

Washington St.

Crowd Alley

Alley

Property of
Charles H. Ross
Assessed \$ 3960.00

610 N. McGarry
Assessed \$ 1240.00

Strayer Heirs
Assessed \$ 695.70
92 feet

60 feet

100 feet

Alley 124 feet

Front Alley

66 feet

66 feet
Marlow Heirs

Assessed \$ 2,587.20

Property of
Mrs. Mackay
Assessed \$ 716.10

Property of
Cemur
Assessed \$ 2,387.00

Property of
Jes Stallen
Assessed \$ 4950.00

Park Place

Main St.

Marble St

Part of

No. 8. ~~St. in Term~~ 1890
Draft of

View of Locust Street widened
in the 2nd rd of the Borough
of Johnston, as recommended
and approved of by the
Viewers appointed by the
Court for widening said
part of said Street.

P. J. Fisher. Chairman

A. Adams

L. M. Dwyer

J. W. McLean

John Raab

Filed 17th July 1890.

In the matter of the Report of viewers to assess
damages to be caused by opening Extension
of Locust Street, Schuylton

Exceptions on behalf of Geo. W. McGary

- 1 The appointment, proceedings and Report of
said Viewers ^{was} ~~are~~ illegal, informal and not
warranted by law
- 2 The ordinance extending and opening said
Street was passed by the Town Council of the
Borough of Schuylton which Borough has
passed out of existence and no proceedings
can now be taken to carry into effect any
Ordinance adopted by said Borough Council
but not perfected during the period of its
existence, especially not under the Act of As-
sembly relating to Boroughs.
- 3 The amount of contributions assessed against
George W. McGary for opening of said Street
is grossly exorbitant and disproportionate to
the benefit received by him or his property.
- 4 But a very small contribution is assessed
against the Borough or City of Schuylton as
representing the general public in whose
behalf the said Street was obtained and who

derived the greatest benefit therefrom.

5 The aforesaid are unjust and partial.

Geo W M Gray
by his Atty
Jno. P Linton

In the Matter of the
Report of Referees
to assess damages
to be opening of
Grand Street, Lehigh
town

Receipts of George
W. M. Gray

Subd. 1. September 1890

Linton

Gray & Linton Dec 1890

In the Matter of the Report viewers to
Assess damages and benefits done to property
along line of Locust Street from Park
Street to Market Street

Exceptions to said ^{Report} ~~Street~~ in behalf of
Charles F. Kress

- 1 The appointment, proceedings and Report
of said Viewers was illegal informal and
not warranted by law
- 2 The Ordinance extending and opening said
Street was passed by the Town Council of the
Borough of Johnstown which Borough has
passed out of existence and no proceedings
can now be taken to carry into effect an
ordinance adopted by said Borough but not
perfected during the period of its existence
- 3 The amount of contributions assessed against
Charles F. Kress for the opening of said ~~Street~~
is grossly exorbitant and disproportionate to
the benefits received by him or his property
- 4 ^{But a single} ~~The~~ contribution is assessed against the
Borough of Johnstown as representing the
General public in whose behalf the said
Street was ordained and who derive

the greatest benefit therefrom

5th The agreements are unjust and partial
Charles F. Cross

No. 8 Mar Penn 1890,

In the matter of the
Report of Peaver & Co
upon damages & by
opening of Secret Street
Lebanon

Executions of Charles
H. Evans

Filed. 1. September 1890

Lebanon

Quarter Session

In the Court of Common Pleas
of Cambria County, Pa.
Of Mar Term, A. D., 1890, No. 8
R.O.

And now, to wit, the 2nd day of Dec A. D. 1890
Rule on part of G. M. McGary, Exemptant 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 Dec 1890
J. O. Laney, Prothonotary.

To the City of Johnstown or James M. Walters, Esq,
Solicitor thereof

TAKE NOTICE, That in pursuance of the above Rule the depositions of witnesses to be read
in evidence on the hearing of the above stated matter on part of
the Exemptants will be taken at the office of E. O. Fisher,
Notary Public, Franklin St., Johnstown on Friday
the Twenty sixth day of December A. D. 1890, between the hours
of Nine o'clock, A. M., and Ten o'clock, P. M., before said E. O.
Fisher, 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. P. Linton
City of Johnstown

1
No. 8. 11a. Dec. 1890
R.D.

Pls for damages
sum of \$1000
James M. Walker

Filed 12 Jan 1891

RETURN PART OF
J. M. Walker

Yorkston, Pa., Dec. 13, 1890. Send the
within notice this day by handing a
copy of same to James M. Walker, Esq,
Solicitor of the City of Yorkston,
Pa.

Walker

THE CAMBRIA FREEMAN JOB PRINT. ESTABLISH.

Question, Are you acquainted with the value of property fronting on Locust Street either above Locust Alley or below it down to Walnut Street.

Ans. I am not very well ^{acquainted} but in my estimation it is worth about \$70.00 ^{seventy} dollars per foot.

Question, State if any, what property you know of near Locust Street fronting on Market sold as low as \$70.00 per foot front, with the depth of 60 ft.

Ans. I don't know of any property that sold for that amount, know that the Wagoner property with ^{feet} sold for \$3500.00
J. B. Barney

Mr Joseph G. Thomas sworn.

Question, Mr Thomas where do you live.
Answer, in the Sixth Ward of the City of Johnstown, Pa.

Question, Do you know the property of Geo W. McGary in the Second Ward of Johnstown
Ans. Yes sir

Question, Do you know the amount assessed against him for contribution to pay damages for opening Locust Alley into a street.

Ans. No more than I saw the assessment it was between \$400.00 & \$500.00

Ques. Please state whether or not you regard that assessment against Mr McGary excessive

Ans. It is a very large assessment.

Ques. Please to state whether you know

for what purpose Mr. McGary has been using that property,

Ans. He keeps it to store away lath, Lime house & Mortar beds. a dwelling was on it at the time flood.

Question. Please to state if for his purpose the property would be as convenient on the Alley as the Street.

Ans. For his purpose I think it would,

Quest. How long have you been acquainted with that property.

Ans. For 15 to 18 years,
Cross examined by Mr. Walters,

Question. State whether or not it would be more valuable to the general public as well as to Mr. McGary for other purposes than that which it is now used for,

Ans. It would for the Public as it is used a great deal.

Quest. State whether or not the opening of Locust Street from Court Street down to Market it would enhance the marketable value of Mr. McGary's property and how much per foot if it were made into a 40 ft street not touching or taking from him any of his ground,

Ans. Certainly it would enhance the value
Question. About how much per foot.

Ans. about \$500.00 or \$600.00 for the whole piece of ground that size.

Question. State whether or not considering the location of that lot and the almost low-

terious travel day and night by persons going to and from work in the Iron mills and other travel over said street, it would not be a more valuable site for a business stand and net a better income to Mr McFary than used for purpose to which it is now put,

Ans. It is a out of the way place, the only purpose I know would be a saloon,

Re-examined

Question. The street Mr Thomas on acct of the large amount of travel going over that street, please state if that wouldnt make it more valuable for the general public to have the alley opened into a street,

Ans. It is a place that has been used a great deal and if good sidewalks were put down would prove more valuable.

Ques. Please to state whether in your judgment the general Public as represented by the City authorities ought not to pay a portion of the damages done by the opening of this street.

Ans. It would be a benefit to the general public I think it wouldn't be more than right for it to share with it

Question. State whether you know if the Borough of Johnstown began these proceedings in Court before the organization of the City,

Ans. I do not know when they were commenced

Question State whether or not it will be of
considerable expense to the City of Johnston
in order that said opening or widening of
Locust street shall have been confirmed
by the Court and improvements made
by the City in paving said street it will
be of expense to the City to do so.
Ans. It certainly would be.

Joseph G. Thomas.

I hereby certify that the above witnesses
were duly qualified and examined at
the times and place stated in the above
caption and subscribed their depositions
in my presence.

E. D. Fisher.
Notary Public

In re: pet to open }
Locust Street }
Second Ward Johnstown }
In the Court of
Quarter Sessions of
Cambria County, Pa
Of Mar Term, A.D. 1890, No 8.
R.D.

Deposition of witnesses produced
sworn, affirmed, and examined by me,
the 26th day of December A.D. 1890, at
my office No 89 Franklin Street in the City
of Johnstown, Pa, between the hours of 9 A.M.
and 10 P.M., by virtue of the annexed rule
of Court of Quarter Sessions, and notice here-
to attached, for the examination of wit-
nesses in a certain cause depending in
said Court, wherein the City of Johnstown
is for view and George W. McGary is
exceptant, on the part of the exceptant,

Mr George W. McGary sworn, I reside in
the Sixth Ward of the City of Johnstown, Pa,
own property in the Second Ward of
Johnstown on the North side of Locust Alley
between Court and Market Streets it is along the
line of the Alley they propose to increase to
a street, has 60 feet fronting on the Alley 60 ft
and some inches back, I bought it expressly
for Lime houses and mortar bed purposes &
use it for that now, having it leased
It is more valuable on an Alley than a
street for my purpose, I do not know
the exact amount assessed against me.

as damages think it is about \$1450.⁰⁰
this is for contribution to be paid by me
for the widening of the Alley into a street,
Own the Lot since 1862 or 1863, the amount
J. assessed ^{against me} for contribution is excessive, by
comparison with other assessments on other
property along the alley they are assessed
less and benefited more. It is more
benefit to the general public than to the
individual property owners along the alley
for the reason thousands of people pass
through the alley

Cross Examined by Mr Walters.

Q. How far do you live from the proposed
location of the new street

A. a short half mile

Q. How much do you value that property,
is at.

A. Between \$4000⁰⁰ and \$5000.⁰⁰

Q. What would you value the same lot
fronting on a 60 ft street

J. A. It depends ^{upon} what it is wanted for,
for my purposes it is worth more
than if a street was there.

Q. How much do you lease it for?

A. Getting only \$13.⁰⁰ as I leased it
just after the flood, could have
gotten more for it and can now get
\$25.⁰⁰ per month or more I pay the tax
on the ground.

Q. State Mr McGary if any property
fronting on that street is leased

out on ground rent, if so where and by whom and the deminisions of the lot, Ans. on the alley just opposite me on the south side of the alley, John St Beuford has leased a part of Mrs McClays lot 33 ft, for a carpenter shop, my recollection is he pays \$35.00 per month - being about 130 feet back or deep to best of recollection dont know of any other property on the alley or street leased.

Q. If based upon a larger sum.

Q. What is your recollection of the amount of contribution assessed against Mrs McClay,

Ans \$600.00 Six hundred dollars.

Q. If based upon a larger sum assessed against Mrs McClay of one hundred dollars or more would the assessment against you be ^{more} nearly equalized,

A. It would be a little near equal and very little too.

Q. Is not Mrs McClays lot of the same width front on the same alley as yours

A. It is six foot wider, mine is 60 ft hers is 66 ft.

Q. State Mrs McClay what property fronting along the proposed widening of East Street, if the damages assessed and the contributions being considered, would be more benefited than yours consideration that not a foot of your ground

will be taken and you assessed some
fourteen hundred dollars
Answer, Mrs McClay, Mr Mayin, Mr
Leitenberg, and Mr. Kress I being assessed
more than \$1400.⁰⁰ fourteen hundred dollars.

Q. Why is Mr Kress,

A. Mr Kress, Mr Leitenberg, Mr Mayin &
Mrs McClay because they have all got
very deep lots being 16 rods deeps fronting
on Main & Washington streets, being able
to spare a part of the grounds and still have
two good lots on the street.

Q. How much did you pay for the Lot in
1862

A. The Lot was original 51 feet fronting
on Market Street and 150 feet deep
running along Locust Alley cost between
\$2300⁰⁰ and \$2400.⁰⁰

Q. State whether there is a Public Alley
in the rear or along your property.

A. there is a 12 foot alley on East
side of the present property.

Re direct,

Q. Having said that this street being
opened for the general public rather than
the individuals property owners, please
state in your judgment whether assess-
ments ~~for~~ contributions should not have
been against the City to the relief of the
property owners.

A. Yes it should have been,

Q. Do you know whether or not

the viewers were instructed that they could not make assessments against the City.

A. I was told they were instructed not ^{to} make any assessment.
G W McGary

Mr John Stinger, sworn, I live in the Second Ward of the City of Johnston on the property of Mr McGary, have lived there since the flood, had the buildings leased before the flood, I don't consider the property to be worth any more for my business by the street being opened than it is now, the amount assessed against Mr McGary is near \$1400⁰⁰, I think it is a little too high.

Cross examined,

Q, You lease the ground from Mr McGary

A. Yes sir.

Q, Do you own any property

A. No sir.

Q, Are you acquainted with the Strayer Est property.

A. Yes as I have lived there 8 years in that neighborhood.

Q, State whether the Strayer property is enhanced by the widening of Locust street.

A. No sir I don't think it is, as it stands on corner of the Alley and Market street and adjoins the property of

Mr McGary,

Q State whether or not in your opinion the property of Mr McGary would be equally enhanced in value with that of the Strayer Est by the widening of Locust Alley taking the ground off the South side in order to make said street.

... considering the size of the Lots,
Ans. I really dont think it would.

Q Did you ever deal in Real Estate
A. No Sir;

Q How do you arrive at the values

A. I consider a property on a corner and facing on two streets worth more than one facing on a street and an alley,

Q What is property worth in your opinion on Locust ~~Street~~ Alley having a depth of 160 ft.

A. It is worth \$150 to \$200 per foot frontage

Q What would you value property on the South side of Locust Alley per foot,

A. It is not worth as much, as a street to me would make no difference,

Q Would it to the property holders along said street,

A. It would be for them to determine, for store buildings it would be, and for purposes of that kind,

Q State whether or not you are employed or engaged in business with Mr McGary,

A. I am independent of Mr McGary doing business for myself

John Finger

Henry B. Barnes affirmed.

Question. Where do you reside,

Ans. I reside in the Sixth Ward of the City of Johnstown,

Q. Do you know where the property of Geo. W. McGary on Locust Alley is,

Ans. I am very familiar with it,

Q. How long have you been familiar with it

Ans. I believe since 1861 or 1862.

Question. Have you heard what amount of contributions has been ^{assessed} against Mr McGary,

Ans. He has been assessed somewhere in the neighborhood of \$1400⁰⁰ or \$1500⁰⁰.

Question. Please state whether or not you regard the assessments on Mr McGary as excessive or otherwise,

Ans. I do regard it as excessive.

Question. Do you know for what purposes Mr McGary is using this lot,

Ans. I believe he was using it before the flood & since the flood as a Lumber house and "Mortar bed", also a dwelling house erected thereon,

Ques. State whether or not in your judgment the property would be increased in value by making the alley a street.

Answer. Yes it would in my judgment be increased in value.

Crossed examined by Mr Watters,

Question. Do you mean to say that property

is as valuable on an alley as a street,
Answer, No I don't it would not be.

Question, Then why do you say that by the opening of Locust Street Mr McGary's property would not be as valuable or more valuable than if left fronting on the alley.

Ans, It would not for the purpose Mr McGary was using it.

Question, State whether or not in your opinion there are any other business purposes to which the property would prove more valuable to rent for and than the purpose Mr McGary has been using for, if improved into a street.

Ans, It would be more valuable for business purposes, it would enhance the value to some extent.

Question, In your opinion what is property worth per foot on Locust Alley averaging a depth of 60 feet and having a frontage of 60 feet on Locust Alley.

Ans, The lot would be worth about \$70⁰⁰ Seventy dollars per foot.

Question, State whether or not a lot 60 ft front in that same spot, fronting on a 40 ft street and having a 12 ft alley on the East side such as this lot has, would in your opinion be worth more than \$4000⁰⁰.

Ans, I presume it would.

Question, About how much more if you were going to purchase.

Ans, It would be worth about \$80⁰⁰ per foot

In the matter of the exceptions filed by Charles F. Kress and George W. McGary to the report of viewers appointed to award damages and assess benefits caused by the widening of Locust street in the City of Johnstown:

The viewers appointed in the above proceedings made their return to Court on June 2d, 1890, reporting, inter alia, that the property of Charles F. Kress would be benefitted to the amount of \$3,960, and the property of George W. McGary to the amount of \$1,440 by the widening of said street, and therefore they assessed their respective properties with said amounts; To this report Mr. Kress and Mr. McGary filed exceptions, substantially the same in each case, the first exception being that "the appointment, proceedings and report was illegal, informal and not warranted by law.

There is nothing in the record, nor was there anything developed in the testimony, sufficient to sustain this exception; the principal reason urged in support of it was that George W. Moses, one of the viewers appointed by the Court, had been elected a member of select Council of the new City of Johnstown prior to his appointment as a viewer, and hence, it was urged, he was not a "disinterested freeholder" as contemplated by the Act of Assembly.

It seems that George W. Moses was duly elected a member of select Council at the first election held for municipal officers for the City of Johnstown in February 1890, but under the Act of Assembly regulating cities of the class to which Johnstown belongs, did not assume the functions of his office until April, and until that time the borough officers remained in office; he therefore was not a duly qualified member of Council at the time he was appointed a viewer, and, as appears from the evidence,

until after the board of viewers had met several times in the performance of their duties, they having made up their report, however, a few days after the inauguration of the City government.

If the parties interested had made objection to the appointment of Mr. Moses on the grounds now set up, it is not probably he would have been appointed, but having been appointed without objection, and having served, it does not seem to the Court that the proceedings should be now set aside for a reason that might have been successfully raised at the inception of the same, and especially when there are no allegations of improper conduct on the part of Mr. Moses.

The second objection is as follows: "The ordinance extending and opening said street was passed by the Town Council of the borough of Johnstown, which borough has passed out of existence, and no proceedings can now be taken to carry into effect any ordinance adopted by said Borough Council, but not perfected during the period of its existence, especially not under the Act of Assembly relating to Boroughs."

In order to sustain this exception it would be necessary to hold that all proceedings for opening, laying out and widening streets, as well as for other municipal improvements, must cease at whatever stage the proceedings are, at the moment the corporate government changes in form from borough to city, and all advantages secured by the steps already taken be lost by reason of the change: In all legal proceedings the principle of substitution has always intervened to permit parties who have

acquired interests in the litigation to carry it on, regardless of the change of parties, whether the change of interest resulted from the act of the parties or the operation of the law, and in the absence of express legislation we would be constrained to rule that the rights of the borough in pending litigation, or municipal action, survived to the City; but it seems to us there is legislation covering the question now before us, and that the 3d section of the Act of 24th May 1887 would cover proceedings of this kind, even though not specifically mentioned.

The section referred to above is as follows: "All the property and estates whatsoever, real and personal, of the town or borough x x x x x are hereby severally and respectively vested in the corporation or body politic of said city x x x x x. All suits prosecutions, debts and claims whatsoever shall thereupon become transferred to the said city, which in all suits pending shall be substituted as party therein, and be under the management and control thereof, as fully and completely as if no alteration had been made in said charter.

The powers of cities of the class to which Johnstown belongs to lay out, open and widen streets are the same as enjoyed by boroughs, and the proceedings are substantially the same, unless possibly in the number of viewers and the forum, and no good and sufficient reasons have been shown to us why the proceedings instituted by the borough cannot be consummated since the incorporation of the City.

The third exception is to the amount of the contributions assessed on the properties of the exceptants, alleging the same to be excessive.

Considerable testimony was taken on the part of the exceptants and of the City, and we have carefully read, weighed and considered it all, and failed to find anything therein that, to our mind, would warrant an interference with the award of the viewers;

The viewers appointed by the Court were all persons of known integrity and sound business judgment, and to whose honesty of purpose no question was raised: They were sworn, and evidently performed their duties with great care and caution, as is evidenced by the number of meetings they had for the consideration of the matters submitted to them: the exceptants had a hearing before them, at least Mr. Kress had, and in order to over-rule the viewers in the amount of the contributions awarded by them the testimony would certainly have to preponderate in favor of an over-assessment, and this the testimony certainly does not do, taking into consideration the reasons given by the witnesses and their facilities for having knowledge and forming opinions on the matters testified to by them.

The most cogent argument urged in support of this exception was based on the theory that the viewers had labored under a misapprehension as to their powers in regard to assessing contributions to the City, and that, believing they could not do this, the awards against private property holders were increased; but if we understand the testimony of the viewers whose testimony was taken on deposition, even if such misapprehension did exist, it was not to the prejudice of the exceptants, as the viewers evidently were of the opinion that their properties were enhanced in value to the amounts of the contributions assessed respectively; and the theory that the viewers acted on a misapprehension as above stated seems to us to be most effectually disposed of by the fact that in their award or report they actually assessed contributions to the amount of \$248 dollars against the City.

It was also urged in support of the last exception that the viewers had based their calculations at a certain rate per square foot for benefits, and that in calculating the area of Mr. Kress' lot they had made an error in its dimensions, calculating on a depth of 132 feet back from Locust street, whereas his purchase on said street only extended back 101 feet: The only evidence that the viewers arrived at the amount of the benefits assessed by such a calculation of that kind was the testimony of Mr. Kress, the viewers who testified not having been examined as to this; but it seems that Mr. Kress owns the ground extending between Washington Street and Locust street, along Court alley, 264 feet, and that he purchased first 163 feet extending back from Washington street, and afterwards the ground extending from this purchase to Locust street, 101 feet, and his contention was that the viewers added to his last purchase 32 feet of the first, in making a calculation of the area to be benefitted, or in other words they divided his holdings between the two streets in the middle, but even if the viewers did adopt this method of calculation we would not regard it as exceeding their powers, as they were to be the judges of the property to be benefitted.

The Act of 1856 under which proceedings of this kind in boroughs are regulated, provides as to the duties of viewers, as follows: "xxxxxx and shall also make assessments for contributions upon all such property as shall be benefitted by the opening, widening and extension of such streets and alleys, such sums respectively as they may have been benefitted over and above all disadvantages; And the Act of 1887, regulating such proceedings in cities of the class to which Johnstown belongs, provides as follows: "The viewers appointed to assess damages shall also assess upon any property immediately adjacent thereto, or in the vicinity thereof, such amounts" &c.

It is apparent that the viewers were not bound to recognize or consider in a property situated as MrKress' was the divisions of the same made by former owners, when at the time of the view it was all owned by him.

Realizing the importance of a correct conclusion to the exceptants, in this case, we have endeavored to give it our most careful consideration, and having done so we are of the opinion that the award of the viewers should not be interfered with.

And now March 2d 1891 the report of viewers is confirmed absolutely.

Byrke Court.

Nov. 8. 1891

In the matter of
the report of receivers
appointed to assess
damages and award
contributions in re
Socack Street.

Opinion of the Court.

Filed 2 Dec 1891.

Blomberg, Secy.

To the Honorable Robert L. Johnston, President Judge of the Court of Common Pleas of Cambria County:

We, the undersigned, appointed by the annexed order of the Court to view the premises and assess the damages, if any, which the within named property holders have sustained by reason of the opening of said Street in said order mentioned respectfully report;

That we met for the purpose of performing the duties imposed upon us by the said order at 2 o'clock on the ^{3rd} day of April, A. D. 1890, and after having been severally sworn or affirmed, according to law, proceeded to view the premises, assess the damages and award the benefits as therein directed; and, after having carefully viewed the same, we are of the opinion that the property owners on the line of said Street are damaged and benefitted respectively as follows:--

The Marbourg heirs have sustained damages to the amount of \$2 587.20; and we do accordingly award them that sum.

We are also of the opinion that George W. Statler has sustained damage to the amount of \$250 to his improvements; and we award him that sum for the same.

We are also of the opinion that George W. Statler has sustained damage to his land to the amount of \$4 700; and we award him that sum for the same, making the total of the damage and the total of the amount awarded to George W. Statler \$4 950, making the grand total of damages awarded the sum of \$7 537.20.

We are also of the opinion that the following named properties are benefitted as follows:--

Property of Charles Kress benefitted.....	\$3 960.00
Property of G. W. M'Geary benefitted.....	1 440.00
Property of the Strayer heirs benefitted.....	695.70
Property of Mrs. Sarah Maclay benefitted.....	716.10
Property of W. F. Mayer benefitted.....	238.70
Property of Gottlieb Leitenberger benefitted.....	238.70
	<u>\$7 289.20</u>

And we do accordingly assess each of the above benefitted properties with its respective sum, making the total benefits assessed the sum of \$7 289.20, leaving a deficiency of \$248.

We are of the opinion that the City of Johnstown is benefitted to the amount of \$248; and we do accordingly assess the City of Johnstown that amount, making the grand total of benefits assessed the sum of \$7 537.20, the same being the sum total of all damages awarded.

Witness our hands and Seals

J. S. Fisher Seal
A. W. Moser Seal
John Raab Seal
Charles Amberg Seal
Alexander Adair Seal
L. W. Wolf Seal
Louis Helm Seal

Cambridge County St.

At a Court of Quarter Sessions
held at Caledonia in and
for the County of aforesaid on
Monday March 5, 1870, be-
fore Hon. R. L. Johnston J. J. the petition of the
Burgess of Johnston Borough was presented
setting forth that "The Burgess and Town Coun-
cil of the said Borough of Johnston regularly and
legally adopted the following ordinance viz
An Ordinance opening and widening Locust Street
So it ordained and enacted by the Burgess and
Town Council of the Borough of Johnston and
it is hereby ordained and enacted by the author-
ity of the same, Section 1. That Locust alley in
the second Ward of the Borough of Johnston extend-
ing from Market Street to Park Place be and the
same is hereby widened and opened as a
public Street of the Borough to the width of forty feet
and shall be a continuation of Locust Street as
now opened. Section 2. That the northerly boundary
line of said Street shall be the present northerly
boundary line of said Locust Alley described
as follows viz - Commencing at the northerly cor-
ner of said Locust Alley and Market Street, thence
South sixty-two degrees East two hundred and
sixty-four feet to the corner of Locust Alley,
That the southerly boundary line of said Street
shall be forty feet South of and parallel with
the said northerly boundary line and de

scribed as follows viz: Commencing at a point on Market Street forty feet South of the furtherly corner of said Locust Alley and Market Street thence South fifty-two degrees East Two hundred and fifty four feet to Park Place, Section 3, That all laws and ordinances of the Borough of Johnston regulating streets be and they are hereby extended to and over said street as opened. I am therefore to pray your Honor to appoint seven disinterested freeholders of the said Borough of Johnston who shall go upon the said premises, view and assess and allow damages to the owner of the several properties along and adjoining the lines of the said Locust Street extended caused to the said properties over and above all disadvantages, by reason of opening the said Street Also to assess and award contributions on all properties along and adjoining the lines of said Street for advantages caused over and above all damages by reason of the opening of said streets in conformity with the provisions of the General Act of Assembly approved April 3, 1851 commonly known as the General Borough law and the several supplements thereto and he will ever pray &c. The Court upon due consideration had of the premises, appointed P. J. Fisher, George W. Moses, John Raab, Charles Muncey, Alexander Adair, D. M. Wolfe & Lewis Stew, as assessors 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 pray-
ed for to the next Court of Quarter Ses-
sions and at which report they shall state
distinctly that they have been sworn or
affirmed according to law,

By the Court
J. C. Darby
ck

No. 5111a Dec 1890 RM

Order to receive access down
river cross around center;
banking for advantage
and advantage of amount
by etc opening and width
way of demand about in
the land the Johnathan D.

Receivers =

- P. J. Foster
- Geo. M. Moore
- John Rank
- John W. Munnings
- Wm. Moore
- S. H. Holt
- James H. H. H.

Get West
F. 1892

Kahn

Johnstown, Pa., April 25th, 1890.

The City of Johnstown, Penna.,

Dr.

To Peter Fisher, view on Locust St., 2 days at \$1 per day	\$2.00
" George W. Moses,	2.00
" L. M. Woolf,	2.00
" A. Adair,	2.00
" John Raab,	2.00
" Louis Wehn,	2.00
" Charles Unverzagt,	2.00
Clerk hire and this report,	5.00
Total	<u>\$19.00</u>

LOCUST STREET

MARKET

ST. 4

MARBOROUGH HEIRS
Mrs. S.M. McCLAY

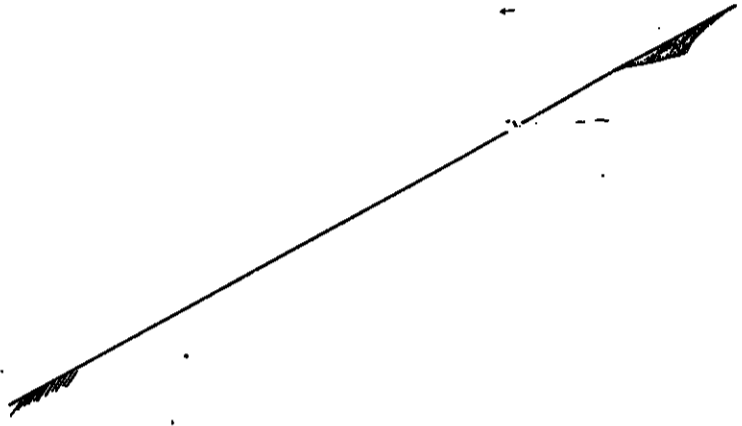
MEYERS HEIRS

LEIGHTENBURGER

GEO. STATLER

62' E 264'

COURT ALLEY



1 To His Honourable R. L. Johnson, President Judge
2 of the Court of Quarter Sessions of Cambria County.

3
4 The petition of the undersigned Burgers of the
5 Borough of Johnstown respectfully represents:

6 That the Burgers and Town Council of the said
7 Borough of Johnstown regularly and legally adopted
8 the following Ordinance, Viz:

9 An Ordinance Opening and Widening Locust
10 Street.

11 Be it Ordained and enacted by the Burgers and Town
12 Council of the Borough of Johnstown, and it is
13 hereby Ordained and enacted by the authority of the same:

14 Section 1. That Locust Alley, in the Second Ward of
15 the Borough of Johnstown, extending from Market Street
16 to Park Place be and the same is hereby widened and
17 opened as a public Street of the Borough to the width of forty
18 feet, and shall be a continuation of Locust Street as now opened.

19 Section 2. That the northerly boundary line of said Street shall be
20 the present northerly boundary line of said Locust Alley, described
21 as follows, Viz: Commencing at the northerly corner of said Locust
22 Alley and Market Street, thence south sixty two degrees east
23 two hundred and sixty four feet to the corner of Court Alley.

24 That the southerly boundary line of said Street shall be forty
25 feet south of and parallel with the said northerly boundary
26 line, and described as follows, Viz: Commencing at a point on Market
27 Street, forty feet south of the northerly corner of said Locust
28 Alley and Market Street, thence south sixty two degrees east
29 two hundred and sixty four feet to Park Place.

30 Section 3. That all laws and Ordinances of the Borough
31 regulating streets be and they are hereby extended to and
32 over said Street as opened.

Alex. Kennedy, President

James N. Rea, Clerk.

Approved March 1, 1890

Erwin Correll, Burgess

Your petitioner therefore prays your Honor to
appoint seven disinterested freeholders of the said
Borough of Johnston, who shall go upon the said
premises, view, and assess and allow damages to the
owners of the several properties along and adjoining
the lines of the said Locust Street extended across
to the said properties, over and above all disad-
vantages, by reason of opening the said street.
Also to assess and award contributions on all
properties along and adjoining the lines of said
street for advantages caused over and above
all damages by reason of the opening of said
street in conformity with the provisions of the
General Act of Assembly approved April 3, 1861,
commonly known as the General Borough Law
and the several supplements thereto. And he
will ever pray

Erwin Correll
Burgess

Cambria County SS

Before me, a Justice of the Peace in
and for the said County, 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.

Erwin Correll
Burgess

1
2
3 Sworn and subscribed before me this day
4 of March A.D. 1890
5 Alex J. Hart (S)
6 J. P.

W. S. Marshall's Journal 1870

Section of Lewis Carroll
Burgess of the Borough of
Sturbridge for the approval
of the Board of Supervisors
and also the Board of
Sanitary Officers for the
purpose of opening
Second Ward of the
Borough of Sturbridge

Carroll A. Burgess

P. S. Marshall

Wm. S. Burgess

John P. Burgess

Charles W. Burgess

Sturbridge, Mass.
1870

Sturbridge

To the Honorable the Judge of the
Court of Common Pleas of
Cumberland County, Having been
appointed to take testimony in
re opening Locust St 2nd Ward Johnston
Pa. The following witnesses were
examined by me and in my presence after
being duly sworn or affirmed on the 8th
day of January 1891 at my office in the city of
Johnstown between the hours of 9 AM & 10 PM
of said day by virtue of the subpoena
of Court and notice hereto attached on part
of the applicants and reduced and
had reduced to writing the following
testimony as given by the
witnesses

Alex Adair produced and
sworn

I am a resident of 1st ward
city of Johnstown - have lived
in said city 15 or 20 years
I was one of the viewers
for the widening of Locust
Street.

2
State whether or not you
at any time persuaded

Charles Munro ought to sign
the report and the minutes
for the widening of Forest St
I did not persuade Munro
to sign the report

After we had made the
proportion of assessment
as we thought fair we
tried to put the matter to
a vote but there was a
difference of opinion in some
of the words. And after
some talk or conversation
I remember asking Mr
Munro if they had
agreed and he said yes
they were all of the
same opinion.

They all expressed their
opinion that the assessments
in the words was right but
Mr Munro and I
asked Mr Munro about
that and he said it was
right - he said this in the
presence of all of them

After we made our report I presented it to all the members to sign and they did except ~~McGonigal~~ he said he was not satisfied.

I asked him what he was not satisfied with as he had expressed himself as being satisfied before, and he said Charlie Kress should have been assessed \$500⁰⁰ less than he was - I returned the report to the Chairman with the recommendation that it should be returned to Court with out his signature. Subsequently understood that the report had been signed.

I valued McGonigal's lot on an alley at \$500 and when ^{the} Alley opened into a street I value it at \$3000. & 3500.

I consider it of great value to the owners of the property along said Alley to open it into a street, but practically not so much return to the city.

I consider that the opening of
all streets of ^{benefit} ~~value~~ to the City,
I consider the ^{almost} ~~entire~~ parking
by the city will be, ~~commensurate~~
~~to~~ the benefit gained
Losses ~~incurred~~ by Col. Linton
The city will desire an increase
of taxes by reason of the opening
of this street. Property holders
will be subject also to increased
expense in making sidewalks
I think these things are taken
into consideration at time of
the view (matter of sidewalks)
I think the view was met about
five times I am not positive
I think at one of the meetings
a small assessment was
recommended against the
city we did not have power to
make it. As a member of
the view I regarded myself
as not having power to
assess the city - I can't say
whether this was the prevailing
opinion of the view or
not. That point was spoken of by the
viewers

I do ~~not~~ remember of being
present at a meeting of the
men when two members
thought the City ought to be
assessed some or part of the
damage - I don't remember how
much - I think that
the Chairman and Mr
Unwary were the ^{assessing to city} parties forming the
I argued myself that the
view could not assess the
city - I mean that that
According to the order of
Court the City could not
be assessed and so stated
to the men

Respect by J. M. Waters Esq

I state whether or not the Borough
near City of Johnston

I know there is ^{an} alley fronting
on Locust Alley between the property
of Geo M Long & Charles F. Kniss
I don't know whether it is public
or private alley - I know it is
used by general public

I consider the present value
of Charles F. Kruse's property
fronting on the alley to be worth
from \$10 to \$115 a front foot this
is the valuation ^{when} street is
opened. My assessment is based
on the lot of Kruse being 130 or
131 feet deep, I am a property holder
in the City of Johnston and
surrendered 2nd ward
Alex Adair

Chas. W. Morse being sworn
I am resident of the City of Johnston
have lived here all my life with
the exception of 6 yrs. continuous
less for 10 yrs.
I am property holder
I am member of Select Council.
I was not member of Select
Council at the time of Court St
view. Elected in Feb'y term in
in April.
I never persuaded any member of
the view to sign the same.
Mr. Inverfact was confused, and after
he said the way in which Mr
Adair ~~and myself~~ put it down he
said that was right and agreed

○ ○ ○

Cross Examined.

At first he (Mr Unsworth) was confused and didn't know exactly what he did want.

I don't recollect that he was opposed to it.

I didn't know that he refused to sign the report.

He was sworn in on this view before I was sworn in as members of the Council.

Part of the view was made before and part after I became member of Council.

Report was also made after I became member of Council.

It was not my opinion that the City could not be assessed.

It was my opinion that the City could be assessed any amount and that they ^(the City) could have the right of appeal as other parties.

Re Examined by Mr Walter.

I would value Mr McGarry lot as the street now stands at \$2,000 to \$2,500.

If the street was opened I think it would double the value.

The same opinion would apply to Mr Kross lot, that is the half the lot.

The deeper the lot the greater the increased value

As to the value of Mr Kross lot I think it is guess work with me as I am not an expert on property.

I think the value of Mr Kross lot as it stand now is about \$5,000

Re Cross Examined

He did not assess the City because I thought the property owners were receiving the advantage.

I thought the repairs the City would have to make on the street would balance the advantage the public gained

I did think the City would receive increased taxes after the improvements were made.

I knew the Property holders would be subject to increased burdens

J W Wiser

Adam

Mr. Brinker being sworn.

I am a resident of Johnston

I am a property holder

I own property in several
wards of the City.

I have been a resident of the City
of Johnston about 25 years.

I have some acquaintance with
the marketable value of property
in the town.

I know of the property along Louisa
Alley.

I am acquainted with the property
owned by Geo W McGarry and Mr
Kross on Louisa Alley.

I should think the property alluded
to would be worth \$40⁰⁰ to \$50⁰⁰ per
foot. that is McGarry's lot.

I think Mr Kross lot as it were
days would be worth \$75⁰⁰ per foot

If Kross lot was running the
same depth as McGarry's I
would give ten \$10⁰⁰ more per
foot than I would for McGarry's
the location is better

If the street were opened I think
the price would be doubled
as to both properties as to the
sixty foot depth

I can't say that it would enhance
the value for business purposes
but as to residences it would
I have a distinct recollection that
Mr. Stinger said the property was
for sale, (Objected to by Mr. Linton)
that declaration of Mr. Stinger
made to this witness an not
evidence being mere hearsay.
I can't say what the price was
I can't give the figures.

Cross Examined no questions asked.
A. D. Brinton

John Stinger sworn.

I live in 2nd Ward Johnston.

I lease from G. W. M. Garry.

I don't know that he offered to sell
the lot lately

I don't mind exactly, it was near
\$3,500 or \$4,000 I don't mind word
for word what I told Mr Brinker
about eight or nine years ago
when I first came to Johnston
he offered to sell for \$25,000

If I told Mr Brinker, that price I
was referring to the first time he
offered to sell

Cross Examined (no questions asked).

John Stinger

W. A. N. Wakefield sworn.

I am resident and property holder
of the City of Johnston

I have resided here 18 years

I own property in different
wards of the City.

I have some knowledge of the
marketable value of property
on Court St and Alley

I know where the property of
McGary and Kross is located on
Locust St and Alley.

I should think property on the
~~Street~~ Alley as it now is ~~running~~
back 60 feet would be worth
50⁰⁰ per foot.

If the Street was opened I think
it would double the value.
Kross lot running back 131 feet
as the Alley ~~now~~ is would
be worth 160⁰⁰ per foot front
I think it would also double
hardly but I think it would
if the Street was opened.

Cross Examined (no question asked)

A. T. Pradepittel

Laguerre County, S.S.

I hereby certify that the
above named witnesses were duly
qualified and examined at the trial and
place stated in the Captions and
subscribed to their deposition

W. D. Stephens
Notary Public

Testimony taken before
Mr. B. Stephens a Notary Public
to be read in evidence on the
hearing of the matter of
the striking of the overland
Route

A. Adair 50

G. W. Mason 50

Adam Brinkley 50

John Dings 50

W. K. Stephens, Jr.

Carrollson 350

PR News for

Arman Lusk for 27

\$3.77

Dr. H. M. Moughely 50

\$6.27

0.25/10 1000 525
525
174

(Mallie)

In the Court of ^{Mar Term #} Common Pleas
of Cambria County, Pa.

Wm opening
Logan Street
2nd St. Johnstown Pa. Of *Mar* Term, A. D., 1890, No. *6*
Rel.

And now, to wit, the *Fifteenth* day of *December* A. D. 1890
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 *15* of *Dec* 1890
J. C. Danly, Prothonotary.

To *George N. McGary & S. F. Kress, or their*
Atty John P. Linton Esq.

TAKE NOTICE, That in pursuance of the above Rule the depositions of witnesses to be read
in evidence on the *hearing* of the above stated *matter* on part of
the *Petitioners* will be taken at the *Office of J. B. Stephens Esq*
Notary Public # 1112 Johnstown Pa. on *Thursday*
the *8th* day of *January* A. D. 1891, between the hours
of *9* o'clock, A. M., and *10* o'clock, P. M., before *Wm M. Stephens*
Esq. 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.

James M. McGary
Atty for Petitioners

No. 8. New Year 1890
P.O.

In re opening

Account of J. and J.

Wm. John Lewis & Co.

Whom we are indebted to, for the
loaning a copy of the will of
John Lewis & Co. of New York
and O. S. Lewis by their
attys John P. Anderson Esq.
J. P. Anderson

RULE ON PART OF *P. K. Lewis*

Filed 12 Jan 1891

W. Walker

THE CAMBRIDGE FREE PRESS AND ADVERTISER.

Lancaster County, ss.

THE COMMONWEALTH OF PENNSYLVANIA, To *John*
Henger

GREETING:

YOU ARE HEREBY COMMANDED, That you be and appear, in your proper person, before
me, the undersigned, *M.B. Stephens, a Notary Public*
for said County - No. 11 Arch Hall Market
Street

at *my office* in *Jonestown*
on *5th* the day of *January*
1891, at 2 o'clock P. M., then and there to give evidence on the part of

~~*Esseff*~~ *Petitioners for Widening*
Lewis Street in the 2nd ward, Johnstown Pa

HEREOF FAIL NOT, under the penalty that may ensue.

Witness my hand on this *5th* day of *January* 1891

M.B. Stephens
Notary

Now Jan. 21/91 served the within subpoena
on John Stenger the within named witness
by reading and making returns thereon
Cost 27 ct

Sworn & Subscribed P. R. Miller comd
to this 8th day of June 1891
P. R. Miller
Notary Public

Petition for Divorce
Loewin Sheebs vs. the
Edmond Johnston

VERSUS

Subpoena

In re pet. to assess
damages caused by
Opening Locust Street
2nd Ward Johnstown Pa

In the Court of Quarter
Sessions of Cambria County, Pa,
of Mar Term, A.D. 1890 No 3.
R. D.

Deposition of witnesses
produced, sworn, affirmed
and examined by me, the 27th day of Dec
A.D. 1890, at my office #89 Franklin Street in
the City of Johnstown, Pa., between the hours
of 9 a.m and 10 p.m., by virtue of the annexed
Rule of Court of Quarter Sessions, and notice
hereto attached, for the examination of wit-
nesses in a certain cause depending in
said Court, wherein the City of Johnstown
is for view and Charles F. Kress is exceptant,
on the part of the exceptant.

Mr Charles Murrzagt, affirmed, I
live on Locust Street in the City of
Johnstown Pa, I remember the view
to assess contributions and award
damages in the opening of Locust
Street, I dont remember the date exact-
ly but it was after the organization of
the City Government, I made the pro-
position to assess the City fifteen hund-
red dollars and some of the other viewors
were in favor of bringing it down to \$1200⁰⁰
that was done one day, and then we met
another day in the Council Chamber,
then Mr Odair and Mr Moses said we

Could not assess the City anything, and then we all agreed. It was my opinion that we could assess the City when I made the proposition, and I thought the City should pay about Fifteen hundred dollars. I was convinced by the Argument that was made that the City could not be assessed and then I gave up my view. I am sure if the City could be made pay they should be as I first proposed. I believe it was either Mr Adair or Mr Moses that made the Argument that the viewers had not the power to assess the City. Mr Moses was a member of the City Council at the time.

I believe Mr Kress was assessed near Four thousand dollars. I was protesting against it all the time did not sign the paper for two weeks after the others signed had a notion not to sign at all. I still believe the assessment against Mr Kress is too much. I sold him his Lot fronting 99 foot on Washington Street and extending back along Court Alley 163 feet and adjoins the Lot purchased from Mr Eldridge on Loust Alley.

Cross examined by Mr Walters.

I was appointed under of the order of Borough Johnston as proceedings were begun under them. The viewers who were in favor of reducing the amount I do not remember. ~~It~~ I am not certain whether it was Mr Moses or Mr Adair but think was Mr Moses. My reason is I think the City should pay something.

for the opening of the street, they were
I don't know that they were assessed
anything. I signed the report two weeks
later and then didn't feel satisfied. I don't
know that Mr Moses was a Borough Council
man but know he was a Councilman at
the time they held the view. Mr Kress
I think paid Mr Eldridge between \$4 or \$5000.
I was not present at sale, I never heard
any talk about higher price for North side
of property on Locust Street. I would not
pay as much as Mr Kress did it even if
the street was there, one tenement house
was on it when Mr Kress purchased, 6 or 7
rooms in it, was used as a Boarding house
& for roomers. For private dwelling it is just
as valuable as if a street was there.

Charles Unverzagt

Mr Charles F. Kress sworn. I own the lot
of ground on Locust Alley on which ^{more or less}
it is assessed for Contribution, 99 ft on
Locust Alley and 10 ft on Court Alley, and
adjoining the one on Washington Street,
163 ft on Court St. I purchased the lot
on Locust Alley from James Eldridge,
\$3960⁰⁰ assessed for Contribution for opening
Locust Street against that Lot, I do regard
the assessment very excessive, I saw a
statement in the hands of a reviewer showing
the manner in which the assessment

was made they figured on the number of square feet contained in the lot at the rate of 30¢ per square foot for contribution my lot on Locust Street they added 30 ft. from my lot and back into the street making 137 ft instead of 101 ft on my property on Locust St. The excess of 3000 square feet on the basis of 30¢ per sq. foot equals \$930.00. I think it would be a greater advantage to the general public than to the property owners to have it a street. I expressed my views before the viewers that the City or Borough should pay a portion of the contributions in view of the advantage to the general public. I still have the same view.

Cross examined by Mr. Walters.

Mrs. McClay petitioned the Borough of Johnston to open Locust Alley. I made no objection being in favor of the opening. I have no idea what the property would be worth if a 40 ft. street was there. I have no price and it is not for sale and can't say what its marketable is, can give no estimate.

Question. State whether or not if required to pay the sum of \$3960.00 which is assessed against ^{said Lot} you by reason of the opening of Locust Street and you are required to sell whether you would accept the sum of \$8000.00 for the same.

Ans. No I would not accept as I don't

wish to part with it as I bought it for a home.

Question. You have stated in your examination in chief that Locust Alley is a much used thoroughfare for the General Public, if so would not this enhance your property as a business stand,

Ans. I have no view to business on that property as I intend to build on it ^{a home} it would enhance the value but ^{not anything} near to the assessment made.

Question. How do you know, or what reason do you assign, that it would not enhance the value of your property to anything near the amount of the assessment, if as you stated before you were unable to give the marketable value of the same.

Ans. I know that that property is not worth near double what it cost with the addition of house and stable ~~on~~ that were on it at the time I bought it.

Re examined,

The price paid for Eldridge lot with the addition of house & improvements was \$5500.⁰⁰ the original price, partly agreed upon was \$3750.⁰⁰ but by serious complications it was raised to \$5500.⁰⁰ which I regarded as a very excessive price as I was very desirous of having the property

Chas. F. Hess

I hereby certify that the above witnesses
were duly qualified and examined at the
time and place stated in the above caption,
and subscribed their depositions in my presence,

E. P. Fisher,
Notary Public

In the Court of ^{Quinta Term} Common Pleas
 of Cambria County, Pa.
 In re *pet. to award*
damages caused
by opening sink Of *Mar* Term, A. D., 1890, No. *8*
St. M. W. Johns-
ton Pa. *P. O.*

And now, to wit, the *second* day of *December* A. D. 1890
 Rule on part of *C. P. Kuro* *Excerptants* 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 *Dec* 1890.
J. C. Darby, Prothonotary.

To the City of Johnstown, or James M. Walters, Esq,
 Solicitor thereof

TAKE NOTICE, That in pursuance of the above Rule the depositions of witnesses to be read
 in evidence on the *hearing* of the above stated *matter* on part of
 the *Excerptants* will be taken at the *office of E. O. Fisher*
Notary Public, Franklin St. Johnstown on *Monday*
 the *twenty ninth* day of *December* A. D. 1890, between the hours
 of *Nine* o'clock, A. M., and *Ten* o'clock, P. M., before *said E. O.*
Fisher, 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.

Geo. P. Linton
Atty for Excerptants

No. 8 Hanover, 1890

R.D.

Dr. J. H. ...

...

...

Dr. John ...

Filed 12 Jan 1891

RULE ON PART OF ... To F. ...

Johnstown, Pa., Dec. 13, 1890. ...

...

THE CAMBRIA FIREMAN JOB PRINT. EBERSBERG.

See \$3.00 ...

...