlet
Attest
Receipts

No. 6 Sept Dec 1888. Rd,
m. 1/2 f. 1/2

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to pieces of
Siles 7.5 used
Gorouge of
Whidoro -

Eapturus =

Fein 28 Mar 1891

Inezimium

THE EXTENDED BOUNDARY AND
PLAN OF THE EXTENSION OF THE
SEVENTH WARD
ADOPTED BY THE LATE BOROUGH OF
JOHNSTOWN P.A.

Scale: 100' = 1 in.
JULY 28, 1888
City Engineer's Office
Oct 28th, 90.

M.A.P.
SHOWING

