

12464

No. _____

Supreme Court of Illinois

Cole

vs.

City of Peoria

71641  7

55 ~~126~~
Admiral

~~Admiral~~ S. Cole

City of Peru

55

12464

1857

City of Peru

County Court Peoria County State of
Illinois,

February Term A.D. 1856.

February 2^d 1856.

The following notice was this day issued by the
Court

State of Illinois  To John Johnston, A. J.
Peoria County ss.  Johnson & Peter B. Braung
Disinterested Freeholders of the City of Peoria.

Whereas it has been represented
to the undersigned Judge of the County
Court of Peoria County that the City Council of
the City of Peoria has deemed it necessary to
take private property for the opening and ex-
tension of Washington Street from Liberty Street
to the Northernly line of Dick's Addition in said
City as represented in the Petition and the
plat hereto attached and that the compensation
to be paid by said City to the owners of lots and
lands through and over which said street will
run for the damages that may accrue to them
respectively by reason of the opening of said
street as represented on said Plat can not be
agreed on between the said owners and the said
City; I am therefore hereby notified, That
upon the application of the Mayor of said City
of Peoria I have appointed you in pursuance
the said disinterested Freeholders of said City

Page 1

Commissioners to again in pursuance to an order
of the Court made on the 17th day of January 1856
referring the said matter back to you to ascer-
tain and assess the damages and recompense
due the owners of said lots and lands respectively
by reason of said Street running through and
across the same and at the same time to deter-
mine what persons will be benefitted by such
improvement and assess the damages and expen-
ses thereof on the Real Estate of the persons ben-
efitted in proportion as nearly as may be to
the benefits resulting to each as provided by
law and you are hereby summoned to appear
before this Court at 10 o'clock A.M. on the 4th day
of February A.D. 1856 to take and subscribe the
Oath in such case made and provided.



Witness my hand and the Seal
of said Court at Peoria this 2nd day
of February A.D. 1856

Thomas Bryant Clerk

Attest, Charles Ketter Clerk
Geo. W. Ketter Deputy

February 4th 1856.

In the Matter of the opening
of Washington Street in the City
of Peoria



This day came John Johnston one
of the Commissioners appointed in this case
and refused to act further as said Commissioner
— Whereupon it was ordered by the Court that
Jacob Darst be and he is hereby appointed in
the place of the said John Johnston one of the
Commissioners to act in the opening of said street.

Whereupon came the said Jacob
Darst & signified his acceptance of the trust as
such Commissioner — The whole matter was
continued untill to-morrow.

February 5th 1851.

In the matter of the opening
of Washington Street in the
City of Peoria

This day came
the Commissioners appointed in this case & took
the following oath according to law.

State of Illinois
Peoria County ss

We the undersigned disinter-
ested freeholders of the City of Peoria do
solemnly swear that we will faithfully and
impartially execute and perform the duties
required of us as Commissioners according to
law and the ordinances of the City of Peoria and
to the best of our skill and ability and as said

Commissioners that we will make a true report
of our proceedings on the matters and things
submitted to us as set forth in the annexed
Petition and plat and other papers in re-
lation to the opening of Washington Street in
the City of Georgia. So help us God.

Subscribed & Sworn

to before me this 5th
day of February A.D.
1856.

Jacob Darst
A. G. Johnson
P. C. Reading.
Charles Kitter Glen.

February 23^d 1856

In the matter of the opening of
Washington Street City of Georgia

This day came

P. C. Reading, A. G. Johnson & Jacob Darst the
Commissioners appointed by this Court to assess
the amount of compensation and benefits accru-
ing to the owners of lots and lands damaged and
benefitted by the opening of Washington Street
in the City of Georgia and presented to the Court
their Report - Which in forms and figures is as
follows, To Wit.

To the Honorable the Judge of the
County Court of Georgia County.

The undersigned Com-
missioners appointed by your Honor on the

5th day of February A.D. 1856 to assess the amount of compensation and benefits accruing to the owners of Lots and lands, damaged and benefited by the opening of Washington Street in the City of Peoria as represented on the plat here to attached and forming part thereof: We leave to report that after being duly sworn and giving the notice required by law; we proceeded to the Examination of the premises through and over which said Washington St will run and do assess the said Compensation and benefits as follows
 To wit,

Page

	Damages to Owners of Lots	Benefits to Owners of Lots	Balance in favor of City	BALANCE in favor of Owners
Lot No 2 Block No 34 Bigelow & Underhills Addition	0 —	5.02	5.02	0 —
Lot No 3 Block No 34 Bigelow & Underhills Addition	0 —	5.02	5.02	0 —
" " 4 " " 34 " " " "	0 —	5.02	5.02	0 —
" " 5 " " 34 " " " "	0 —	5.02	5.02	0 —
Cart lot 1 " " 34 Peoria proper 42 1/2 feet on Liberty St by 12 feet on Washington St	0 —	5.02	5.02	0 —
Cart lot No 1 Block No 33 Peoria proper 70 feet on Harrison St by 48 feet on Washington St	0 —	33.1	33.1	0 —
22 feet on Washington St by 15 feet deep commencing 48 feet from corner of Washington and Harrison streets pt W. 1/2 33 Town of Peoria	0 —	1.68	1.68	0 —

(6) N. E. 1/2 of Lot 8 Block B 33 Town
of Peoria

0 - 252 252 0 -

S. W. 1/2 of Lot 8 Block B 33 Town of Peoria

0 - 252 252 0 -

S. W. 1/2 of " 9 " 33 " " "

0 - 250 250 0 -

N. E. 1/2 " 9 " 33 " " "

0 - 252 252 0 -

Part of lot 10 Block B 33 75
feet on Liberty St by 50 feet on Wash-
ington St in the town of Peoria

0 - 350 350 0 -

Part of Lot 10 Block B 33 in
Town of Peoria 22 feet on Washing-
ton St adjoining lot 9 by 85 1/2 feet deep

0 - 152 152 0 -

Part of lot 1 Block B 37 Big-
elow & Maerhies Auction being
85 1/2 feet on Harrison Street by 60
feet on Washington Street

0 - 280 280 0 -

Lot 2 Block B 37 Bigelow & Maerhies Auct

0 - 280 280 0 -

" 3 " 37 " " " "

0 - 280 280 0 -

" 4 " 37 " " " "

0 - 280 280 0 -

" 5 " 37 " " " "

0 - 280 280 0 -

Lot 6 " 37 " " " "

0 - 280 280 0 -

being 110 feet on Washington St by 22
feet on Quince Street

0 - 280 280 0 -

Lot 7 Block B 35 Bigelow
& Maerhies Auction

0 - 280 280 0 -

P. E. lot 8 Block B 35 Bigelow & Ma-
erhies Auction being 20 feet on
Washington St adjoining lot 7 by
17 1/2 feet deep

0 - 160 160 0 -

(7)

Part lot 8 Block 35
Bigelow and Underhills Addition be-
ing 20 feet on Washington St commencing
ing 20 feet from the Corner of Lot 7
by 17 1/2 ft deep

0 - 160 160 0 -

Part Lot 8 Block 35 Bige-
low & Underhills Addition being 20
ft on Washington St by 17 1/2 ft deep ad-
joining lot No 9

0 - 160 160 0 -

Lot 9 Bigelow & Underhills
Add including 5 feet of the West
side of Lot 8

0 - 280 280 0 -

S. W/2 Lot 10 Block 35 Bigelow & Underhills Add

0 - 240 240 0 -

N. E. 1/2 " 10 " 35 " " " "

0 - 240 240 0 -

N. E. 1/2 fractional Lot 11 Block 35 Bigelow & Underhills Add

0 - 240 240 0 -

S. W/2 " " 11 " 35 " " " "

0 - 240 240 0 -

Lot No 12 Block 35 " " " "

0 - 480 480 0 -

Part lot 1 Block 38 Bigelow & Underhills Add
55 feet on Vancouver St by 14 feet on Wash-
ington Street

0 - 540 540 0 -

Lot 2 Block 38 Bigelow & Underhills Add

0 - 540 540 0 -

" 3 " 38 " " " "

0 - 540 540 0 -

" 4 " 38 " " " "

0 - 540 540 0 -

" 5 " 38 " " " "

0 - 540 540 0 -

" 6 " 38 " " " "

0 - 540 540 0 -

" 7 " 39 Allances Addition

0 - 554 554 0 -

N. E. 1/2 Lot 8 Block 39

0 - 270 270 0 -

S. W/2 " 8 " 39

0 - 270 270 0 -

Plot 9 Block 39 Ballaners Addition	0	540	540	0
Tract 10. 39 Big + lnd "	0	540	540	0
" " 11. 39 " " " "	0	540	540	0
" " 12. 39 " " " "	0			

85' 28" Ect on Hudson St by 10 feet on
Washington Street pt lot 12 B 39 Big
+ lnd lnd

Plot 1 Block 43 N. E 1/2 Ballaners Addition	0	300	300	0
" 1 " 43 S. N. 1/2 "	0	300	300	0
" 2 " 43 " " "	0	600	600	0
" 3 " 43 " " "	0	600	600	0
" 4 " 43 " " "	0	600	600	0
" 5 " 43 S. N. 1/2 "	0	300	300	0
" 6 " 43 N. E 1/2 "	0	300	300	0
" 7 " 43 " " "	0	600	600	0
" 8 " 42 N 1/2 " " "	0	300	300	0
" 9 " 42 S 1/2 " " "	0	300	300	0
" 10 " 42 " " "	0	600	600	0
" 11 " 42 " " "	0	600	600	0
" 12 " 42 " " "	0	600	600	0
" 13 " 42 " " "	0	600	600	0
" 14 " 42 " " "	0	600	600	0
" 15 " 42 " " "	0	600	600	0
" 16 " 42 " " "	0	600	600	0
" 17 " 42 " " "	0	600	600	0
" 18 " 42 " " "	0	600	600	0
" 19 " 42 " " "	0	600	600	0
" 20 " 42 " " "	0	600	600	0
" 21 " 42 " " "	0	600	600	0
" 22 " 42 " " "	0	600	600	0
" 23 " 42 " " "	0	600	600	0
" 24 " 42 " " "	0	600	600	0
" 25 " 42 " " "	0	600	600	0
" 26 " 42 " " "	0	600	600	0
" 27 " 42 " " "	0	600	600	0
" 28 " 42 " " "	0	600	600	0
" 29 " 42 " " "	0	600	600	0
" 30 " 42 " " "	0	600	600	0
" 31 " 42 " " "	0	600	600	0
" 32 " 42 " " "	0	600	600	0
" 33 " 42 " " "	0	600	600	0
" 34 " 42 " " "	0	600	600	0
" 35 " 42 " " "	0	600	600	0
" 36 " 42 " " "	0	600	600	0
" 37 " 42 " " "	0	600	600	0
" 38 " 42 " " "	0	600	600	0
" 39 " 42 " " "	0	600	600	0
" 40 " 42 " " "	0	600	600	0
" 41 " 42 " " "	0	600	600	0
" 42 " 42 " " "	0	600	600	0
" 43 " 42 " " "	0	600	600	0
" 44 " 42 " " "	0	600	600	0
" 45 " 42 " " "	0	600	600	0
" 46 " 42 " " "	0	600	600	0
" 47 " 42 " " "	0	600	600	0
" 48 " 42 " " "	0	600	600	0
" 49 " 42 " " "	0	600	600	0
" 50 " 42 " " "	0	600	600	0
" 51 " 42 " " "	0	600	600	0
" 52 " 42 " " "	0	600	600	0
" 53 " 42 " " "	0	600	600	0
" 54 " 42 " " "	0	600	600	0
" 55 " 42 " " "	0	600	600	0
" 56 " 42 " " "	0	600	600	0
" 57 " 42 " " "	0	600	600	0
" 58 " 42 " " "	0	600	600	0
" 59 " 42 " " "	0	600	600	0
" 60 " 42 " " "	0	600	600	0
" 61 " 42 " " "	0	600	600	0
" 62 " 42 " " "	0	600	600	0
" 63 " 42 " " "	0	600	600	0
" 64 " 42 " " "	0	600	600	0
" 65 " 42 " " "	0	600	600	0
" 66 " 42 " " "	0	600	600	0
" 67 " 42 " " "	0	600	600	0
" 68 " 42 " " "	0	600	600	0
" 69 " 42 " " "	0	600	600	0
" 70 " 42 " " "	0	600	600	0
" 71 " 42 " " "	0	600	600	0
" 72 " 42 " " "	0	600	600	0
" 73 " 42 " " "	0	600	600	0
" 74 " 42 " " "	0	600	600	0
" 75 " 42 " " "	0	600	600	0
" 76 " 42 " " "	0	600	600	0
" 77 " 42 " " "	0	600	600	0
" 78 " 42 " " "	0	600	600	0
" 79 " 42 " " "	0	600	600	0
" 80 " 42 " " "	0	600	600	0
" 81 " 42 " " "	0	600	600	0
" 82 " 42 " " "	0	600	600	0
" 83 " 42 " " "	0	600	600	0
" 84 " 42 " " "	0	600	600	0
" 85 " 42 " " "	0	600	600	0
" 86 " 42 " " "	0	600	600	0
" 87 " 42 " " "	0	600	600	0
" 88 " 42 " " "	0	600	600	0
" 89 " 42 " " "	0	600	600	0
" 90 " 42 " " "	0	600	600	0
" 91 " 42 " " "	0	600	600	0
" 92 " 42 " " "	0	600	600	0
" 93 " 42 " " "	0	600	600	0
" 94 " 42 " " "	0	600	600	0
" 95 " 42 " " "	0	600	600	0
" 96 " 42 " " "	0	600	600	0
" 97 " 42 " " "	0	600	600	0
" 98 " 42 " " "	0	600	600	0
" 99 " 42 " " "	0	600	600	0
" 100 " 42 " " "	0	600	600	0

N 1/2 Lot 10. 42	0	200	300	0
E 1/2 " 11. 42	0	300	300	0
N 1/2 " 11. 42	0	300	300	0
Plot 12 Block 42	0	600	600	0
" 1 " 42	0	600	600	0
" 2 " 42	0	600	600	0
" 3 " 42	0	600	600	0
" 4 " 42	0	600	600	0

(9)

Lot No 5	Block 14	Ballance's Addition	0 -	6.60	6.60	0 -
" 6	" 14	"	0 -	6.60	6.60	0 -
" 7	" 14	"	0 -	6.60	6.60	0 -
" 8	" 14	"	0 -	6.60	6.60	0 -
" 9	" 14	"	0 -	6.60	6.60	0 -
" 10	" 14	"	0 -	6.60	6.60	0 -
" 11	" 14	"	0 -	6.60	6.60	0 -
" 12	" 14	"	0 -	6.60	6.60	0 -

Manzoni Square part of the S. N. fractional quarter Sec 9 Township 8 N 8 E containing 22^{7/100} Acres less so much of French Claim No. 14 as lies South of the proposed line of Washington Street being Twelve Hundred and forty feet across more or less

1240.10/33/112 9/22 0 -

French Claim No. 14

lying South of the proposed line of Washington Street and fronting on said line 423 feet

4/3.00 43/58 2/85 8/2 0 -

Lot 1	Block 13	Ballance's Addition	0 -	2.70	2.70	0 -
" 2	" 13	"	0 -	2.70	2.70	0 -
" 3	" 13	"	0 -	2.70	2.70	0 -
" 4	" 13	"	0 -	2.70	2.70	0 -
" 5	" 13 N 1/2	"	0 -	1.35	1.35	0 -
" 5	" 13 E 1/2	"	0 -	1.35	1.35	0 -
" 6	" 13	"	0 -	2.70	2.70	0 -
" 7	" 13	"	0 -	2.70	2.70	0 -

(10)

Lot 8 Block 1/2	Ballance	Location	0 -	2.70	2.70	0 -
" 9 "	11	" "	0 -	2.70	2.70	0 -
" 10 "	11	" "	0 -	2.70	2.70	0 -
" 11 "	11	" "	0 -	2.70	2.70	0 -
" 12 "	11	" "	0 -	2.70	2.70	0 -
" 1 "	12	" "	0 -	2.70	2.70	0 -
" 2 "	12	" "	0 -	2.70	2.70	0 -
" 3 "	12	" "	0 -	2.70	2.70	0 -
" 4 "	12	" "	0 -	2.70	2.70	0 -
" 5 "	12	" "	0 -	2.70	2.70	0 -
Grac. Part	1	12 Same Loc	0 -	2.70	2.70	0 -
Part	7 & 8	10 " " Sec.				

ing 60 feet on ~~George~~ 32 by 120 ft on
Washington Street

Lot 9 Block 10	Ballance	Location	0 -	2.70	2.70	0 -
" 10 "	10	" "	0 -	2.70	2.70	0 -
" 11 "	10	" "	0 -	2.70	2.70	0 -
Lot 12 Block 10	"	"	0 -	2.70	2.70	0 -

" 21 Fractional Sec 16 8 N & E. #17210, 18748 1548 0

Part N. E. of Sec 17 Township 8 N. & E.
containing 7 Acres less the Street owned
by R. Roue Dring 4 1/2 feet on the line
of said Street 411.10 447.99 36.99 0 -

Part N. E. 1/2 8 N. & E. 1 1/2 Acres
less the Street and lying North of the
proposed line of Washington Street 165.10 172.42 74.22 0 -
Part of N. E. 1/2 8 N. & E.

(11) 1 1/2 Acres less the Street and
lying South of the proposed
line of Washington St. & belonging
to Mr. Martin

115.00 192.42 7.42 0 -

Part of N. E. 178 N 8 E.
containing 3 Acres less the Street
owned by R. Gregg 169 feet

169.00 184.21 15.21 0 -

Part of the N. E. or Sec
178 N 8 E. North of the P. & O.
R.R. containing 5 Acres and
owned by W. S. Wood 285 feet

285.00 307.15 22.15 0 -

Part of N. E. Sec 178 N
8 E. 8 7/10 Acres owned by Smith
& Davis 440 feet

440.00 479.60 39.60 0 -

Lot 1 Block 7 Dicks Addition

0 - 7.20 7.20 0 -

" 2 " " " " 0 - 7.20 7.20 0 -

" 3 " " " " " 0 - 7.20 7.20 0 -

" 4 " 7 N. E. 2. " " 0 - 3.60 3.60 0 -

" 4 " 7 S. W. 2. " " 0 - 3.60 3.60 0 -

" 5 " " " " " 0 - 7.20 7.20 0 -

" 6 " 8 " " " " 0 - 7.20 7.20 0 -

" 7 " 8 " " " " 0 - 7.20 7.20 0 -

" 8 " 8 " " " " 0 - 7.20 7.20 0 -

" 10 " 8 " " " " 0 - 7.20 7.20 0 -

" 1 " 6 " " " " 0 - 7.20 7.20 0 -

" 2 " 6 " " " " 0 - 7.20 7.20 0 -

" 3 " 6 " " " " 0 - 7.20 7.20 0 -

" 4 " 6 " " " " 0 - 7.20 7.20 0 -

" 5 " 6 " " " " 0 - 7.20 7.20 0 -

(12)

Sect 1 Block 5 Sicks Accutry						0	7.20	7.20	0
"	7	"	3	"	"	11	7.20	7.20	0
"	8	"	3	"	"	11	7.20	7.20	0
"	9	"	3	"	"	11	7.20	7.20	0
"	10	"	5 N. 8 1/2	"	"	11	3.10	3.10	0
"	11	"	5 S. 11 1/2	"	"	11	3.10	3.10	0
"	1	"	3	"	"	11	7.20	7.20	0
"	2	"	3	"	"	11	7.20	7.20	0
"	3	"	3	"	"	11	7.20	7.20	0
"	4	"	3 S. 11 1/2	"	"	11	3.10	3.10	0
"	4	"	3 N. 6 1/2	"	"	11	3.10	3.10	0
"	5	"	3	"	"	11	7.20	7.20	0
"	6	"	4	"	"	11	7.20	7.20	0
"	7	"	4	"	"	11	7.20	7.20	0
"	8	"	4	"	"	11	7.20	7.20	0
"	9	"	4	"	"	11	7.20	7.20	0
"	10	"	4 S. 11 1/2	"	"	11	3.10	3.10	0
"	11	"	4 N. 6 1/2	"	"	11	3.10	3.10	0
"	1	"	2	"	"	11	7.20	7.20	0
"	2	"	2	"	"	11	7.20	7.20	0
"	3	"	2	"	"	11	7.20	7.20	0
"	4	"	2	"	"	11	7.20	7.20	0
"	5	"	2	"	"	11	7.20	7.20	0
"	6	"	1	"	"	11	7.20	7.20	0
"	7	"	1	"	"	11	7.20	7.20	0
"	8	"	1	"	"	11	7.20	7.20	0
"	9	"	1	"	"	11	7.20	7.20	0
"	10	"	1	"	"	11	7.20	7.20	0

Sect No 4 Block No 71

(13)

Ballances due to Peoria

owned by

840.00 000 000 000

Part of N. E. Sec 17 &

N. E. containing 1/100 Acres

less the Street being on the

line of the proposed Washington Street

90 feet said to belong to Master

000 000 000 000

Compensation to Ow.

ners

\$840.00

Total Benefits

\$924.31 1/2

Estimated Costs & Expenses

124.31 1/2

=====

\$924.31 1/2

All of which with accompanying papers is respectfully submitted,

Witness our hands and seals at Peoria this 23rd day of February A.D. 1851.

P. C. Reading

W. B. Johnson

Commissioners

Jacob Dorst

Whereupon it was ordered by the Court that the said Report be filed and the Clerk issue the following Notice, To Wit.



Office of the County Clerk
Peoria County Illinois

Opening of Washington Street - Notice to the owners of lots and lands

Notice is hereby given to the that the Report and Assessment of the Commissioners appointed by the County Court of Peoria County to assess the amount of compensation and benefits accruing to the owners of lots and lands by reason of the opening of Washington Street through and over the same has been returned by said Commissioners to the Judge of the County Court of Peoria County and that on the 1st day of March A.D. 1851 the said report and Assessment will be confirmed by the said County Court unless legal objections to the confirmation of the same be made by some person interested therein.

Charles H. Wells Clerk
County Court Peoria County

This day came the Commissioners appointed in this case & presented to the Court the following Notice which they had published with certificate of publication - Which was ordered to be filed & placed on record, Said Notice was as follows

Commissioners Notice
Opening of Washington Street in the City of Peoria.

Notice is hereby given to the owners of lots and lands in the City of Peoria through and over

1157

which Washington Street will run in opening the same from Liberty Street to the Northernly line of Blocks Addition to said City that the undersigned Commissioners appointed by the County Court of Peoria County to assess the amount of compensation and benefits accruing to the owners of lots and lands damaged and benefitted to the owners of lots and lands damaged and benefitted by the opening of said street will meet at the Mayor's Office in the City of Peoria on Wednesday the 13th day of February A. D. 1856 at the hour of 9 o'clock A. M. of said day and that they will proceed to view the premises as required by law; when and where all persons interested may attend if they think proper.

A. B. Johnson

P. C. Keating } Commissioners

Peoria February 11/1856 Jacob Warst

I Enoch P. Sloan Printer and Publisher of the Peoria Daily Democratic Press a Newspaper printed and published in the City of Peoria County of Peoria and State of Illinois and the Newspaper selected by the City Council of the City of Peoria to publish their ordinances and proceedings for the time being do hereby certify that the annexed advertisement was published in said paper on the Sixth day of February 1856. Given under my hand this

(16)

21st day of February 1851.

Enoch D. Sloan

March 17 1851

In the Matter of the opening
of Washington Street
in the City of Reno

This cause coming
on to be heard was by consent ordered to be con-
tinued until to-morrow morning at 9 o'clock

March 18 1851

In the matter of the opening
of Washington Street in the City
of Reno

This cause
coming on to be heard was by consent of all par-
ties continued until to-morrow

March 19 1851

On the Matter of the opening
of Washington Street in the City
of Reno

This cause coming
on to be heard was by consent continued until
the 24th March 1851.

March 24 1851

In the matter of the
opening of Washington
Street in the City of Reno

This cause coming on

(17)

to be heard on the report of the Commissioners
in this case made was by consent of all parties
continued untill Wednesday March 21st 1856

March 21st 1856

In the Matter of the opening
of Washington Street in the City
of Peoria

This cause
coming on to be heard was by consent continued
untill to-morrow morning at 10 o'clock.

March 27th 1856

In the Matter of the opening
of Washington Street in the City
of Peoria

This cause
coming on to be heard was by consent continued
untill Saturday the 29th March A.D. 1856

March 29th 1856

In the Matter of the opening
of Washington Street in the City
of Peoria Illinois

The follow-
ing is a Copy of the Notice issued by the Clerk
of this Court in this case and the proof of publi-
cation.

(18)

Office of the County Clerk
Peoria County Illinois

Opening of Washington Street. Notice to the owners of lots and lands. Notice is hereby given that the report and assessment of the Commissioners appointed by the County Court of Peoria County to assess the amount of compensation and benefits accruing to the owners of lots and lands by reason of the opening of Washington streets through and over the same has been returned by said Commissioners to the Judge of the County Court of Peoria County and that on the 17th day of March A. D. 1856 the said report and assessment will be confirmed by the said County Court unless legal objections to the confirmation of the same be made by some person interested therein.

I Enoch G. Sloan Printer and Publisher of the Peoria Daily Democratic Press a daily Newspaper printed and published in the City of Peoria County of Peoria and State of Illinois hereby certify that the annexed ~~instrument~~ advertisement has been published since February 23^d 1856 the date of the first publication to the 1st of March 1856 in said daily paper, Given under my hand this 5th day of March 1856
E. G. Sloan

(19)

Whereas the Commissioners appointed by this Court to ascertain and assess the damages and recompense due the owners of lots and lands by reason of the opening of Washington Street through and over the same and on the 23^d day of February A. D. 1851 return to this Court their report and assessment of the amount of compensation and benefits accruing to the said owners respectively and it appearing to the satisfaction of said Court that the said Commissioners were duly summoned and sworn and that the notice required to be given according to law and the ordinance were duly given published and served by the said Commissioners and the proper Officers, It is therefore ordered and adjudged that a judgment be rendered against the following lots and tracts of land for the sums set opposite the same, it being the amount of benefits and costs accruing to the said lots and tracts of lands

Lot N^o 2 Block N^o 34 Bigelow & Macpherson's addition 5.14

Lot N^o 3 Block N^o 34 Bigelow & Macpherson's addition 5.14

" " 4 " " 34 " " " " 5.14

" " 5 " " 34 " " " " 5.14

Part " " 1 " " 34 Ground proper 42¹/₂ feet on Liberty St by 72 feet on Washington St 5.04

Part lot N^o 1 Block N^o 33 Ground proper

(20) 70 feet on Harrison St by 48 feet on Washington St 3.36

24 feet on Washington St by 15 feet deep
 commencing 48 feet from corner of Wash-
 ington and Harrison Streets pt & 10 33
 Young & Penn 1.68

Part lot 7 Block 33 Penn
 proper 48 feet on Washington street
 adjoining lot 11 by 171 feet deep 3.36

24 feet on Washington St
 adjoining lot 8 by 171 feet deep Young
 & Penn pt & 7 33 1.68

N. E. 1/2 of lot 8 Block 33 Young & Penn 2.52

S. W. 1/2 . . . 8 . . . 33 . . . 2.52

S. W. 1/2 . . . 9 . . . 33 . . . 2.50

N. E. 1/2 . . . 9 . . . 33 . . . 2.52

Part lot 10 Block 33 75 feet
 on Liberty St by 50 feet on Washington
 in the Young & Penn
 St adjoining lot 6 by 85 1/2 feet deep 3.50

Part lot 10 Block 33 in Young
 & Penn 22 feet on Washington St ad-
 joining lot 9 by 85 1/2 feet deep 1.54

Part lot 1 Block 37 Bigelow & Un-
 derhills adjoining 85 1/2 feet on Harrison St
 by 10 feet on Washington St 1.80

Lot 2 Block 37 Bigelow & Underhills adjoining 4.80

" 3 " 37 " " " " 4.80

" 4 " 37 " " " " 4.80

" 5 " 37 " " " " 4.80

(21) Part lot 6 Block 37 Digelow & Underhills Addition 480
being 10 feet on Washington St by 122 feet on
Dodge Street

Lot 7 Block 35 Digelow & Underhills Addition 480
Ct . 8 . 35

being 20 feet on Washington St adjoining lot
7 by 171 feet deep 1.60

Part lot 8 Block 35 Digelow &
Underhills Addition being 20 feet on Washing-
ton Street commencing 20 feet from the cor-
ner of lot 7 by 171 feet deep 1.60

Part lot 8 Block 35 Digelow &
Underhills Addition being 20 feet on Washing-
ton St by 171 feet deep adjoining lot 9 1.60

Lot 9 Block 35 Digelow & Under-
hills Addition including 5 feet of the
West Side of lot 8 480

S. N. 1/2 lot 10 Block 35 Digelow & Underhills Add 240

N. E. 1/2 . 10 . 35 240

N. E. 1/2 . 11 . 35 240

N. E. 1/2, fractional lot 11 B. 35 240

S. N. 1/2 . 11 . 35 240

Lot N. 1/2 Block 35 480

Part lot 1 . 38
55 feet on Hudson St by 10 feet on Washington
Street 540

Lot 2 Block 38 Digelow & Underhills Add 540

" 3 . 38 540

" 4 . 38 540

(22)	Lot 5 Block 38 Bigelow & Underhills Auction	540
" 1 "	38 " " " "	540
" 7 "	39 Ballance & Auction	554
N. E. 1/2 & 8 Block 39	" "	270
S. W. 1/2 " 8 "	39 " "	270
Lot 9 Block 39	" "	540
Fractional lot 10 Block 39 Bigelow & Underhills Auction	540	
" 11 "	39 " " " "	540
" 12 "	39 " " " " 85 1/2	
Section 16 on Quason St by lot Section (Washington)		
Street pt lot 12 B. 39 Bigelow & Underhills Auction	540	
Lot 1 Block 43 N. E. 1/2 Ballance & Auction	300	
" 2 "	43 S. W. 1/2 " "	300
" 3 "	43 " " " "	100
" 4 "	43 " " " "	100
" 5 "	43 S. W. 1/2 " "	300
" 6 "	43 " " " "	100
" 7 "	43 N. E. 1/2 " "	300
" 7 "	42 N. 1/2 " "	300
" 7 "	42 S. 1/2 " "	300
" 8 "	42 " " " "	100
" 9 "	42 E. 1/2 " "	300
" 9 "	42 N. 1/2 " "	300
" 10 "	42 E. 1/2 " "	300
N. 1/2 " 10 "	42 " " " "	300
E. 1/2 " 10 "	42 " " " "	300
N. 1/2 " 11 "	42 " " " "	300
E. 1/2 lot 11 Block 42	" " " "	300

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Lot 12	Block 42	Balance	Auction	6.00
" 1	" 44	"	"	6.60
" 2	" 44	"	"	6.60
" 3	" 44	"	"	6.60
" 4	" 44	"	"	6.60
" 5	" 44	"	"	6.60
" 6	" 44	"	"	6.60
" 7	" 45	"	"	6.60
" 8	" 45	"	"	6.60
" 9	" 45	"	"	6.60
" 10	" 45	"	"	6.60
" 11	" 45	"	"	6.60

Lot 12 Block 45 Balance Auction Man-
sion Square part of the S. N. fractional quar-
ter of Sec 9 Township 8 N 8 E containing
22 ¹²/₁₀₀ Acres less so much of French Claim
N^o 14 as lies South of the proposed line
of Washington Street being Twelve Hun-
dred and forty feet across more or less 91.22

French Claim N^o 14 lying
South of the proposed line of Washington
Street and fronting on said line 413 feet 18.58 ¹/₂

Lot 1	Block 13	Balance	Auction	2.71
" 2	" 13	"	"	2.70
" 3	" 13	"	"	2.70
" 4	" 13	"	"	2.70
" 5	" 13 N ¹ / ₂	"	"	1.35
" 5	" 13 E ¹ / ₂	"	"	1.35
" 6	" 13	"	"	2.70

(24)	Lot 7 Block 11	Ballances Addition	2,70
"	8	"	2,70
"	9	"	2,70
"	10	"	2,70
"	11	"	2,70
"	12	"	2,70
"	1	"	2,70
"	2	"	2,70
"	3	"	2,70
"	4	"	2,70
"	5	"	2,70
	Graciana Lot 1 Block 12	"	2,70

Parts lots 7 & 8 Block 10 .. being
10 feet on Pear St by 20 feet on Washing-
ton Street 3,40

Lot 9 Block 10	Ballances Addition	2,70
" 10	"	2,70
" 11	"	2,70
" 12	"	2,70
" 20	Graciana Sec 16 S & E	15,48

Part N. E. of Sec 17 Township
S & E. containing 7 Acres less the street
owned by R. Rouse being 4 1/2 feet on the
line of said Street 31,99

Part N. E. 1/4 S & E 1/2 Acres
less the street and lying South of the pro-
posed line of Washington St belonging to
M^r. Masters 7,42 1/2

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Part N.E. 17 & N.E. 17 1/2
Acres less the street and lying North
of the proposed line of Washington street 74 2 1/2

Part N.E. 17 & N.E. 17 1/2 con-
taining 3 Acres less the street owned by
R. Gregg 169 feet 15,21

Part of the N.E. 17 & N.E. 17 1/2
& N.E. 17 North of the P. & O. R.R. con-
taining 5 Acres and owned by A.S. Cole
285 feet 22,15

Part N.E. Sec 17 & N.E. 17
& 7/100 Acres owned by Smith & Davis
440 feet 39,10

Lot / Block / Acres Addition					
" 2 "	7	"	"	"	7,20
" 3 "	7	"	"	"	7,20
" 4 "	7	"	"	N.E. 1/2	3,10
" 4 "	7	"	"	S.W. 1/2	3,10
" 5 "	7	"	"	"	7,20
" 6 "	8	"	"	"	7,20
" 7 "	8	"	"	"	7,20
" 8 "	8	"	"	"	7,20
" 10 "	8	"	"	"	7,20
" 1 "	11	"	"	"	7,20
" 2 "	11	"	"	"	7,20
" 3 "	11	"	"	"	7,20
" 4 "	11	"	"	"	7,20
" 5 "	11	"	"	"	7,20
" 6 "	5	"	"	"	7,20

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Got 7 Clock 5 Weeks Addition

					7.20
"	8	"	5	"	7.20
"	9	"	5	"	7.20
"	10	"	5	"	N. E 1/2 3.10
"	10	"	5	"	S. W 1/2 3.10
"	1	"	3	"	7.20
"	2	"	3	"	7.20
"	3	"	3	"	7.20
"	4	"	3	"	S. W 1/2 3.10
"	4	"	3	"	N. E 1/2 3.10
"	5	"	3	"	7.20
"	6	"	4	"	7.20
"	7	"	4	"	7.20
"	9	"	4	"	7.20
"	11	"	4	"	S. W 1/2 3.10
"	11	"	4	"	N. E 1/2 3.10
"	1	"	2	"	7.20
"	2	"	2	"	7.20
"	3	"	2	"	7.20
"	4	"	2	"	7.20
"	5	"	2	"	7.20
"	6	"	1	"	7.20
"	8	"	1	"	7.20
"	9	"	1	"	7.20
"	10	"	1	"	7.20

And it is further ordered and adjudged that the said Report and Assessment of the said Commissioners be confirmed and

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that Executions issue to the Sheriff of Peoria County and the said Sheriff be commanded to levy upon and sell the said lots and lands against which judgement is herein rendered in the same manner as in Execution at law.

John T. Conaway one of the Attorneys of this cause entered a Motion to exclude all that portion of the affidavits which tended to prove the damages and benefits of W. S. Gold one of the owners of land through and over which said Street will run inadequate and that the only issue now before the Court is. Have the said Commissioners in assessing damages & benefits in all respects complied with the laws under which they have acted? Which Motion was sustained by the Court.

State of Illinois
Peoria County

I Charles R. Kettler Clerk of the County Court of Peoria County State of Illinois do hereby certify that the foregoing is a true transcript of the proceedings in the matter of the opening of Washington Street in the City of Peoria in the said County Court as appears of record in my office.

Witness my hand & Official Seal
at Peoria this 23rd day of May
A.D. 1856. Charles R. Kettler Clerk
1856. 76. Kettler Clerk.

(29)

Be it Remembered that in the case
of "The matter of the opening of Washington
Street in the City of Georgia" there was filed on
the 11th January 1856 the following paper from
the City Clerk's Office

City of Georgia January 18 1856

At a meeting of the City Council of the City
of Georgia held at the Council Chamber in said
City on the third day of November O. D. 1855 the
following proceedings were had

Wm Crotherson offered the fol-
lowing Resolutions which were adopted.

Resolved That Washington Street
be opened and extended from Liberty Street in
the City of Georgia to the Northern line of Wicks Ad-
dition to said City and that said Washington Street
be opened and improved One Hundred feet in
width from Liberty Street to the Northern line of
Bigelow and Underhills Addition and Eighty
feet in width from the latter line to the Northern
line of Wicks Addition.

Resolved That in the opinion of the
City Council of the City of Georgia it is necessary
to take private property for the opening exten-
ding and improving of Washington Street from
Liberty Street to the Northern line of Wicks Ad-
dition as set forth in the foregoing Resolution.

At a Meeting of the said

(30)

City Council a Plat of the lot held as above stated on the 5th day of November 1855 the following proceedings were had,

The Engineer laid before the Council a plat of the lots through and over which Washington Street will run in opening and extending the same from Liberty Street to the Northernly line of Vicks Addition as contemplated by the resolutions passed November 3 1855. After the said Plat had been examined by the Board.

Mr Dotherson offered the following Resolution which was agreed to and passed;

Resolved, That there be a Committee of two appointed whose duty it shall be to negotiate with the Owners or Agents of the lots and lands through and over which Washington Street will run in opening and extending the same from Liberty Street to the Northernly line of Vicks Addition as shown by the plat of the same this day submitted to the City Council by the City Engineer and Surveyor, as to the price at which that portion of the lots and lands necessary to be taken for the purpose of opening extending and improving said Washington Street can be purchased by the said City and that said Committee make a report of its actions without unnecessary delay. Messrs Dotherson and McCall were appointed the Committee under this Resolution.

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At a Meeting held by said City Council at the place before stated on the 10th day of November 1855 the following proceedings were had,

Messrs Brotherson and McCall from the Committee appointed at the meeting held on the 1st November 1855 to negotiate with the owners and Agents of the lots and lands through and over which Washington Street will run in opening the same from Liberty Street to the Northerly line of Vicks Auction as to the price at which that portion of said lots and lands necessary to be taken for said purpose can be purchased by the City - made a Report setting forth that they had discharged their duty assigned them and reported that they were unable to agree with the owners and agents of said lots and lands as to the price to be paid for the lots and lands necessary to be taken for the purpose aforesaid. Report received accepted and ordered to be filed and the Committee discharged.

State of Illinois

City & County of Peoria  J. W. M. Cunningham
Clerk of the City of Peoria do hereby certify that the foregoing are correct and true Copies of the Resolutions and other Proceedings of the said City Council passed and acted upon at the times stated in said Proceedings and in reference to the opening of the said Washington Street.

(32)

Seal

Witness my hand and the corporate
Seal of said City at Peoria this 18th
day of January A. D. 1856

J. M. Cunningham

City Clerk

There was heretofore to wit on the 22^d day of No-
vember A. D. 1855 filed in this cause the fol-
lowing Petition to wit.

To the Honorable the Judge of the County
Court of Peoria County in the State of Illinois
The Petition of the undersigned Mayor
of the City of Peoria in said County and State
respectfully represents that the City Council of
said City has deemed it necessary to take pri-
vate property for the opening of Washington Street
from Liberty Street to the Northern line of Wicks
Addition to said City of Peoria as represented
on the plat hereto attached and forming part of
hereof and that the compensation to be paid by
said City to the owners of the lots and lands through
and over which said Street will run for the damages
that may accrue to them respectively by reason of the
opening of the said Washington Street as represented
on said Plat cannot be agreed upon between the said
City and the said owners, and the undersigned now
therefore pray your Honor to appoint three disinter-
ested Freeholders of said City of Peoria as Commission-

(33) is to estimate and assess the amount of such compensation and at the same time to determine what persons will be benefitted by such improvements and assess the damages and expenses thereof on the Real Estate of the persons benefitted in proportion as nearly as may be to the benefits resulting to each in accordance with the provisions of an act of the General Assembly of the State of Illinois approved February 12 1855 entitled An Act to amend an Act entitled an act to Incorporate the City of Peoria in force November 2^d 1844 and the several acts amendatory thereto.

And as in duty bound I will so
in pray

Mayor's Office C. Gallance
City of Peoria Mayor of the City of Peoria.
November 22 A.D. 1855

State of Illinois In the County Court
Peoria County ss March 29 1856

In the Matter of proceeding to open
Washington Street in the City of Peoria in said County.

Be it Remembered that on the hearing of the
Report of the Commissioners filed in the Court in the
23^d day of February A. D. 1856 Almiran S. Cole as
owner of the property described in said Report as
"Part of the N. O. & S. O. & N. & O. North of the P.
& O. R. R. containing 5 Acres owned by A. S. Cole 255

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feet "objected to the confirmation of said Report and filed his objections to the same as follows to wit

Almerian S. Cole owner of "Part of the N. E. q^r 17 & N. E. E. North of the P. & O. R. R. containing 5 Acres" as described in the report of the Commissioner excepts to said Report and moves that the same be ~~annulled~~ annulled and set aside for the following reasons

- 1 John Johnston one of the Commissioners appointed by the Court did not act.
- 2 Jacob Varst one of the acting Commissioners has no authority so to act.
- 3 The Report of the Commissioners is not in accordance with the provisions of the law.
- 4 The Report does not state that the lands and lots therein mentioned are the only property that will be benefitted by the improvement.
- 5 The Report does not determine what property will be benefitted by such improvement and assess the damages & Expenses upon the same according to law.
- 6 The Report wholly omits to assess and apportion said damages & Expenses upon Real Estate lying contiguous to said proposed Streets that will derive great and appreciable benefit therefrom.
- 7 The "Damages" assessed to said Cole for the ground proposed to be taken from him are wholly

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inadequate.

8 The Benefits assigned to said A.S. Cole are entirely speculative, fallacious, and contrary to the fact.

9 The Report is not in conformity to law & does not show that the Commissioners ^{performed} ~~prepared~~ the ~~duties~~ required by law.

10 The Proceedings of the Commissioners were irregular incomplete partial and not in accordance with the law.

11 The Assessment of "benefits" against the lands of said Cole is illegal unjust and void.

12 The Proceedings are illegal unconstitutional & void.

13 This Court has no jurisdiction in the premises.

14 The Aggregate of Assessments for benefits exceeds that for damages without assigning any reason therefor.

Said Cole at the same time presented and filed the following offer of Proof and Affidavits and a agreement to wit.

Almoran S. Cole the owner of the lot in the Report of Commissioners described as Part of the N. E. of Sec 17 & N. E. Corner of the P. & O. R.R. 285 & et now offers ^{to the Court to prove} by Affidavits or legal testimony as the Court may direct that he

(36) is the legal owner of said land - That the same is worth \$2000 per acre, That it is enclosed by a substantial board fence as one entire lot, That he is the owner of land immediately South of said lot on the opposite side of said Rail Road upon which he is and has been for five years past carrying on a large Distillery and Flouring Mill - That said lot was enclosed by said lot for the purpose of using the same as pasturage for and for feeding cattle & Hogs of which he keeps and feeds a large number at his said Distillery - That said lot is a necessary appurtenance to his said Distillery for that purpose said lot being high & dry & his Distillery lot being low and often too wet & small for his said cattle & Hogs, and that the opening of said Street through said lot would be an actual damage to him to the amount of \$1000 a year independently of the value of the land taken - That a fence across said lot on each side of said proposed Street would cost at least \$100.

We also offer to prove that the owners and occupants of lands and lots on the Illinois River, South of said Giers Addition and West and South West of the same would be principally benefited by the opening of said Street - That large Manufactures of various kinds are there erected and in progress all of which were

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erected ~~long~~ after said Cole built his said
Distillery and Serrano of which were erected
during a year past. That the owners of these
Establishments have been mainly instrumen-
tal in procuring the order of the City Council to
open said Street and are now most interested
and active in urging the opening of said street
for their own personal benefit, That no part of the
alleged expense of opening said Street has been
assessed against the lands upon which said
Manufactories are situated. That the open-
ing of said Street would not be beneficial
to said Cole but a damage to him, That the
Assessment of damages made by said Commis-
sioners for the land proposed to be taken for said
street are entirely inadequate being but about
One fourth its Estimated value. But the as-
sessment of benefits to said Cole is entirely
speculative imaginary and based upon
contingency - which cannot happen without
said Coles Assent which would destroy the val-
ue of said lot for its intended uses. That said Com-
missioners did not examine any witnesses or
hear any evidence whatever in regard to the said
"damages" and "benefits" and the said Cole while
making the offer of Grogs against the Report of said
Commissioners, expressly reserved all legal rights
in the premises.

(38)

State of Illinois
Greene County ss



Almerian S. Cole having
been duly sworn says that the matters stated in
the foregoing and attached paper containing
an offer to prove certain facts are true to the best
of his knowledge, information and belief and that
he believes he can establish the ^{truth of the} same by legal
testimony in this proceeding.

"B" [He further states that he was advised
by his Council and intended to procure Witnesses
before said Commissioners on the last day appoint-
ed by them for preparing preforming the duties
imposed upon them by the County Court in
the premises but that a day or two before the said
time or on the same day & before the said last meet-
ing of Commissioners, he was informed by Jacob
Parsons one of said Commissioners that it would
be useless to do so inasmuch as said Commission-
ers had already made up their minds on the sub-
ject. And there believing that the law left it whol-
ly discretionary with said Commissioners to hear
testimony or to refuse it and that said Commis-
sioners have prearranged the whole question
Affiant did not therefore produce any proof be-
fore said Commissioners]

A. S. Cole,

132
Subscribed & Sworn to
before me this 21st day
of March A. D. 1856
Thomas Greene C. Quarz

(39)

~~There was filed in this cause March 27th 1851 the following Affidavit of Geo. W. Stone,~~
State of Illinois
Perry County ss

George W. Stone having
been duly sworn says that he is one of the Counsel
of W. B. Cole in this proceeding. That as such coun-
sel he attended the last meeting of the Commission-
ers appointed to assess damages &c in the matter of
the opening of Washington Street and expected
there to meet said Cole with his witnesses accord-
ing to previous arrangement made between said
Cole and Affiant. That neither said Cole nor
his witnesses having made their appearance, Af-
fiant requested said Commissioners to adjourn to
another day, that said Commissioners declined ad-
journing, that Jacob Wase one of said Commis-
sioners then said that he did not suppose that any
testimony offered by the witnesses of said Cole would
influence their decision as they had already made
up their minds in reference to the matter and
Affiant further says that he has read the Affidavit
made by said Cole in this matter, that he believes
said Affidavit to be true from the fact that said
Cole excused his non-attendance and non-atten-
dance of his witnesses at said meeting of the
Commissioners to Affiant for the reason alleged
in his said Affidavit.

(40) Subscribed and sworn
to before me this 27th Geo. W. Stone
day of March A.D. 1851
Thomas Bryant C. Duage

~~There was filed in this cause March 29th 1851~~
~~the following affidavit of Samuel Voris:~~
State of Illinois
Clerk County SS

Samuel Voris having been
duly sworn says that that he is well acquainted
with the 5 Acre lot ascribed in the Report of the
said Commissioners as owned by W. S. Gore. That he
believes said lot to be worth \$2000 per acre because
he believes it could be sold at that rate per acre.
That said lot is now enclosed as stated in said
Gore's Affidavit further says that the lands South
of Vicks Addition would be principally benefited
by the opening of said street because there is no
means of access to the Manufactories & Distill-
eries in said lands from the City over any public
Road except Adams Street which is a circuit-
ous route.

Subscribed & sworn to Saml. Voris
before me this 29th March
A.D. 1851. C. Reeves.
Charles Reeves Clerk

(41)

~~On the day to wit 29th March A.D. 1851~~
~~the affidavit of Henry Forsyth was filed in this~~
~~cause. which is as follows~~

State of Illinois
Perry County ss



Henry Forsyth having
been duly sworn says that he has been for the past
three years well acquainted with the business of
Almrian S. Cole at his Distillery and Blowing
Mills in the City of Perry in said County and
with the lot described in the report of Commission-
ers in this case as owned by A. S. Cole and the lands
and lots in that vicinity - That he believes said
lot of said Cole to be worth \$2000 per acre, That
said lot was enclosed by said Cole about three
years ago for the purpose of pasturing and fencin-
ing the Cattle and Hogs kept by him at his said
Distillery and has been so used by him ever since
that time, That said Cole keeps a large number
of Cattle and does a large business. That the open-
ing of said street would be a considerable dam-
age exclusive of the value of the Land taken to
said Cole without any benefit in Affiant's opini-
on - as it would interfere with and impair its val-
ue for its present use.

Affiant further says that the
owners of the Distilleries and manufactories on

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Illinois River South of said Goocks Addition
would be materially benefited by the opening
of said Street - because their only means of
access to and from the City to their lands is now
by way of Adams Street and the Rail Road,
and the latter route, besides being private property
is very often difficult of passage, on account
of mud and obstructions

H. H. Forsyth

Subscribed & sworn to before me
this 29th day of March 1856.
Charles Kettle Colk

~~On the 29th March A.D. 1856 there was filed
in this case the following agreement to me.~~

It is agreed that Onslow Peters
stated on a former hearing of this matter that the
Five Acre lot described in the Commissioners Re-
port as part of N. E. of 17 & 18 Contained by Ashbro
is worth \$2000 per Acre - that said statement
was then admitted in lieu of an Affidavit or the
sworn testimony of said Peters and that said
said statement ^{shall} ~~should~~ now have the same ~~free~~
force and effect in the further proceedings in this
case as a sworn Affidavit or sworn testimony of
said Peters in this case.

John S. Gencasay Atty General
for City & County
Bryan Stone
for A. S. Cold

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(4³)

The following Affidavits were offered
and filed in behalf of said City.

State of Illinois
Peoria County

In the matter of Opening Wash-
ington St in City of Peoria.

Jacob Varst who being
first duly sworn doth depose and say, That he
saw Almiran S. Cole in his Suggy at the corner
of the Peoria House on the second day, That
we as Commissioners met to assess the damage
on the laying out of Washington Street, The con-
versation was in substance as follows, Cole inform-
ed me that I knowed as much about it as his
Witnesses, I remarked that perhaps I knew
as much about the ground as his Witnesses,

And further we had one mee-
ting before this conversation took place to hear
Mr Cole or any other person might see
fit to object or produce Witnesses, We had a mee-
ting that day and adjourned and held another
meeting for Mr Coles benefit alone - but he
never came near us nor did we tell him that
we would not hear testimony but on the contra-
ry if Mr Cole had come before us we would
have heard him and his Witnesses patiently
and would have given him all means in our
power to have done justice to him, We showed
no disposition whatever to wrong Mr Cole

(44) and utterly deny that I had prejudged Mr Cole or that I had ever told him I had made up my mind on the subject and further that Cole appeared then by his Attorney.

Subscribed & Sworn to
before me this 21st day of March 1856
Jacob Warst.
Thomas Bryant (Judge)

~~On the 29th March A.D. 1856 there was filed in this cause the following Affidavit of P. C. Reading.~~

State of Illinois
Pena County
On the matter of opening
Washington St in the City of Peoria.
Peter C. Reading being duly
sworn according to law doth depose and say
that he was one of the Commissioners in in said
cause to assess damages in the opening of said
street;

This Affiant states that on the day -
Notice was given, the Commissioners met and
adjourned to the next day on said adjourned
day it was again continued at the request and
motion of Cole's Attorney and at each meeting the
Commissioners waited patiently to hear Mr Cole
and all these adjournments and waiting for wit-
nesses was for Mr Cole's benefit as no other person
had any objection whatever - There was (Witness)

(4⁵)

in attendance who were well acquainted with the premises but Cole's Attorney took no steps to investigate the case, and I am well convinced that Cole did not nor would appear before the Commissioners and that he had given notice of our proceedings, I was present all the time the Commissioners met at each and every meeting and I at no time heard Mr. Dars say he had made up his mind in the case and would not hear any testimony from Cole, But on the contrary we were all willing and anxious to hear Cole's testimony as that was the only thing that detained us waiting for Cole and his witnesses and Attorney and I state positively that I had no desire to do Cole injustice and say that neither of the Commissioners showed any desire to do Cole injustice, But we all had a desire to make a Report that would be acceptable to all, our judgment was made up by a close examination of all the premises, we were on the ground and examined every part of it and came to the conclusion in the report.

Subscribed and sworn G. C. Reading
to before me this 29th day
of March A.D. 1856

Seal

John G. Winaway N. P. S. C.

(46)

I do testify to the truth of the above statement made by Peter W. Reading.

A. G. Johnson,

I, John G. Goinaway do certify that A. G. Johnson signed his name to the foregoing Affidavits after being by me duly sworn.

John G. Goinaway N. C.

To the admission of which Affidavits last mentioned said Cole then and there objected but the Court overruled said objections and admitted said Affidavits which were accordingly read. To which decision of the Court in admitting said Affidavits and in overruling said objection, the said Cole then and there excepted.

This was all the proof offered or introduced in the case.

The Court thereupon refused and overruled said offer of proof on the part of said Cole and refused to admit or receive said proof and said Affidavits of said Cole except that part of said Affidavit as is enclosed in brackets [I marked "B"] and also excluded said Affidavits of Davis, Forsyth and Peters and thereupon overruled said objection to said report and entered an order comprising confirming said Report and rendered judgement against

(47)

said property in accordance with the said Assessment of said Commissioners and directed an Execution to issue to the Sheriff of said County pursuant to the provisions of the Statute in this case made and provided.

So which decisions of the Court in refusing to admit and receive and in excluding said proof and Affidavits of Cole, Davis, Goryth and Peters and in overruling said objections in confirming said Report, in rendering said judgement and in directing the issue of said Execution the said Cole then and there excepted and prayed that this his Bill of Exceptions may be signed and stated which is accordingly done.

Thomas Ogant C. Judge, J.C.

(48)

Know all men That we Almiran Cole and William
P. Bryan are held and bound unto the City of Peoria
in the County of Peoria in the State of Illinois, in the penal
sum of Two Hundred Dollars, to be well and truly
paid and for the payment of which we bind ourselves
and our legal representatives jointly & severally,
Witness our hands and seals, this 22nd day of
April A.D. 1856.

The condition of this bond is such
that whereas, in the matter of the petition of the
mayor of said City praying for the appointment
of Commissioners to estimate and assess dam-
ages and benefit to the owners of lands consequent
upon the opening and extension of Washington Street
in the County Court of said County, did on the
twenty ninth day of March, A.D. 1856, confirm the
the report of said Commissioners, filed therein
in the 23rd day of February, A.D. 1856, and
did thereupon render judgment in favour of said
City and against the property described in
said as part of the A.E. of sec 17 S. 1. 8 E.
North of the P.V.D.R. containing 5 Acres and
owned by A. Cole 285 feet² for the sum
of Twenty, two dollars, sixty five cents, for benefits
and costs accruing against said lot, from
which said order of confirmation and judgment
the said Almiran Cole, then & there prayed

an appeal to the Supreme Court of said State
Now therefore if the said Cole shall
duly prosecute to his said appeal and shall
pay all the judgments, costs, interest and damages
in case said judgment should be aff^{ord}ed then
this bond shall be void, otherwise to remain
in force

afford April 22^d 1856.

Charles Kittelle CLK

A. Cole (Seal)
Wm F. Bryan

Ordered,

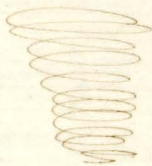
Filed April 22^d 1856.

Charles Kittelle CLK.

per Geo. McQuinn Dep.

(52)

State of Illinois
Peoria County



I Charles Kettler Clerk
of the County Court of Peoria County do hereby
certify that the foregoing is a true transcript of
papers filed in this cause, plat of said street
and Bill of Exceptions made in this case

Witness my hand and official
Seal at Peoria this 5th day of
May A. D. 1856.

Charles Kettler Clerk
Geo. H. Kettler Copy

Amiran S. Cole }
 Appellant } Sup Court
 vs }
 The City of Peoria } June 1. 1886
 Appellee }

Appellee says there is no error in the within Record

Murray & Munian
for Appellee

55-1-10
 Amiran S. Cole

City of Peoria

Record



Filed June 18. 1886
 L. Deland
 Clerk

Supreme Court
June Term 1850

Amiram S. Cole

vs.

The City of Peoria

Appeal from County Court
Peoria County

Brief of Plaintiff in Error—

1

As to right of appeal.

1. The Act of Feb. 8/55 "An act to extend the jurisdiction of County Court Peoria County" gives to that Court concurrent jurisdiction with Circuit Court of all matters suits & proceedings at Common Law as by Statute (Except Ejectments) &c —

Laws '55. p. 194

The same act authorizes Appeals &c to Supreme Court in same manner as from Circ. Courts. Id S. 3

2 The act of Feb. 12/55 "An act to amend an act to incorporate City of Peoria &c" gives to County Court exclusive jurisdiction of the subject matter of this "proceeding"

Private Laws 1/55. p. 110.

See Section 3, 4, to 12, 11p.

Section 23 makes this a Public Act.

Does Section 3 of the Act of 1855 come in conflict with Section 8 Art. V. of the Constitution? which gives to the Circuit Courts jurisdiction in all cases of appeals from all inferior Courts?

3 But County Courts are not "inferior" within the language of the Constitution

Art. 5 Sec. 1

Although of "limited jurisdiction"

Propst v.s. Meadors. 13 Ill. 160

Hauna v.s. Locum 17 " 387

Circuit Courts of United States are of limited but not inferior jurisdiction

Wenpe v.s. Kennedy 5 Cran 185

By Section 10, Art. 5, the Legislature is expressly authorized to invest County Courts with full Com Pleas & Equity jurisdiction and thus make them of Equal Dignity with Circuit Courts in all respects except in Criminal Cases

The Act of Feb. 8/55 (above) is a partial Exercise by the Legislature of this Constitutional power, and makes the County Court pro

tanto the Equal of the Circuit Court - and
therefore not "inferior"

As the right of Supervision implies Superi-
-ority, and as the County Court of Peoria County
has been erected into a Tribunal of Equal juris-
-diction with the Circuit Court, it follows as a consequence
that Appeals from judgments of the former Court should
lie to this Court, and not to the Circuit Court

The law expressly authorizes this Appeal, and
the Constitution does not prohibit it

It is true that the Act of Feb. 12/55 (above)
is silent as to the right of Appeal, but as, if that act
had required these proceedings to be had in the
Circuit Court, there would be no doubt that the
provisions of Section 47 of the Practice Act would
apply, - In this case, it is Equally clear that the
similar provision in the law enlarging the jurisdiction
of the Peoria County Court should be applicable to
this case See Morris v. Chicago 11. Mo. 050.

Charles v. Munson 17 " 559

Rev. Stat. Ch. 90 sec 25.

4 But as this question does not go to the ultimate jurisdiction of this Court but merely as to the manner in which that jurisdiction shall be exercised, the objection comes too late. The appellees have joined in Error and thereby submitted themselves to the jurisdiction of this Court
(See last page of Record)

II. ^{Cur} This is a summary proceeding and the strict rules of law peculiar to that mode of proceeding are applicable here

Canal Bank vs. Albany 9 New 211
Parrott vs. Wiggins 1 Sam. 337

The proceedings in this Case are not in accordance with the Law

1 — Because the Commissioners did not, as required by law, "determine what persons will be benefited by the improvement, and assess the damages & expenses on the real Estate of persons so benefited" See. act. of Feb. 12/55 S. 4.

The Commissioners state that they proceeded to examination of the premises through and over which said street will run, and to assess com-

= pension & benefits as follows

See Record p. 5.

Abstract p. 1.

They had no right under the law to assess "benefits" until they had first determined the ^{limits} ~~benefits~~ of the district, ^{within} which such benefits would accrue

They do not say that they made "examination" of anything more than the real Estate described.

Nor that in their opinion this was the only real Estate to be benefited

That they did perform the duty required of them by the law, can only be presumed, or made out, by intendment — doctrines which it is submitted are never applied to proceedings of this character or to any other acts than the official acts of legally constituted and permanent officers known to the law

This point is important in reference to the question of damages consequent upon opening the street and the exercise of the vacating power hereafter to be noticed

2 The Law requires the Commissioners to appraise the value of the real-estate appropriated, and the injuries arising to the owners &c. Section O.

The Report does not show that any appraisement whatever was made of the value

of the land appropriated

Y They use the words "compensation" and "damages" See Record p. 5. — To owner: — But now constat that these words do not apply simply to the "injuries" arising from the "appropriation" — Or if they are construed as applying to the value of the land, then they leave the "injuries" wholly undetermined.

Y The Law requires the value of the land and the injury to be appraised separately, — and unless this be shown, the Court cannot know whether the Commissioners have complied with the law — nor whether they have done justice to the owner by allowing him the value of his land, and the amount of the injury done to him

It may be that the whole amount of damages assigned to Plff. in Error, will arise from the excavations or embankments, or cutting down of trees &c on his land for the purpose of opening the street, without a dollar having been allowed for value of land

Y The Report furnishes no means of ascertaining the character or the elements of the damages appraised by the Commissioners

How can it be said that the appellant

has been awarded and secured that "just compensa-
-tion" for the land taken from him which the Constitu-
-tion and the law of nature alike entitle him to, when
the Report is wholly silent on the subject?

III. The Court below should have admitted
and heard the testimony and affidavits offered by the
defendant below

Canal Bank	v.s. Albany	9	Mo	244 to 255
Dundap	v.s. Sterling	14	Mo.	257
Doolittle	v.s. C. & G. R.R.	it		381
Perry	v.s. Sterling	15	"	320
Railroad	v.s. Hunter	8	Bun	448
Ross	v.s. Spring	14	Ms.	183
Atton & S.R.R.	v.s. Carpenter	Ind		190

1 The Statute authorizes any party interested
to make "objections" to the Report, and authorizes
the Court upon the hearing to affirm or annul, or
to send it back to Commissioner D, and in the
former contingency to render judgment

Act July 12/55 (Supr) Sec 10

There is nothing in this Section that restricts
these "objections" to mere "irregularities" in the proceed-
-ings, or to their want of conformity to the law

If allowed to "object" at all why shall he not be allowed to object to the damages, and benefits, as well as to the other matters?

Is not the want of judgment manifested by Commissioners in appraising damages and injuries as proper a subject for "objection" as a technical irregularity in the notice or in the assessment?

If nothing but irregularity can be objected, then corruption on part of Commissioners, cannot be objected — a proposition simply absurd

But it matters nothing to the owner, whether his land be taken from him by corrupt or ignorant misinformed or prejudiced Commissioners

The injury to him is the same. He might equally to be permitted to object and support his "objections" by proof

The Court is required to examine the proceedings ^{and} ~~the~~ affirm or annul according to its judgment.

Is this a mere "idle ^{ceremonial} ~~subterfuge~~" so far as the damages are concerned? Is the Court bound by the assessment and precluded from inquiring into it? Must the Court "affirm" ignorantly, or even knowing it to be grossly unjust?

But the owner has no right to be heard until the Report has been returned into the Co. Court, — Private Laws / 55 p. 119. Sec 9.

Commissioners may "in their discretion", but can't be compelled to receive testimony — Id.

They might even refuse to hear testimony offered by owners without violating the law

Owners have no means of compelling attendance of witnesses before Commis^{rs}.

If then owners have no right to introduce testimony in Court they are subjected to the wrong of having their property wrested from them "without compensation & without due process of law "

4 Besides it is submitted that the proof is preponderating that the Plff in Error was prevented by statements of one of the Commissioners from attending at the meeting when the assessment was made, and that they ~~had~~ prejudged the case

Manuscript pp. 38. 39.

5. Now if the proof offered and produced by Plff in Error in the Court below was properly admissible, being uncontradicted - it shows conclusively,

1 That the damages assessed to him are entirely inadequate

The quantity of land "appropriated" is $285 \text{ feet} \times 80 = 22,800 \text{ feet}$ The number of square feet in an acre being $\frac{43,560}{20,760}$

Making the quantity of land taken from Plff in Error more than half an acre, - which at \$2000 per acre - (The value proved by the affidavits of Plff. in Error, Veris, Forsyth and Peters.)

Makes the value of the land taken more than \$1000, instead of 285 as assessed by the Commissioners - To say nothing of the injury which the Plff in Error would sustain according to the proof, by extending the Street thro' his land

2 That the opening of the Street through the land of Plff in Error, would be an actual and great injury to him independent of the value of the land - because

Abstract pp. 3. 4

A - The lot is enclosed and is a valuable and necessary appurtenance to Plffs Distillery

2 To re-enclose the discovered Lot on both sides the proposed Street will cost 100 \$

3 That the "benefits" assessed to Pffs in Error in consequence of the opening of the Street are wholly speculative imaginary and contrary to the fact—because

a - The Street is not necessary to Pffs. Business

b - The proposed division of the Lot could be of no possible benefit to appellants so long as applied to its present uses.

c - That the proposed Street would be beneficial to appellants is not attempted to be shown

d - If such benefit is to arise from appropriating the ground to a new use this can only be done by consent of Appellants

5 But the Appellant is opposed to any such changes of use, and insists upon the right to retain it in its present use

IV So much of the Law of Feb 12 1855
as authorizes the assessment of dama-
ges against the owners of property taken
for public use to pay the expenses conse-
quent on such taking is unjust, partial,
and unequal in its operation & therefore un-
constitutional & void.

This is an attempt to incorporate a
new feature into our already sufficiently ^{liberal} doc-
trine and laws on the subject of "Eminent
Domain".

The precise point was first raised
in *Morris v. Chicago* 11 Ill. 650 but
was then expressly reserved.

The Constitutional provision has been
so frittered away by construction that "any
man's property (may now) be taken and
applied to public use without just compen-
-sation".

The doctrine held in *Van Horn v. S.*
Dorrance 2 Del. 307 - and yet maintain-
-ed in *Kentucky* (5 Dana 28 - 9 ib 114)
that the "Compensation" must be the actual
value of the land taken, in money, it is
conceded is not recognized in *Illinois*.
But the application of this doctrine is
necessarily restricted to land. This Con-
stitutional provision has ^{never} been held to apply

to the "taking" of money

Williams v. Detroit 2 Mich 560

Smith's Commentaries p 171

Money is "property", — but the right to take and the mode of taking it from the Citizen is obviously referable to some other source of power viz - the power of taxation O Bart. Sup C. R. 209 — 2 Mich. 560

The only mode in which money can be legally taken from the Citizen of this State for public use, is by "a tax in proportion to the value of his property". This principle together with that of uniformity "in respect to persons & property" pervades & qualifies this grant of power in the fundamental law of this State. Const. Art 9 sec 2, 5, 6. It imposes a clear restriction upon the power of the Legislature in this respect. The tax must be ad valorem and uniform within the jurisdiction of the taxing power.

To apply these principles, in this case, it is proposed to take not only the land of Appellant for public use, without "compensation" except the prospective "benefits" imagined by the Commissioners, but his money, also, to pay the expenses of the proceeding!

But the Constitution expressly prohibits the taking of money from the citizen except by an ad valorem tax; and further provides that

it shall be uniform within the jurisdiction of the
body imposing the same"

The 10th section simply authorizes the
exercise of the taxing power over "other objects and
subjects" in such manner as may be consistent
with the principles of taxation fixed in this Con-
stitution"

The amount of money proposed to be
raised for opening this Street, is \$924.30 $\frac{1}{2}$.

The only legal mode of raising this sum, is by
uniform taxation upon persons & property, within
the jurisdiction of the City

It is unjust to distribute the entire
expense upon those from whom the Street is taken
Other persons owning property contiguous may de-
rive even more benefit from the use of the new
thoroughfare than the former

The entire public within the juris-
diction of the City will derive benefit from the
Street

This whole doctrine is an Exotic, a
transplant from New York Livingston vs. New
York. 8. Wen. 84. Canal Bank vs. Albany
9 ibid. 244

But in that State there was no
constitutional restriction upon the power of the
Legislature in respect to taxation, at the date

of these decisions. See N.Y. Court, Nov 10. 1821.
In both of these cases the Court say that this
peculiar mode of taking private property for
public use and assessing the expense upon "adja-
-cent property" was of ancient origin in that state
and hence assumed to be constitutional, because
not prohibited. — In Smith v. Aberdeen, 25
Miss. 458 a similar law is sustained, but the
Court say that the Constitution of that state does
not require the taxes to be ad valorem or uni-
-form

But in New York the expense of opening
the Street in the Cases cited, was assessed upon
adjacent property not upon the same property
from which the Streets were taken

Hence the necessity, if we are to adopt
this system, (despite the difference of Constitutional
provisions and usages) of the Commissioners deter-
mining in the outset, and as a basis of their
labours "what persons will be benefited by the
improvement" so that they may assess the
damages &c accordingly. Act. Feb. 12/55
Private Laws /55. p 118. Sect. 14.

This principle of levying a local tax
for local purposes was sanctioned in Shaw v. s.
Dennis & Gilman 416. But this was under
the old Constitution. It is analogous to a
Township tax, under the existing Constitution

and which is only required to be uniform
within its jurisdiction

V - So much of the Law of Feb. 12/55
as authorizes the taking of private property for
public use without guaranteeing the right of
trial by witnesses under oath is also unconstitu-
tional and void — See Laws '55 p. 118 sec
5 — Const. Art. 13. sec. 1. P. 12 —

This Statute is believed to be an
anomaly in this respect. The Statute
regulating the "Right of Way" gener-
ally, if not unequivocally, makes provision
for the Examination of witnesses. Of
what avail is notice, to the owner
of land, if he have no right to prove
by legal testimony, the value of his
property, and the amount of his
damages? How can this right be
secured to him, unless the Com-
missioners have power to compel
the attendance of witnesses, and to
administer oaths to them?

J. J. Ryan
for Appellant

Amiran ⁵⁵ S. Cole
vs

The City of Peria

Argument for
Appellant

Filed May 11, 1857

L. Leland
Clerk

Whitman S. Cote &
vs
The City of Peoria } Appraiser from
County Court

The Plaintiff in Error assigns the following Errors in the proceedings and judgment of the Court below

- 1 The Court had no jurisdiction of the Subject Matter of the proceedings
- 2 The law upon which the proceedings are based is unconstitutional and void
The Court Erred -
3. ~~The Court Erred~~ In overruling the offer of proof by Plaintiff in Error, and in excluding and refusing to receive said proof and affidavits.
4. ~~The Court Erred~~ In admitting the affidavits offered by defendant in Error.
5. ~~The Court Erred~~ In overruling the objections made and filed by defendant below to the Report of Commissioners

- 6 ~~The Court Erred~~ in confirming the Report of Commissioners, and in rendering judgment and ordering these terms in accordance with the agreements therein made
- 7 ~~The Court Erred~~ in refusing to annul and to allow said Report
- 8 ~~The Court Erred~~ in refusing to refer said Report back to the same or other Commissioners
- 9 The Judgment of the Court below should have been for defendant below.

Geo. G. Ryan
for Plff in Error.

136
Admiral S. Cole
vs
City of Peruvia
Assy of Errors

Filed June 18, 1856

L. Leland
Clerk

A S Cole } In the Supreme
vz } Court April Term
The City of Peoria } A D. 1857

Representative Brief

Read & Williams a 922 Left

This is a proceeding under "an act
to Amend an act entitled "an act to
incorporate the City of Peoria in force
December 3, 1844 & the several acts
amendatory thereof. Passed Feby 12 1855
Laws of 1855. Page 118"

1 It is insisted that this act is unconstitutional. Upon this point the Court is referred to

Moate vs The Mayor &c of Maryland Rep 314
Alexander vs The Mayor &c of Gill 383

Alexander et al vs The Mayor &c 5 Gill 383

The People vs. The Mayor of Brooklyn
4th Comstock (NY) Rep 419

These authorities we decide conclusively
upon this point.

11th The proceedings show a literal compliance with the Statute,

But Cole appeared in the County Court on the 29th March 1856 and filed his objections in writing to the Report. The court refused to hear the proof which he offered and confirmed the Report.

Did the Court Err in this?

It was a matter of pure discretion with the Court, whether to confirm or annul the appointment, and no appeal or writ of Error will lie in such case. Sec 10, Pages 119-20, of Law 1855.

Buere 13. 1 Scam 524-543. 1 Gil 140-
11 Scam 110¹⁴⁷ - 3 do 149 + 260 - 2 do 250 +

2. The proof, if heard by the Court would not have changed his opinion. He knew what they offered to prove & undoubtedly considered that it would not alter his decision.

But a further objection to this is, that it nowhere appears that all the facts proposed to be proved were not known to the

* 13 2/11 50- + 243,
4. Scam 499 - 1 Gil 4.

Commissioners and taken into consideration by them

The only object of the proof was to induce the Court to set aside the Report — it is not pretended that the Judge could alter the amount of damages, and if the proof offered was not such as to induce him to set aside the report, of what use would it have been to have heard it?

See 10. of Oct 1855 P 119-20

III. It nowhere appears that Cole claimed any damages for opening the Street. He certainly filed no claim before the County Court or Commissioners

New Albany Rail R R Co vs Connelly
7. Porters Indiana Rep 32

IV. The specific objections urged in this case are not sound.

1st Objection is answered by Sec 4 of the Law & the Report—

2. There is a substantial if not a literal compliance with Sec. 6, of the Statute in this respect.

3. This objection is untenable. The Report shows they did appraise all the property they had a right to appraise and it does not appear that they failed to appraise any property which they ought to have appraised.

4. This nowhere appears.

5. Nothing appears in the record to sustain this objection.

7. The Record does not prove sustain this objection.

8. This objection is not sustained.

V. There is no other objection in this case which appears to be fatal.

The appeal in this case is founded upon the "Act to extend the jurisdiction of the County Court of Peoria Co. passed in 1855".

See Laws of 1855 Page 194.

We contend that no appeal or writ of error lies in this case.

See Sec 3. of Act.

In all cases of laying out Roads & the assessment of Damages under the Law in relation to the "Right of Way" an appeal lies directly from the County Court to the Circuit Court. See Purples Statutes p 1094, Sec 38, "Roads". See Title "Right of Way" Purples St Page 1036, Sec. (15) IX.

This was a proceeding to obtain the "right of way" and the appeal should have been taken to the Circuit Court & not to this Court.

Again, we contend that in ~~this~~
acting in this case, the County Court
was not acting as a Court of
general jurisdiction, but simply
as an inferior tribunal in a
limited capacity, with limited
powers and therefore, no right of appeal
can be claimed under the act
of Feb'y 9, 1835

The Statute in relation to
Counties & Co Comm Courts gives
the right to appeal to the Circuit
Court, ~~from~~ in all cases

Purple Statutes, Page 286, Sec 42

The appeal then in this case
should be to Circuit Court, &
not to this Court, & should therefore
be dismissed -

Wm D Williams
for Dept in Error

45.
Almeida S Cole
vs

The City of Peoria

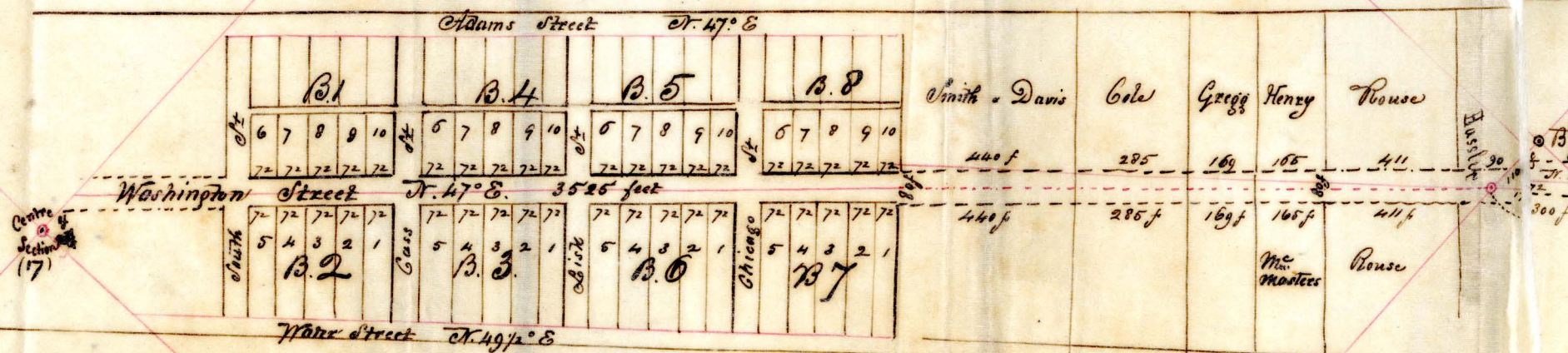
Defendants Brief

Weed & Williamson
for Defts in Error

Filed May 2. 1857
S. Leland
Clerk

Plat of Washington & Liberty Street in the Original S.W. boundary of Levee City

N.E. of Section 17



Levee's Addition

School Section

Street from its intersection with
 Town (now City) of Peoria to the
 its Addition to

French Claimants on Washington St.

No. of lot	Claimant	Agents
66-8-48-64	Robert Forsyth	Merriman
12	J. L. Papin	
15	Davis & Smith	
30	Charles Ballance	
18	Chas S. Hempstead	
60	Saml Hart & J. T. Sargent	do
64	Joseph Godear	do
50-49	J. L. Papin & Nicholas B. S. Eldred	do
55	Michael St. Claire	
40	Oren Hamlin	J Hamlin
31	Charles Ballance	
43	Charles Ballance & J. L. Papin	
20	Charles S. Hempstead	Merriman

