

No. 2,

Dec 1837

Term, 1837

Petition to View & Assess the
Damages on Harbough Armes

versus

Louis B. Brough

Contents:

Return & assess
Damages on Husbungh
Ave.

in

Wm Javis Boro.

Nov 21 Dec 28 1889

Brass Rocket

Nov 7 July 1890 petition

by A. L. Cule moves for leave & amend by
changing the words Aribone Ave. as the
point of beginning to Courteny St. in ac-
cordance with the ordinance laying out
said Husbungh Ave.

A L Cule

Atty for Returnee,

7th Feb 1890 Application amended granted

Wm Javis

S. L. Cule

Atty

No 2 Dec 28, 1889

Proc. assessment
of damages on Harbourside
Ave. in
Dupont

Motion to amend petition

Road Boekes

Filed 7th Feby 1890

all

40.600000

To The Honorable the Judge of the
Court of Quarter Sessions of Clearfield
County.

The undersigned appointed by the
annexed order for the purposes
therein mentioned do report:

That having been first duly sworn
or affirmed according to law and
after having given due and public
notice of the time and place of
meeting by printed handbills posted
in the vicinity, did proceed to view
the premises and having regard
to both the advantages and disadvan-
tages do assess the following damages
and benefits.

Mrs. Isaac & W. T. Smith actual value of		
land taken	Incidental damages	\$14.00.00
James H. H. Contribution		\$75.00
Opera House Co.	"	\$100.00
John E. Du Bois	"	\$60.00
William Clinton actual value of		
land taken	Incidental damages	\$200.00.00
Alfred Norman Contribution		\$10.00
Theresa Coover	"	\$40.00
O. H. Kirk	"	\$60.00
Mrs. Bridget Shea actual value of land		
taken	Incidental damages	\$50.00
John Rowland actual value of land		\$10.00
taken		\$50.00
Mrs. Abigail Taylor Contribution		\$25.00
Emery Alexander	"	\$20.00
Norman Donaldson	"	\$3.00

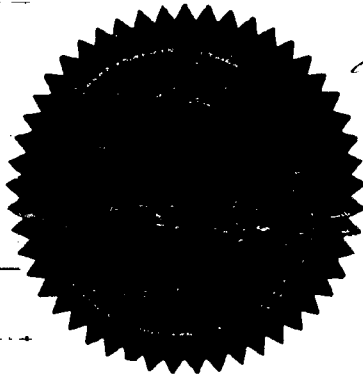
1	Long & Brady Contribution	\$25.00
2	Dan Johnson	" 25.00
3	Clinton Alexander	" 40.00
4	Prothero Meris	" 20.00
5	Mrs Maria Cunningham	" 20.00
6	Samuel Foster	" 20.00
7	Samuel Shefer	" 20.00
8	Joseph Hann	" 40.00
9	Andrew Euthmiller	" 20.00
10	Silas W. Parker	" 20.00
11	W. F. Clark	" 20.00
12	Jessie Reisinger	" 20.00
13	Levi Reisinger	" 20.00
14	George Tringer	" 40.00
15	Mrs Nancy Hepburn	" 80.00
16	Abner Allen	" 20.00
17		
18	H. Magill	
19	J. Ballis	
20	W. Steenson	
21	J. P. Johnston	
22	J. F. W. Prothero	
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Clearfield County Pa

Ath a Court of Quarter Sessions
of Clearfield County Pa held at Clearfield on the
2nd day of December A.D. 1889 Before Honorable
David L. Krier Presiding Judge of said Court
upon the Petition of sundry Inhabitants of
the Borough of Outis said County Respectfully
represented That by an ordinance passed
on the 7th day of Oct 1889 a Street Called
Harbaugh Avenue was ordained laid out
and Established in said Borough the lines
which were ordained to be as follows: Beginning
at a point on Seneca Avenue in the front
line of the lot of Isabella Smith 14 feet
from the corner of said lot adjoining the Opera
House lot thence South $30^{\circ} 31'$ West 54 feet
to the line of said Opera House lot thence still
South $30^{\circ} 31'$ West 104 feet to the Centre of Rose
Alley. Thence still South $30^{\circ} 31'$ West to intersection
-ion of Stockdale Street. Thence Beginning
at a point directly opposite on the East Side
of Stockdale Street South $30^{\circ} 31'$ West ^{$33^{\circ} 30'$ East} to the
lands of Jno E. Outis thence Beginning at
a point 50 feet north of said last named
point on the line of Jno E. Outis being
the north line of Harbaugh Avenue running
in a line parallel with the south line of
said Avenue and at all points 50 feet
distance from the same to the line of

the said Isabella Smith lot 40⁺ feet from
Courtney Street

And now 2^d December AD 1889 The within
petition read and considered and thereupon
H D Mumme J B Ellis William Stephenson
J A Johnston A R Van Lasse F W Proctor
and J E Morris are appointed Viewers to View
the premises assess the damages and make
report to the Court according to law.



By the Court
Certified from the Record
the 16th day of January 1890

A M Blevins
Clerk of Quarter Sessions

To the Honorable D. C. Krebs
President Judge of the Court of
Quarter Sessions of Clearfield
County.

The Petition of the Town
Council of the Borough of Dubois
respectfully represent:

That by an Ordinance passed
on the 7th day of Oct. 1889 a
street called Warbaugh Avenue
was ordained laid out and
established in said Borough
the lines of which were ordain-
ed to be as follows: Beginning
at a point on Scribener Avenue
on the front line of the lot
of Isabelle Smith 14 ft from
the ^{corner} ~~line~~ of said lot adjoining
the Opera House lot. Thence south
 $30^{\circ}30'$ west 54 ft to the line of said
Opera House lot, Thence still south
 $30^{\circ}30'$ west 104 ft to the Centre
of Rose Alley; Thence still south
 $30^{\circ}30'$ west to the intersection of
Stockdale Street; Thence begin-
ning at a point directly opposite
on the East side of Stockdale
Street south $30^{\circ}30'$ west to the
lands of Mrs. E. Dubois, Thence

beginning at a point 50 ft
north of said last named
point on the line of Jno.
E. Out Bais, being the North line
of Warbaugh Avenue and
running in a line paral-
lel with the South line of
said Avenue and at all
points 50 ft. distant from
the same to the line of the
said Isabella Smith lot
40 1/2 ft. from Cemetery
Street.

That your Petitioners
have been unable to agree
with the owners of the land
^{to be} occupied by said street
for the damages caused thereto
They therefore ask that a board
of viewers be appointed ac-
cording to law to assess
said damage and they will
ever pray

Hart Gubins
John E Burns
John Horner
Levi Heidrick
Geo R Worburg
J. Holomby
J. Ditchburn
A. L. Tozier

no 2000 1889
Petition for View

Access Damages
on

Newburgh Avenue.

Nov 2^d Dec 1889
The within Petition and
and considered and,
thereupon at S. M. M. M.
J. J. Ellis, M. M. M. M.
for John M. M. M.
James S. M. M.
+ J. S. M. M. are ap-
pointed assessors to view
the premises across the
damages and make re-
turn to Court according
to law.

By 16 Court
172 M. M.

the 2000 1889

RULE TO TAKE DEPOSITIONS.

CLEARFIELD COUNTY, SS:

In Re Application Under
Benning to Assess

VERSUS

Hannay vs. Exhume
Harbaugh Co.

Quarter Session
In the Court of ~~Common Pleas~~ of Clearfield
County, Pennsylvania.

No.

dec 28 Term, 1887

AND NOW, to wit, the 8th day of Nov, in the year of our
Lord one thousand eight hundred and eighty seven
the ~~Exhume~~ enter a Rule to take the
Depositions of ancient, infirm and going witnesses, to be
read in evidence on the ~~Argument~~ of this
case. Ex parte Rule of ~~Exhume~~ on
~~Five~~ days' notice.

AM Bloom
Prothonotary

To A. J. Cobb Esq.:

Atty for Adam Benay

You will please take notice that, in pursuance of the foregoing rule, depositions
will be taken before ~~A. J. Cobb~~, or some other person
authorized to administer an oath or affirmation in Pennsylvania, in and for
the county of ~~Chapin~~, at the office of ~~S. S. Hay~~
in the ~~Benning~~ of ~~Benay~~, in the county of ~~Chapin~~
and State of Pennsylvania, on the 14th day of Nov, A. D.
1887, between the hours of 9 o'clock A. M. and 9 o'clock P. M., when
and where you may attend and cross-examine.

Clearfield, Pa.,

dec 28 1887

Service accepted see Nov 1890

A. J. Cobb
attorney for Benay

Depositions under a Rule of Court.

Deposition of witnesses produced, sworn and examined before me, the 14th. day of November A.D. 1890, at my office, at D'Bois Pa. between the hours of nine A.M., and nine P.M., by virtue of the annexed rule of Court of Quarter Sessions of Clearfield County, Pennsylvania, and notice hereto attached, for the examination of witnesses in a certain cause depending in said Court, in relation to the matter of opening Harbaugh Avenue, in the Borough of D'Bois Clearfield County, Pennsylvania,

W. J. Smith, Sworn. I am one of the owners of the lot on which the proposed extension of Harbaugh is to pass through. It lies on Courtney Street. Isabella Smith is the owner of the other part. This lot was never divided. The extension takes in $\frac{2}{3}$ of the lot and all the buildings except the barn. The lot is 60 feet by 180 feet, and leaves no frontage. The land in the rear would be a triangular piece and worth nothing to me. The property has cost us \$2000⁰⁰ in money. My annual income or the income on the property is \$348⁰⁰. I value the property at \$3800⁰⁰ we bought this lot when

land was cheap, about 8 years ago. The lot has increased in value considerable since that time. I never saw, nor was I notified of the view for this extension. I did not see any notice near our place on Courtney Street. Last Spring was the first I knew anything about it, it was after the view. I am living on this lot, Mrs Isabella Smith also lives on this lot, she had no notice of the view. if she would have had, I would have known it. The opening of Harbough Avenue would damage us to the full amount of our property.

W J Smith

A. L. Fozier, sworn, I live in O'Bois, Pa, I am The Burgess, and Street Commissioner of O'Bois, Pa., I am serving my second term as Burgess, and first term as Street Commissioner, I do not know how many miles of streets in this town, I think I have been on all the streets, there are in the Borough, but I do not know all the names, I have not put repairs on these streets necessary to make them good passable streets, The repairs have not been done

because I have not had time to do it,
 and no material to do it with. There
 are some streets, on the outskirts of the
 Borough, that have not been repaired
 and opened, because the Borough is
 unable to do it, the taxes of Williamsport
 Pa. would not be sufficient to open
 up all the streets, in good condition
 in the Borough. There are a number
 of streets full of stumps, and log
 piles, which are expensive to move.
 There are some of the main thoroughfares
 that need improvement to make safe
 for travel, the Borough is considerably
 hampered at the present time for
 want of funds to do the work needed,
 it is about three months since their
 funds run out, the rate of Borough
 tax is ten mills, that raises between
 \$4000⁰⁰ and \$5000⁰⁰ Borough tax, in
 addition to that there is three mills
 levied to pay off Bonded indebtedness,
 about \$1000⁰⁰ is the amount of the
 Bonded indebtedness, which is the limit.
 There was an election held in November
 1890. to increase the Bonded indebtedness
 and was voted down, John E. O'Doris
 has had to contribute timber to enable

4.

him to have the street leading to the
Tannery of D^yBois, Van Gassel Bros'
made passable for business. Mr D^yBois
is now repairing the road or street
leading from the D^yBois House, towards
the Borough limit, with timber. This
is the usual stage route to Cleafield
and I have heard the condition was so
bad, that stage travel over it had
to be suspended for a time this fall,
this work he is doing on his own risk
and is necessary for business, it is
largely traveled, and necessary to be
kept in good repair. Men working
for the Borough, have refused to work,
there being no funds to pay them
for orders received for labor. The work
I am doing now is absolutely necessary
for the protection of the Borough, and
that is being done on credit, there are
no funds to open new streets, if laid out, nor
to pay damages if laid out, there are now
no funds to do the work now ordered
done, The rate of Gas and Water tax is four
mills, the School Tax is Eighteen mills, I
understand that the rate of tax paid by the people
of D^yBois is 51 or 52 mills I don't remember which.

A. L. Tozier

Joseph A. Terpe. Affirmed. I hold the official position of Borough Treasurer, of D^uBois Pa. I believe that it would take four or five thousand dollars to pay the Borough orders now outstanding, there are now no funds in my hands, to meet the orders, I had an order presented to me the other day of nearly \$1500⁰⁰/₁₀₀ and no funds to meet it, I never had any surplus in my hands, except for a few days at a time, The demand has always been more than funds on hand, I see no chance for any improvement
 Jos. A. Terpe

W. J. Ross. sworn, I am the Tax Collector for D^uBois Borough for 1890, The tax rate is 48½ mills, Borough and Bond is 13 mills; Gas and Water is 4 mills; Poor is 6 mills, School rate is 18 mills County and Bridge is 7½ mills, the Borough tax amounts to \$5350⁰⁰/₁₀₀ for Borough purposes only, and the exonerations comes out of this, of this amount there has been collected about \$3500⁰⁰/₁₀₀ leaving a balance of about \$1800⁰⁰/₁₀₀ to collect, I think that the exonerations will be large, as many have gone away, and there are many

double assessments of Property.

W. J. Ross—

Isabella Smith sworn. I have lived in D'Bois Pa, about 8 or 9 years. I am part owner of the lot in which W. J. Smith is interested in. I own my interest in common with Mr. Smith, in "Le Simple". I consider that property worth, the income being about 360⁰⁰ per year. about \$4000⁰⁰. I did not see, nor did I learn ^{of the meeting of the owners} of any notices, being posted, previous to the time the viewers met to assess the damages, and no notice was served on me. I live at one end of this proposed street, in my property. There are convenient places about the premises to post notices, this street takes nearly all our lot, and the buildings except the barn.

Mrs. J. Smith

James Hines, sworn. I live in D'Bois am the proprietor of the Alpine House. I have lived here for 13 or 14 years. I know the location of the proposed opening of Harbaugh Avenue. My house is on the terminus of the proposed street, and would be on the corner if opened. I never saw

any notices posted on the terminus of
 the proposed opening of Harbaugh Avenue
 of the meeting of viewers to assess dam-
 ages, if there had been. I would have
 seen them, I never saw the viewers on
 the view, I heard of them being there
 afterwards.

James Hine

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.

L. S. Hay,
 Justice of the Peace.

No 2 Dec 1890

In the Court of Quarter Sessions
for the County of Sussex,
No 5, Dec. SS. 1890.

Rule to take Depositions
in relation to
Bartholomew Thomas
Dyer, 30th, 1890,

6 Pages - \$3.00

Filed 7th July 1891

In Re. The Extension
of Harbaugh Avenue,
in DuBois Borough.

In the Court of Quarter Sessions of Clearfield
County.

No.

December Term 1890

Now, 29th of July, 1890, W. T. Smith, Isabella Smith and Geo. H. Wingert, here
owners of real estate on said Harbaugh Avenue, and the extension thereof
hereby file exceptions to the report of viewers to assess damages in
above case and to the confirmation thereof, as follows;

First. H. S. McMinn, one of the viewers, is not a freeholder.

Second. The viewers assessed all the damages sustained to the land tak-
en where said Harbaugh Avenue intersects with Courtney Street,
and awarded the same to W. T. Smith, and none to Isabella Smith,
when the said Isabella Smith owned the undivided half of the lan-
-d so taken.

Third. The opening of said Harbaugh Avenue would be burdensome to the
tax payers of DuBois Borough, as the expense of opening said
street would be large beside the large amount of damages that
the borough would have to pay for the land taken for said stre-
-et, the Borough tax now amounting to ten mills annually and
there being an additional tax of three mills to pay the bonded
indebtedness, which has reached the limit allowed by law, until
voted on by the tax payers, and which indebtedness has been in-
creasing instead of diminishing.

Clearfield County ss.

W. T. Smith

Being duly sworn according to law deposes

and says that he is one of the exceptants in above case and that the
facts set forth in the above exceptions are correct and true to the
best of his knowledge and belief.

Sworn and subscribed before me
this 29th day of July A.D. 1890
W. C. Dantz
atty for exceptors

W. T. Smith

Mr McCaugh, 1870

2nd Co. Hartwicks

Albany. Queens

George

Exhibition at Bazar
of Queens

Feb 11th Augh 1870
Chas. McCaugh
Dear

In Re Assessment of damages
for opening
Harrault Avenue
in
Dubois Borough

In the Quarter Sessions of Cleary
County Pa
N^o 2 December Term 1889

Exceptions to Report of
Viewers:

These proceedings are wholly irregular and in order to settle what we think ought to be the practice in proceedings of this kind we shall indicate hereby the form and course which in our opinion the proceedings ought to take.

First The petition should not only specifically set forth the course and distance of the street, but should also describe with certainty the lots and the numbers thereof and the names of the owners, and have thereto attached a draft showing these facts but a copy of the Borough Ordinance should be attached to the petition or filed with the official papers

Second. We do not understand that the statute requires the viewers to be freeholders, in the sense that they must be owners of real estate clear of incumbrances, but that they shall be owners of real estate and freeholders in that sense as distinguished from persons not owning or possessed of real estate.

Third. The viewers must be sworn or affirmed as required and pointed out by the act of Assembly.
22 April 1856. P. L. 525, and actual notice must be given

to the property owners whose real estate is to be taken of the time and place of view. It may be objected to this, that the statute itself does not require this notice but private property may not be taken even for public use without due compensation. Both the constitution of 1838 and 1874, stipulate for this, and if proceedings of this character may be had without notice, this provision may easily be rendered nugatory.

Fourth. The report of the viewers should specifically set forth not only the lines of the street and alley along which the assessment is made, but each lot from which a part is taken by the opening of the street, should have the part taken specifically described, and a draft should accompany the report which would show the lot not only as originally located, but as affected by the opening of the street.

The manifest purpose of this is to enable any party in interest to ascertain the location of the property line by the papers and draft on file.

Tested by these requirements we find these proceedings very irregular, while the report alleges notice was given of the time and place of view; the owners of the property taken swear that they had no notice, In addition to this it appears that the contributions assessed exceed the damages ascertained in the matter of the Rose alley proceedings. For the reason that the petition is not sufficiently specific and in not being accompanied by a draft and a copy of the borough ordinance and also the fact that no actual notice

was given to the property owners whose property
was to be taken by the opening of the street and
alley, we are constrained to set these proceedings
aside and refuse to confirm the report.

By the Court

David L. Krebs

D.L.

No 2 Dec Sep 1889

Shes opening

Starbough Avenue
Andover Borough.

Ordered

Dec 7 July 1889

Amesbury
M. H.

In Re. Assessing
damages for
opening Highways
Act

No 2 Sec 280 1888

Exceptance submit the
following points as to the record in
this case and the depositions

1st. There was no notice given of the time
of the meeting of jurors as appears from
depositions of exceptants

2d The report of jurors is not sufficient
It does not describe the properties taken
and assessed for either damages or
contributions neither does it describe the land
assessed.

3d The damages to be paid by the
Borough are not assessed separately
as directed by the Act of Assembly

4th. The draft accompanying the report
shows that an entirely different piece
of land was viewed than that set
out in the petition, and that the
jurors did not view the land
taken as described in the Borough

Ordinance.

See a certified copy of the ordinance
should have accompanied the petition
or else a draft should have been
sent with the petition.

H. C. Pritz
City for draft.

No 2 Dec. 58. 1890

Dr. R. H. H. H. H.

Am.

Experiments with