

Witness my signature and the seal of said Court at St. Clairsville Ohio, this 25th day of September A.D. 1878.
(Signed) A. C. Sarah Clark.

It is therefore ordered that a venire facias issue to the Sheriff of this County to summon the above named persons to attend at said Probate Court on Thursday the 10th day of October at the hour of 11 o'clock A.M. to serve as jurors upon the trial of the claim of said Plaintiff for Compensation and damages.
(Signed) C. W. Carroll Probate Judge

And afterwards, to wit, on the 10th day of October A.D. 1878, the following venire facias with the Sheriff's return endorsed thereon, was returned and filed in the words and figures following, to wit.

State of Ohio, Belmont County ss.
To the Sheriff of said County, greeting. You are hereby Com-
manded to summon,
Isaac Holloway Rushing Township, James Giffen Richland Twp.,
A. W. Caldwell Washington Township George W. Scott Puttney "
Thos. A. Cummins Puttney " Jacob Maule Colerain "
William Killis Warren " William J. Groves Kirkwood "
A. W. Melville Puttney " John C. Able Puttney "
Nathan Stur Colerain " William S. Hobbs Somerset "
to appear in the Probate Court within and for said County
on the 10th day of October 1878 at 11 o'clock forenoon, then
and there to serve as jurors in a cause now pending in
said Court, wherein Hugh M. Merrett is Plaintiff and
O. W. Hall & al. defendants, being an appeal from the
final decision of County Commissioners of said County,
in relation to the assessment of Compensation and damages
by reason of the location of a County road.

Witness my hand and seal of said Court at St. Clairsville this 25th day of September 1878.
(Signed) C. W. Carroll Probate Judge

Endorsed as follows.
Isaac Holloway P. 12
James Giffen L. 2
Jacob Maule P. 7
William Killis P. 30
William J. Groves L. 18
A. W. Melville
A. W. Caldwell P. 20
George W. Scott.
Thos. A. Cummins
John C. Able
Nathan Stur P. 18
William S. Hobbs. P. 38

The above named persons served by Copy as indicated
Sheriff Geo. S. ^{W.} H. Kinney Sheriff

And afterwards, to wit, on the 10th day of October A.D. 1878, the following notice to defendants was with the Sheriff's return endorsed thereon, returned and filed herein in the words and figures following, to wit.

State of Ohio, Belmont County ss.
Probate Court of said County

Hugh M. Merrett of Appeal from the County Commissioners
vs. C. W. Hall & al in relation to a County road.

C. W. Hall & al To the Sheriff of said County, greeting,
You are hereby commanded to summon C. W. Hall and John Stewart to appear in the Probate Court in and for said County on the 10th day of October, 1878 at 10 o'clock A.M. upon trial of the Case aforesaid, being an appeal from the final decision of the Commissioners of said County, in relation to the assessment of Compensation and damage made to the plaintiff aforesaid, through whose lands a County road petitioned for by said defendants and others, has been laid out; and to take such action in the premises as to you may seem proper.

Witness my hand and seal of said Court at St. Clairsville this 25th day of Sept. 1878.

(Seal) C. W. Carroll Probate Judge

Recd. this writ September 25th 1878 and on the 3rd day of October 1878. I served the within named C. W. Hall and John Stewart personally by delivering to each of them a certified copy of this writ.
Sheriff's Fee \$2.45 W. G. Quincy Sheriff.

And afterwards, to wit. On the 10th day of October, 1878 the following Special venire was returned and filed herein in the words and figures following to wit:

- State of Ohio, Belmont County, ss.
- To the Sheriff of said County, greeting,
You are hereby commanded to summon
- | | |
|--------------------|-------------------|
| Archibald Liffui | Richland Township |
| Robt. Thompson | " " |
| William Lee Jr. | " " |
| Eli Piggott | " " |
| Benjamin Barkhurst | " " |
| William Collins | " " |
| R. M. Hiltzins | " " |
| John L. Frink | " " |

to appear in the Probate Court within and for said County, forthwith, then and there to serve as jurors in a Cause now pending in said Court wherein Hugh M. Merrett is plaintiff and C. W. Hall & al defendants, being an appeal from the final decision of the County Commissioners of said County, in relation to the assessment of Compensation and damage by reason of the location of a County road.

Witness my hand and seal of said Court at St. Clairsville this 10th day of October 1878

(Seal) (Signed) C. W. Carroll Probate Judge.

Said venire is endorsed as follows.

Archibald Giffen P. Robt. Thompson P. William Lu Jr. P.
Eli Piggott P. John L. Frint P. Benjamin Barkhurst P.
William Collins P. R. M. Wilkin L.

The above named persons served by Copy as indicated,
Sheriff Fee \$5.00

W. G. Keiney Sheriff.

And afterwards, to wit: On the 10th day of October A.D.
1878. The following proceedings were had in this Court,
and entered upon the Journal thereof in the words
and figures following, to wit:

Hugh M. Merrett. } October 10th 1878
vs } Appeal from the final decision
C. W. Hall Esq } of the County Commissioners in re-
lation to the amount of Compensation and damage
assessed.

This day came the parties with their Attorneys, and
thereupon came a jury, to wit: William Hillis, William
J. Groves, James Giffen, John Carlisle, John B. Longley,
John L. Frint, Benjamin Barkhurst, Israel Lewis,
John Orr, William Lu Jr, Isaac Holloway and Archibald
Giffen, who were accepted, impaneled, sworn and
affirmed to try said Cause according to law.
On motion of the plaintiff and before any evidence
is adduced by the parties, it is ordered that said
jury proceed under the charge of the Sheriff of said
County to view the premises of said Hugh M. Merrett
in respect to which Compensation and damage are
claimed, and they are ordered to return into Court
at 7 1/2 O'Clock P.M. of this day. James F. Charlesworth
is appointed to show the jury the aforesaid premises,
on the part of the plaintiff and J. B. Smith on the
part of the defendants.

(Signed) C. W. Carroll Probate Judge.

And afterwards, to wit: On the 10th day of October 1878.
The following writ to Convey jury to view premises, with
the Sheriff's return indorsed thereon, was returned and
filed herein in the words and figures following, to wit:

State of Ohio, Belmont County S.D.
Hugh M. Merrett, }
vs } To the Sheriff of said County,
C. W. Hall Esq. } greeting, You are hereby Commauded
in the panel to this writ annexed, to view the property
or premises sought to be (assessed) appropriated for a
County road, and owned by Hugh M. Merrett, on
the 10th day of October 1878, then and there to view the
premises or property aforesaid in the presence of James
F. Charlesworth on behalf of the plaintiff and J. B.
Smith on the part of the defendants, persons appointed

by this Court for that purpose, and you shall make return of the manner you have executed this writ to this Court on the 10th day of October A.D. 1878. and have you then and there this writ.

In witness whereof I have hereunto set my hand and the seal of the Probate Court this 10th day of October 1878.

(Seal) (Signed) C.W. Carroll Probate Judge.

Jurors impaneled and sworn and affirmed in Case of Hugh M. Merritt, vs. Charles W. Hall Et al.

- | | |
|--------------------|----------------------|
| 1 William Hillis | 7 John L. Frint |
| 2 William J. Snow | 8 Benjin. Barthusok. |
| 3 James Kiffin | 9 Israel Lewis |
| 4 Archibald Kiffin | 10 John Orr. |
| 5 John Corliole | 11 Wm. Lee, Jr. |
| 6 J. B. Longley | 12 Isaac Hallway. |

Received this writ October 10th, 1878 and on the same day I conducted the within named jurors accompanied by James H. Charlesworth on part of plaintiff and J. B. Smith on the part of defendants, and after they had viewed the same, I have returned with said jurors into Court, as Commanaded.

Sheriff's Fee \$5.00

R.R. fare 2.50

W. H. Kinney Sheriff.

And afterwards, to Wit: On the 10th day of October, 1878, the following proceedings were had in this Court, and entered upon the journal thereof in the words and figures following: to Wit:

Hugh M. Merritt, vs. C.W. Hall Et al. October 10th 1878
Appeal from the final decision of the County Commission in relation to the amount of Compensation and damages assessed.

This day came into Court the Sheriff of said County and brought with him the aforesaid jury, and also made return of the writ heretofore issued to him.

Commanading him to conduct the jurors to view the premises sought to be appropriated, and endorsed the same to the effect, that the view had been made in accordance with the command thereof, and that the jury was discharged from further consideration of this case until 11 O'Clock A.M. tomorrow morning.

(Signed) C.W. Carroll Probate Judge.

And afterwards, to Wit: On the 11th day of October A.D. 1878, the following proceedings were had in this Court, and entered upon the journal thereof in the words and figures following: to Wit:

Hugh M. Merrett, } October 11th, 1878.
 vs. }
 C. W. Hall Et al } Appeal from the final decision
 of the County Commissioners in
 relation to the amount of Compensation
 and damages assessed.

This day came the jurors impaneled in this Case,
 and this Cause coming on to be heard, and after
 hearing the testimony of the witnesses, the jurors were
 discharged from the further consideration of said pro-
 ceedings until tomorrow morning at 8 O'Clock.
 (Signed) L. W. Carroll, Probate Judge.

And afterwards, to wit; on the 12th day of October
 1878. the following proceedings were had in this Court,
 and entered upon the journal thereof in the words and
 figures following, to wit;

Hugh M. Merrett, } October 12th, 1878.
 vs. }
 C. W. Hall Et al } Appeal from the final decision of
 the County Commissioners in rela-
 tion to the amount of Compensation and damages assessed.

This day came the jurors impaneled in this Cause
 and this proceeding coming on further to be heard
 and after hearing the arguments of Counsel and
 the charge of the Court, returned into Court their
 verdict in the words and figures following, to wit;

That the jurors in this Case, having inspected the
 premises of the said Hugh M. Merrett, and having
 heard the testimony offered by the parties and
 the arguments of Counsel, do award and determine
 that Hugh M. Merrett be paid the sum of Forty
 dollars as Compensation for the land belonging to
 him which is appropriated to the County road,
 petitioned for by C. W. Hall and others, without deduc-
 tion for benefits to any property of the said Hugh
 M. Merrett, derived or to be derived by the location of said
 road. and we do also find and determine that the
 premises of the said Hugh M. Merrett from which
 said appropriation is taken will be rendered less
 valuable by the location of said road, the sum of
 thirty dollars.

Isaac Hollway.

J. B. Longley

John Orr.

John Carliote.

Israel Lewis

Benjn. Barthurst.

And in appearing that the sum thus assessed is not
 greater than the award made before the Commissioners, it is
 considered by the Court that the State of Ohio recover against

Mr. Lee Jr.

John L. Front

A. Giffin,

Mr. C. Hilley

William J. Groves

James Giffin

the said Hugh M. Menett, the sum of \$ dollars,
 being the amount of costs created by the appeal
 (Signed) C. W. Carroll Probate Judge.

The State of Ohio, Belmont County vs.
 J. C. W. Carroll, Probate Judge in and for said
 County, do hereby certify the foregoing to be a
 true and correct copy of the record of the
 proceedings had in this Court in the foregoing
 Cause.

In Witness whereof I have hereunto set
 my hand and the seal of the Probate Court
 this 15th day of October, A.D. 1878.

Seal

C. W. Carroll
 Probate Judge.

Recorded November 11th A.D. 1878

W. H. Caffland County Auditor

Alex. Wiley et al } April 26th 1878. Appeal from the final decision
 vs } of the County Commissioners in relation to the
 James Orr et al } Amount of Compensation and damages assessed.
 This day this cause coming on to be heard it is ordered that notice
 issue to the Clerk of the Court of Common Pleas, and to the Sheriff
 of this County directing them to select according to law, twelve persons
 to serve as Jurors in this case, and that said Clerk return to this office
 the names of the persons so selected without unnecessary delay and
 this cause is continued

C. W. Carroll Probate Judge

And afterwards to wit, on the 26th day of April 1878, The following list of
 jurors, was returned by the Clerk of the Court of Common Pleas in the words
 and figures following to wit:

State of Ohio Belmont County ss. To C. W. Carroll Probate Judge of
 said County, In obedience to your order of the 26th day of April A.D. 1878
 the Clerk and Sheriff proceeded to draw from the jury box of the Court
 of Common Pleas, according to law, the names of twelve persons, to serve
 as jurors in a proceeding in the Probate Court of said County of Belmont
 wherein George Neff et al are plaintiffs and Thomas Ault et al are defendants.

Names of Jurors	Township	Names of Jurors	Township
1 Reed Lewis	Warren	7 William J. Thompson	Richland
2 William McDonough	Flushing	8 Calvin C. Hassen	Pease
3 M. R. Smylie	Pease	9 F. M. Smivaly	Pultney
4 John Coleman	Whelring	10 John S. Cratty	Pultney
5 John F. Davis	Warren	11 C. C. Parker	Pease
6 John G. Owens	Lork	12 William C. Rankin	Richland

Witness my signature and the seal of said Court at St. Clairsville, Ohio,
 this 26th day of April A.D. 1878. Seal
 Signed } A. C. Warrak, Clerk

And afterwards to wit, on the 26th day of April 1878, The following pro-
 ceedings were had in this Court and entered upon the journal there-
 of, in the words and figures following, to wit:

Alexander Wiley et al } April 26th 1878. Appeal from the final
 vs } decision of the County Commissioners in rela-
 James Orr et al } tion to the Amount of Compensation and
 damages assessed.

This Cause coming on for further hearing, on
 motion and pursuant to agreement of all the parties it is ordered
 that a venire issue for Reed Lewis of Warren Township William
 McDonough of Flushing Township, M. R. Smylie of Pease Township,
 John Coleman of Whelring Township, John F. Davis of Warren Township,
 John G. Owens of Lork Township, William J. Thompson of Richland Township,
 Calvin C. Hassen of Pease " F. M. Smivaly of Pultney "
 John S. Cratty of Pultney " C. C. Parker of Pease "
 and William C. Rankin of Richland Township disinterested men of
 the County, having the qualifications of jurors, to appear in this
 Court on the 8th day of May 1878, to serve as jurors upon the trial of
 the claims of said plaintiffs for Compensation and damages.

C. W. Carroll Probate Judge

and afterwards to wit; on the 8th day of May 1878, the following various facios with the Sheriffs return endorsed thereon, was returned and filed here in the words and figures following, to wit:

The State of Ohio Belmont County ss, To the Sheriff of said County Greeting, You are hereby Commanded to Summon

- 1 Rees Lewis of Warren Sh.
- 2 William McDonough of Flushing "
- 3 M R Smylie of Pease "
- 4 John Coleman of Whiting "
- 5 John F Davis of Warren "
- 6 John G Owens of York "
- 7 William J Thompson of Richland Sh.
- 8 Calvin C Hassen of Pease "
- 9 J M Inivaly of Pultney "
- 10 John S Cratty of Pultney "
- 11 O C Parker of Pease "
- 12 William Rankin of Richland "

The above named persons served by Copy as indicated Sheriffs Fees \$5.00

W H Kinney Sheriff

and at the same time the following summons with the Sheriffs return indorsed thereon, was returned and filed herein in the words and figures following to wit: State of Ohio Belmont County ss,

Alexander Wiley Et al Plaintiffs

vs

James Orr Et al. defendants

To the Sheriff of said

County Greeting, You are hereby Commanded to notify Alexander Wiley, Jane F Fulton, Margaret B Fulton, Conrad Ault, and James Orr, that an appeal from the County Commissioners in relation to the assessment of Compensation and damages by reason of the establishment of a County road has been taken to the Probate Court of said County, and to further notify said above named persons to appear at the office of the Probate Judge on Wednesday the 8th day of May 1878, at 10 o'clock A.M. which time certain proceedings will be had in relation thereto as required by law. Witness my hand and seal of said Court at St. Clairsville this 27th day of April A.D. 1878

Seal

C. W. Carroll Probate Judge

Received this writ April 29th 1878, and the same not served by order of the plaintiff.

Sheriffs Fees \$1.00

W H Kinney Sheriff.

and afterwards to wit: on the 26th day of October 1878 the following motion was filed herein in the words and figures following to wit:

The State of Ohio Belmont Co In the Probate Court.

- Alexander Wiley
 - Conrad Ault,
 - Jane F Fulton &
 - Margaret B Fulton Plffs.
 - vs
 - James Orr &
 - George Jelson depts
- In the matter of joint appeal of plaintiffs from the decision of the County Commissioners as to Compensation and damages awarded, Confirming report of Viewers of County road petitioned for by Conrad Ault et al.

And now comes the defendants herein named who appear for this purpose and now other and move the Court to dismiss the appeal herein for the reasons following to wit:

1st - This Court has no Jurisdiction of the parties and cannot therefore

proceed to trial, none of said parties having been summoned or notified according to law.

2d. The period limited by law for the selection issuing writs and summoning jury has long since elapsed as well as the period limited by law for the trial of the Cause in this Court-on appeal.

Wherefore the said defendants pray that said appeal be dismissed.

W. E. Chambers Atty for defts.

And afterwards to wit; on the 8th day of November 1878, the following proceedings were had in this Court and entered upon the journal thereof in the words and figures following to wit:

Alexander Wiley et al } November 8th 1878. Appeal from
vs } The final decision of the County Commissioners
James Orr et al } in relation to Amount of Compensation and
damages assessed.

This day came the defendants and filed herein their motion to dismiss the appeal for reasons therein stated and after hearing the arguments of Counsel and being fully advised in the premises, the Court sustaining said motion, and it is ordered that said appeal be dismissed at the costs of the plaintiffs, taxed at \$ which are hereby adjudged against them.

To which ruling the plaintiffs by their Counsel except:

The State of Ohio Belmont County ss. J. C. W. Carroll Probate Judge in and for said County do hereby Certify the following to be a true and correct copy of the record of the proceedings had in this Court in the foregoing Cause

In witness whereof I have hereunto set my hand and seal of the Probate Court this 14th day of November A.D. 1878.

Seal

J. C. W. Carroll Probate Judge

St. Clairsville O Nov. 20th 1878.

Be it remembered that heretofore to wit; on the 27th day of March A.D. 1878, William N. Coffland County Auditor of Belmont County Ohio filed in the Probate Court of Belmont County a transcript of the proceedings of the County Commissioners in relation to the establishment of a County road petitioned for by James Orr et al. together with the original papers, and afterwards to wit; on the 27th day of March 1878, the following proceedings were had in this Court and entered upon the journal thereof in the words and figures following to wit:

James Orr et al } March 27th 1878. Appeal from the Coun-
vs } ty Commissioners in relation to the est-
Alexander Wiley et al } ablishment of a County road.

This day came the County Auditor of this County and caused to be filed herein the original papers, certified transcript of all proceedings and orders, had or made by said Commissioners touching this Case, whereupon it is ordered that the same be entered upon the docket of this Court.

J. C. W. Carroll Probate Judge

and afterwards to wit; on the 3d day of April 1878 came the parties by their Attorneys and filed herein an agreement in writing in the words and figures following to wit;

It is agreed, that in the Cases of James Orr vs Alexander Wiley et al and the Cases of Alexander Wiley et al vs James Orr et al and the Case of George Neff and William Nichol being Appeals from orders of Commissioners Establishing roads and confirming damages assessed by viewers, the Probate Judge shall defer the issuing of Venire for Jury until such time that the appearance of the jury will not be required until the second week of the term of Com. Pleas Court being about the first of May, and that he also defer the notice to the parties as required by the Statutes until such time as that they shall be required to appear at the time fixed for the return of Venire for jury.

H. C. Chambers Atty for James Orr and for petitioners in the case on petition of Thomas Ault et al.
L. M. Eaton Atty for petitioners in the Case of Thomas Ault et al.

J. M. Riley atty for Alex Wiley et al and for Wm Nichol & George Neff.

And afterwards to wit; on the 3d day of April A.D. 1878. The following proceedings were had in this Court and entered upon the journal thereof in the words and figures following to wit:

James Orr et al. } April 3d 1878. Appeal from the County
vs } Commissioners in relation to the establish-
Alex Wiley et al } ment of a County road.

This day this Cause coming on to be heard on motion and by agreement of parties the same is continued until April 26th 1878.

W. Carroll Probate Judge
And afterwards to wit. on the 26th day of April A.D. 1878. The following proceedings were had in this Court and entered upon the journal thereof in the words and figures following to wit.

James Orr et al } April 26th 1878 Appeal from the County
vs } Commissioners in relation to the establish-
Alex Wiley et al } ment of a County road.

This Cause coming on for further hearing on motion and by agreement of all parties the same is continued to the 6th day of May 1878.

W. Carroll Probate Judge
And afterwards to wit; on the 26th day of April 1878. The following motion was filed herein in the words and figures following to wit;

The State of Ohio Belmont County ss. Probate Court.
In the matter of the location and Establishment of a County road petitioned for by James Orr et al. Appeal by Alex Wiley. Conrad Ault and Jane and Margaret Fulton from the decision of the County Commissioners. — Motion —

And now come the appellants herein by J. M. Riley their Attorney and move the Court to dismiss the application