

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

The petition of the Burgess and Town Council of the
Borough of Lilly in said County respectfully represents:

That on the 29th day of March 1894 ^{an} ~~the~~ ordinance of the
said Borough was passed reading as follows.

An ordinance authorizing the opening of Cleveland Street
from Main Street to Portage Street in the Borough of Lilly,
County of Cambria and State of Pennsylvania.

Section 1. Be it ordained and enacted by the Burgess
and Council of the Borough of Lilly and it is hereby ordained and
enacted by the authority of the same; that that part of Cleveland
Street extending from Main Street to Portage Street is declared
a public street at a width of (40) forty feet.

Section 2. All ordinances of the Borough of Lilly
in relation to streets and alleys are hereby extended to said
Cleveland Street.

Section 3. All ordinances or parts of ordinances
in conflict herewith be and the same are hereby repealed.

Ordained and enacted into a law in Council this 26th
day of March A. D. 1894.

Signed and approved this 29th day of March, 1894.

A. R. Krebs, Burgess.

Attest. John W. Rainey, Clerk.

John R. Kelly,

Pres. of Council.

Your petitioners therefore pray the Court to appoint
seven disinterested freeholders of such Borough to view the
premises described in such ordinance having regard both to the

advantages and disadvantages caused to the several properties along the line of and adjoining said Streets and alleys for the purpose of assessing and allowing to all persons injured thereby such damages as they shall have sustained by reason of the opening of said streets and alleys, and also to make assessments or contributions upon all such properties as shall be benefited by the opening of said streets and alleys in such sums respectively as they may have been benefited over and above all disadvantages.

And they will, &c.

A. B. Kerbo Burgess,
Geo. R. Kelly
Daniel Hagan
Charles B. Kelly
John M. Burgess
Thos Leary

And now, May 18th 1894, read and Fred Veigle, Jr. Frank Bradley, John Ryan, Edward Edwards, Mt. Paper, Albert George and Edward J. Hughes are hereby appointed viewers for the purposes named in the foregoing petition.

Per the Court

No. 12 Miller Den 1894
2nd

Petition of the Burgers and
Town Council of the Borough
of Lilly for the appointment
of Viewers to assess damages,
etc caused by opening
Cleveland Street from Main
Street to Portage Street

Filed 18 May 1894,

Kittell Little

357

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

The petition of the Burgess and Town Council of the
Borough of Lilly in said County respectfully represents:

That on the 29th day of March 1894 ^{an} ~~the~~ ordinance of the
said Borough was passed reading as follows.

An ordinance authorizing the naming and opening of
Willow Street in the Borough of Lilly, County of Cambria and State
of Pennsylvania.

Section 1. Be it ordained and enacted by the Burgess
and Council of the Borough of Lilly and it is hereby ordained and
enacted by the authority of the same: that that road or street
extending from a point on North Street to a point on Cleveland
Street is declared a public street at a width of (40) forty feet,
to be designated and known as Willow Street.

Section 2. All ordinances of the Borough of Lilly
in relation to streets and alleys are hereby extended to said
Willow Street.

Section 3. All ordinances or parts of ordinances
in conflict herewith be and the same are hereby repealed.

Ordained and enacted into a law in Council this 26th
day of March, A. D. 1894.

Signed and approved this 29th day of March, 1894.

A. B. Krebs, Burgess.

Attest: John W. Rainey, Clerk.

John R. Kelly,
Pres. of Council.

Your petitioners therefore pray the Court to appoint
seven disinterested freeholders of such Borough to view the

premises described in such ordinance having regard both to the advantages and disadvantages caused to the several properties along the line of and adjoining said Streets and Alleys for the purpose of assessing and allowing to all persons injured thereby such damages as they shall have sustained by reason of the opening of said streets and alleys, and also to make assessments or contributions upon all such properties as shall be benefited by the opening of said streets and alleys in such sums respectively as they may have been benefited over and above all disadvantages.

..... *A. B. Krebs Burgess*
..... *Geo. R. Kelly*
..... *Daniel Hagan*
..... *Charles B. Kelly*
..... *John M. Kelly*
..... *Thos. Leach*
.....

And now, May 18th 1894, read and Fred Veigle, Sr., Frank Bradley, John Ryan, Edward Edwards, M. K. Piper, Albert George and Edward J. Hughes are hereby appointed viewers for the purposes named in the foregoing petition.

By the Court.

Will Mar Len 1894
Rad.

Petition of the Burgesses and
Bourne Council of the Borough
of Lilly for the appointment
of Viewers to assess damages,
etc caused by opening
Willow Street from North
Street to Cleveland Street

Filed 18 May 1894

Attell & Little

310

In re opening of
Cleveland Street

vs
Lilly Borough

In the Court of ^{Quarles Lees} Common Pleas of
Cambria County, Pa.

OF March TERM, A. D. 1894, NO. 12. Rd.

And now to wit, the Eighth day of August A. D. 1894

Rule at the instance of the Petitioners to take the depositions of ~~aged, absent, in-~~
~~firm, and going~~ witnesses, to be read ^{on the hearing} ~~in evidence on the trial~~ of this cause ~~in case of their absence,~~
~~sickness, death, or other legal inability to attend.~~

~~Ex parte Rule on ten days notice to the~~ _____ Agent or Attorney.

Cambria County, SS.

Extract from the Record of said Court. Certified the Eighth day
of August A. D. 1894.

J. C. Darby Prothonotary.
clerk 2.0.



To Alvin Davis Esq Counsel for exceptant

Take Notice, That in pursuance of the rule, the depositions of witnesses to
be read in evidence on the trial of the above stated cause on the part of the Exceptant Petitioner
will be taken at the office of Mr Davis Esq in Newburg Pa
on Wednesday the fifteenth day of August
A. D. 1894, between the hours of nine o'clock, A. M., and twelve o'clock, P. M.,
before said Mr Davis Commissioner in and for
said County or before some other person of competent authority,
at the time and place aforesaid, when and where you may attend to cross-examine if you think
proper.

M. D. Stittell
Atty for Petitioners

Nov. 12. Mar. 1894.
Ed.

In the opening of
Cleveland Street

Litley ⁱⁿ Torough

RULE ON PART OF *Petersons*

Stittell

Freeman Job Print. Ebensburg.

In presence of
Willow Street
in
Lilly Township

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

OF ~~March~~ TERM, A. D. 1894, No. 11. Rd

And now to wit, the Eighth day of August A. D. 1894
Rule at the instance of the Petitioners to take the depositions of ~~aged, absent, in-~~
~~firm, and going~~ witnesses, to be read ^{on the hearing} in evidence ~~on the trial~~ of this cause ~~in case~~ of their absence,
~~sickness, death, or other legal inability to attend.~~

Ex parte Rule on ten days notice to the _____ Agent or Attorney,
Cambria County, SS.

Extract from the Record of said Court. Certified the Eighth day
of August A. D. 1894.

J. C. Wasley Prothonotary.
Ch. C. C.



To Alvin Evans Esq Counsel for ~~Petitioners~~ Exceptant

Take Notice, That in pursuance of the rule, the depositions of witnesses to
be read in evidence on the trial of the above stated cause on the part of the Petitioners
will be taken at the office of Mr Davis Esq in Lewisburg Pa
on Wednesday the Fifteenth day of August
A. D. 1894, between the hours of nine o'clock, A. M., and twelve o'clock, P. M.,
before said Mr Davis Commissioner in and for
said County or before some other person of competent authority,
at the time and place aforesaid, when and where you may attend to cross-examine if you think
proper.

W. D. Pittell
Atty for Petitioners

No. 11. New Ser. 1894
R.S.

Proc opening of
Mellaw Street

in
Lilly Township

RULE ON PART OF

Parkinson

Nittell

Freeman Job Print, Ebenburg.

In re opening of } In the County of Chester Sessions
Cleveland & Willowsta } of Cambria County,
in } No. 11-12 Mar. Term, ^{R.D.} 1894
Lilly Borough. }

Depositions of witnesses taken before
Wm. Davis, commissioner of said County,
at his office in the borough of Ebensburg
on the 15th day of August, A.D. 1894, by
virtue of the annexed rule, & in accor-
dance with the annexed justice.

John Leahy a witness produced by
the plaintiffs was called on the part of the
petitioners & being duly sworn deposes as
follows:

Mr. Leahy what relation is Mr. Chas.
McGough to your wife? He is her
brother.

Was he called as a witness in this case
on behalf of your wife? Yes sir. Not
on behalf of any person just as an
individual same as an outsider.

What is Mr. Chas. McGough's bus-
iness? I'll never tell you - He is a
carpenter by trade.

Does he work for you at this time?
No sir.

How long is it since he has
worked for you? Two years last spring

or 2 yrs next spring.

Has he worked for the Bear Rock Coal Co lately? No sir.

Does Frank M. Cornell work for you? Frank M. Cornell has worked about 2 weeks or may be more.

The last two weeks? Yes.

Do Zimmerman & Moran work for you? Yes.

These men have all been called as witnesses in this case? Yes sir.

John Leahy, Jr.

E. J. Hughes being duly sworn deposes as follows:

Mr. Hughes where do you reside?
In Lily Boro.

I am acquainted with proposed line of Cleveland St. as laid out by Council. I travel it from one to a half a dozen times every day.

Were you a viewer appointed by the Court to award damages & assess contributions caused by the laying out of the said proposed street? I was.

Was John Leahy present when the viewers met on the premises of Mrs. Leahy when the viewers met to perform their duty?

He was.

Do you know whether notice was posted in different parts of Lily Bond, stating the time & place of the meeting of viewers? Yes there was.

Did you see any near the property of Mrs. Leahy through which the proposed ^{street} runs? There was one on the property, and another within a rod or two of the property.

Cross Exam. by Alvin Evans, Esq.

Do you say Mr. Hughes that you pass along Cleveland St. 6 or 8 times a day? I said no less than from one to a half a dozen times a day.

Is that the route you take in going from your home to your place of business? It is the nearest public highway—Yes it is.

State whether or not you among a number of others petitioned council to have Cleveland St. paved? I am not sure if I did or not.

Did you at any time appear before council & urge the paving of this St.? I don't think that I did.

Did you at any time speak to any

of the members of the Council in regard to opening this street & if so when it was as near as you can recollect I did inside of the last year.

State whether or not it was before you were selected and appointed as one of the viewers? Yes.

State whether or not you had been a member of the Council? I have not.

Was Mr. Edward Edwards sworn as one of the viewers? I think not.

Did he take any part in the view? I don't think he was on the ground.

Do all the viewers live in this Borough of Lilly or each of these views? They do.

Re Direct

Mr. Hughes in your report of viewers as to the contributions & damages in the opening of Cleaveland St. in Lilly Boro. You find no reason for assessing any contributions or awarding any damages. Please explain your reasons for so finding as you were one of the viewers? ~~My~~ If I remember rightly the survey of this view was

some 7 ft or in that neighborhood out
of line to connect direct with Piper St.
Mr. Sealey being present suggested that
it would be more of a benefit to their
property to take in this 7 feet, as I
think it was, to straighten the con-
nection with Piper St. which he
stated would leave them more ground
on a better corner on the opposite side
of Cleveland St. and I thought by
letting him three corners on Cleveland
St. would readily balance the damages.

Re Cross Exam

What do you mean when you speak
of the 3 corners on Cleveland St? I
mean a corner on each side of Cleveland
on the Portage - a corner on Willow
& Cleveland Sts. Mr. Sealey spoke of
this wedge on Cleveland & Portage St
which is thrown out as being too
small for much use but by having
the amt. of feet on the lower corner
that would be taken off of him on
the upper corner would make it more
valuable to him.

Do you know how many feet
there are between the corner of George's

property & the adjoining line of Cleveland St. along Postage where the same is proposed to be located? It was measured at the ^{time} of the view & I think it was 18 ft.

And that piece running back towards Willow St. is of what width at the last named St.? I think Mr. Sealey said that on a true line there would be about a couple of feet.

Mr. Hughes did Mr. Sealey say to you that he was satisfied with this arrangement? I inferred from his suggestions that he was. I am not positive that he said he was satisfied or not.

Was not Mr. Sealey at that time simply pointing out to you the line between the George property & the property of his wife? He pointed out that line - He also pointed out the line of the proposed view as designated by the stakes.

State whether or not you had with you at the time the view was made a draft of the proposed Streets?

It is my impression that we had not.

Do you recollect Mr. Hughes when

the viewers met? I do not.

State whether or not you had a continuance from the first day upon the view was fixed to a subsequent time? It is my impression we completed the view in one day.

You think there was no second meeting of the viewers? I think not.

Was there a second meeting of the viewers on the same day that the view was made? It adjourned for supper I guess we adjourned for dinner.

E. J. Hughes

Charles Kelly being duly sworn testifies as follows:

I live in Lily Borough.

I am a councillor of Lily Boro.

Did the Council as a body take any action in regard to laying out Cleveland & Willow Sts in Lily Boro?

Objected to by Mr. Evans for the reason that the records & proceedings of council would be the best evidence as to what they did & that the evidence now offered is but secondary evidence.

Yes sir they did & there was a motion
I as one of them made the motion to open
up Cleveland St, which was abandoned
and also a petition came before the
council of Lily Row, to open up
Willow St. by parties wanting a
highway to the Methodist church.

How much additional width was
added to the width of Willow Alley
& make up Willow St. by the City Coun-
cil? There was 16 ft. in the alley,
There would be 24 feet to come off of Mrs.
Leahy with the alley which we took
in for the Street, making the street
40 feet.

Was that amount of land staked
out? No sir - this was the last
survey.

Was your last action on Willow
St. since the viewers reported or was
it before the view & report was made?

It was before the view was made
to know in what way they were to go.

Exhibit "A" shows lot of ground
taken from the property of Mrs Leahy 34
feet in width besides a 16 foot alley
is that correct? No sir not to
my knowledge it is not.

because the viewers could not go on with their viewing because there was a piece of ground between the alley & Mrs Mary M. Leakey's ground & the viewers called a meeting of the Council of Lily Boro. & was made the change taking in the alley.

Cross Exam.

Does not the Methodist Church lot front on Portage St. ? (No sir. There is no door on the other side of it & the door open on Willow St which want to propose opening The Church lot faces on Portage St. at the one end ? Yes sir.

Is there no other way for the people attending that church to go to & from the same without travelling around to Willow alley ? Willow alley don't extend up there. Willow alley only extends from Washington St. to the Pa. R.R. branch and Mr. Fogle has laid out a St. from the Pa. R.R. branch to the end of his line & Mr. George left a street of his line to North Street.

State if the people attending that

Church, ^{have a street} to go to & from the same at
this time? They had to go up the
old Postage Street & go down a fair
of steps to the back end of their lot.
& they then could go up to North
Street & come down. (

When did council have its second
meeting & take action in relation to the
opening of Willow St. ? I don't
know the date of the proposed opening.

The day the view was made the 30th
or 31st of May 1884,

State if there were any minutes
of these proceedings made by clerk
of Council at that time? Yes sir

Have those minutes or proceedings
been destroyed or lost? They are
not Lilly in the hands of John H.
Raines our clerk.

State whether or not the petition
that you referred to signed by the
citizens & presented to council referred
to both Cleveland & Willow Sts. ?

No sir only referred to Willow St.

You say it was numerously signed?
It has been some 8 or 9 months
since it was presented to council
& I don't remember. Mr. Drinnen signed it.
was talking to me about that street.

Do you know any other parties who signed that petition? I don't remember

Re Direct Exam:

Do you know the value of land in the Borough of Lilly? I do not know - there is different prices there.

Are you not acquainted with the general value of land in that community? No sir I can't answer the question

Charles B. Kelly

Mr. K. Pifer being duly sworn testifies as follows:

You were one of the viewers appointed to assess contributions and award damages to in the matter of the opening of Cleveland & Willow Sts in the Borough of Lilly? I was.

The viewers saw proper in their report to assess no contributions & award no damages in the opening of Cleveland Street. Please explain how you as one of the viewers arrived at that conclusion.

Objected to as being incompetent

and for the reason that the report of the
viewers as filed in Court is the
best evidence of what they did &
they cannot explain their actions
at that time.

I prefer not giving any expla-
nation of it.

M. K. Piper

Cambria County, S.S.

I, Chas. Davis, above named Commissioner
of Cambria County, do certify, that E. J. Hughes
John Sealey, Charles Kelly & M. K. Piper,
above-named witnesses, produced by the
petitioners, in the above cause, were
sworn, and their foregoing depositions
taken and subscribed before me,
at my office in the Borough Ebens-
burg, County of Cambria, on the 15th
day of August, A.D., 1894, between the
hours of nine o'clock A.M. & six
o'clock P.M. a paid day in the presence
of Alvin Evans Esq. counsel for P. Off.
& P. J. Little Esq., Counsel for Petitioners.
Witness my hand and seal the 15th
day of August, A.D., 1894.

Chas. Davis,

Commissioner

Aug. 15, 1894 Received \$3, being in full for taking
the within testimony.

Chas. Davis,

2 March 1897

Cleveland Street
Mallow Street

County Borough.

Testimony.