



Minnesota District Court (Carver County)  
Civil and criminal case files

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And whereas said appeal was brought to reverse entirely the decision of said respondents in so refusing to lay out and establish said highway upon the ground, among others, that said highway is a public necessity and convenience and ought to be laid out and established as so petitioned for,

And said appeal having been duly brought on for trial in its regular order upon the calendar at the General Term of this Court held at the Court House in the City of Chaska in said County and State in March A.D. 1903 before a jury duly empanelled and sworn,

And said jury having by its verdict duly returned and filed found and determined that said proposed road would be of public benefit and utility, and reversed the action of said respondent, said Supervisors of said Town, in refusing to lay out and establish the same,

Now, on motion of W. C. O'Neil, attorney for said appellant, It is Ordered, Adjudged and Determined that the order and determination of said respondent, the Supervisors of the Town of San Francisco, in refusing to lay out and establish a public highway as so prayed for by said appellant and others and described as follows, viz: Beginning at the point where the line between sections seven and eight of township one hundred and fourteen, range twenty four, intersects the public highway, being at the corner of sections five, six, seven and eight, running thence south upon said line between sections seven and eight a distance of one mile, more or less, to a point where said line intersects the public highway, being at the corner of sections seven, eight, seventeen and eighteen, its termination, be and the same is in all things reversed, and that said respondents proceed to lay out and establish said highway in accordance with the statute in such case made and provided.

And on like motion It is further Ordered, Adjudged and Determined that said ap-

pellant have and recover of said respondent his costs and disbursements herein taxed  
and allowed at the sum of \$77.56 and that he have execution therefor.

By the Court,

H.O. Muehlberg  
Clerk.

*Wm. Muehlberg*

*William Muehlberg*

*James Muehlberg*  
*Superior of the Court*

*James Muehlberg*

RECEIVED  
CLERK OF COURT

*Wm. Muehlberg*



State of Minnesota  
County of Carver.

---

William Anderson,

- vs -

Supervisors of the Town  
of San Francisco.

---

Judgment Roll.

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CARVER COUNTY,  
FILED

JUN 13 1903.

J. O. Muehlberg, Clerk.

(297)



STATE OF MINNESOTA,  
SUPREME COURT.

MANDATE.

The State of Minnesota,

To the Hon. Judge and Officers of the District Court of the Eighth Judicial District,

sitting within and for the County of Carver Greeting:

Whereas, Lately in your court, in an action therein pending, wherein  
William Anderson was Appellant and

Town of San Francisco was Respondent,

a certain order was entered therein September 4, 1907,  
from which order said Respondent  
appealed to this Court,

And whereas The same was duly argued, heard and submitted at the General April  
Term, A. D. 1908, of our Supreme Court. After mature deliberation thereupon had, our Supreme  
Court did adjudge, determine, decree and ORDER "That the order of the  
Court below, herein appealed from, be, and the same hereby is, in all things affirmed

and that judgment be entered accordingly." A copy of the entry of Judgment thereupon in this Court is herewith transmitted, and made part of  
this Remittitur.

Now, Therefore, This MANDATE is to you directed and certified, to inform you of these  
proceedings had in our Supreme Court, in said hereinbefore mentioned cause, and the same is hereby  
and herewith REMANDED to your Court for such other or further record and proceedings therein as  
may be by law necessary, just and proper, under and by virtue of the said Order herein made.

Witness, The Hon. CHARLES M. START, Chief Justice of the  
Supreme Court aforesaid, and the seal of said Court,  
at St. Paul, this 4th  
day of June A. D. 1908

C. A. Ridgman  
Clerk of the Supreme Court.

**SUPREME COURT,**  
STATE OF MINNESOTA.

**MANDATE**  
TO THE DISTRICT COURT OF  
Carver County.

William Anderson,  
Respondent,  
AGAINST  
Town of San Francisco,  
Appellant.

CARVER COUNTY,  
FILED

JUL 2 1908

*H. O. Muehlberg* Clerk.

Attorney for

(427)



District Court,  
Eighth Judicial District.

This case came regularly before the undersigned, sitting as Judge of the Eighth Judicial District of Minnesota, on the motion of the respondent town of San Francisco for an order setting aside the verdict herein and for a new trial of said action. W.C.Odell, Esq., appeared as attorney for said appellant Anderson and F.J.Leonard, Esq., as attorney for said respondent town.

After hearing counsel and upon due consideration, it is ORDERED that said motion be and it is in all things denied.

Ocean Hallam  
District Judge.

## MEMORANDUM.

This is an appeal from the action of the town board of the town of San Francisco in vacating a town road.

In 1902, and for some time prior thereto, there existed a public highway on the north and also on the south side of sections 7 and 8, town 114, range 24 in said town of San Francisco, but no highway on the line between sections 7 and 8. The appellant Anderson owned and resided upon the southeast quarter of the northeast quarter of section 7 and the southwest quarter of the northwest quarter of section 8, so that at that time he had no access to either of the highways above mentioned or to any other highway except by crossing over private property of other persons. In

1902 said Anderson, with others, petitioned the town board of the town of San Francisco to lay out a road on the line between sections 7 and 8 and connecting the two highways above mentioned. The town board refused to do so and appeal was taken to this court, and on a trial before a jury in March, 1903, the action of the town board was reversed and the Court thereupon, on June 13, 1903, adjudged that the town board lay out and establish said highway. This was accordingly done on June 16, 1904, but the road was never opened for travel. In August, 1905, certain other citizens of said town petitioned the town board to vacate said road, which the board did on the 12th day of October, 1905. Appeal was taken from this action to this court. On the first trial the jury disagreed. On this, the second trial, the jury again reversed the action of the town board. The respondent town now asks that this verdict be set aside and another trial granted.

There was no change in conditions between the time of the former judgment of this court, ordering the establishment of this road and the time of this trial except that a cartway had been laid out from the road on the north side of section 7 and across said section to the northwest corner of the land of said Anderson above mentioned.

The first assignment of error is that the verdict is not justified by the evidence and is contrary to law.

The Court should exercise great caution in setting aside the verdict of a jury in this class of cases. (Fohl v. Common Council, 80 Minn., 67.) But in my judgment the evidence ~~is~~ here is amply sufficient to sustain the verdict of the jury under the rules obtaining <sup>Every</sup> in ordinary actions at law.

Respondent town assigns as error the ruling of the Court in sustaining objection to a number of questions, all of which are of substantially the same import. One was "In attending the church at East Union, would this road in controversy in any way benefit the members of that church in attending divine services?" Another was, "The members of the church



at West Union and living in the town of San Francisco, would they have any occasion to use this road in controversy in attending divine services"? and after asking some other similar questions, counsel for respondent town, in order to avoid repetition, incorporated in one offer a number of questions assuming or assuring the Court of an affirmative answer to each. All of them embodied the inquiry whether certain classes of persons would have any occasion, under circumstances mentioned, to use this road.

I am still of the opinion that these rulings were correct. The questions, in substance, call for the opinion of the witness as to the utility or necessity of this road. (See Pocopson Road, 16 Pa., 17.)

It is not proper matter for opinion evidence. The rule as to admissibility of opinion evidence is well settled.

In *Sowers v. Dukes*, 8 Minn., 23, (Gil. 6) the Court said:

The opinion of a witness is not evidence for a jury. It is true, there are exceptions to this rule, but they all proceed on the principle that the question is one of science or skill or has reference to some subject upon which the jury are supposed not to have the same degree of knowledge with the witness.

In 1 Whart. Ev. ¶ 512, it is said "an opinion can be given by a non-expert as to matters with which he is specially acquainted but which cannot be specially described." But "where the facts can be placed before a jury and they are of such a nature that jurors generally are themselves <sup>as</sup> competent to form opinions in reference to them and draw inferences from them as witnesses, then there is no occasion to resort to expert or opinion evidence." (*Ferguson v. Hubbell*, 97 N.Y., 507, 513.)

In *Carthage v. Andrews*, (Ind.) 1 N.E., 364, it is said ~~that~~

~~That~~ A non-expert may give an opinion at all, is the rule of necessity. He must in all cases, so far as possible, state the facts upon which he bases his opinion.

And in *Brunker v. Cummins*, (Ind.) 32 N.E., 734, the Court said:

We fully sanction the doctrine that where facts cannot be presented to a jury, a non-expert witness may express an opinion. Where, however, the reason for an exception fails, the general rule stands unbroken.... But even in cases where necessity justifies the expression of an opinion, the opinion cannot go to the principal points which the law requires the jury to decide.



Under the above rules, the proposed testimony was manifestly incompetent. The persons referred to in the questions are certain very indefinite classes whose locality is not well identified; the questions neither assume nor call for any of the facts upon which the opinion is to be based; it does not appear that the witness had any peculiar source or means of knowledge on the subject not already in the possession of the jury, and the inquiry obviously has no reference to any peculiar topography of the country or to anything not appearing from the map of the town, and the other facts in evidence; all the facts which are necessary to enable the jury to form a conclusion on the matters in issue could be detailed and placed before them; there was nothing but what could be and was "specifically described"; the jury had the same degree of knowledge of such subjects as the witness; they were competent to fully understand the matter and draw the proper inferences and conclusions from the facts without the opinion of the witness and were as well qualified as he to form an opinion on the subject; and the opinion goes to the principal point which the law requires the jury to decide.

The following cases further illustrate the rule:

In *Perry v. Clark County*, (Ia.) 94 N.W., 454, it was held improper to ask a witness whether there was a crossing that might have been gone over, either above or below a certain defective bridge "without any trouble."

In *McDonald v. Duluth*, 93 Minn., 206, it was held improper to admit opinion evidence as to whether a railing was "safe."

In *Loshbaugh v. Birdsell*, 90 Ind., 466, it was held that the opinion of a witness as to whether a highway will or will not be of public utility is not admissible even though the facts upon which the opinion is based are stated.

See also *Atherton v. Village*, (Mich.) 72 N.W., 208;  
*Berube v. Wheeler*, (Mich.) 87 N.W., 50;  
*Johnson v. Anderson*, (Ind.) 42 N.E., 815.

Some similar testimony was received without objection but this testimony being objected to, I believe the objection was properly sustained.



Exception is taken to a portion of the charge which reads as follows:

In considering the question of the utility or necessity of the road, you may consider the benefits it would afford to the individuals who are mentioned and who are specially interested; but you are not confined to their interests alone. You should consider also, and the main consideration, perhaps, is whether the road is of utility to the traveling public, and that means not alone to the people of the town of San Francisco but to persons generally who may have occasion to travel there, and so considering the questions, you will determine whether this road should be vacated. In this connection, you will further observe that the evidence shows that some years ago certain parties living in this neighborhood petitioned the town board of this town to establish this road. The town board refused to do so and an appeal was taken to this court and a jury here reversed the findings of the town board, and this court ordered that said road be established, and it was established, but as I have indicated, it has not been improved.

No exception was taken to the charge upon the trial. The objection now is that the charge permits the jury to consider the interest of the individuals to whom this road is claimed to be the only means of access to the outer world.

Taking this portion of the charge in connection with what precedes and follows it, I think it fairly advises the jury that the question for them to determine is "whether the road was of sufficient public utility to require or justify its continuance and improvement to such reasonable extent as will render it available for a public road," but that in doing so, regard might be had to the fact that "It is the only means of access of some people to and from their homes."

At the conclusion of the charge, the jury were specifically instructed, "If you decide that under the evidence the necessity and utility of this road outweigh its cost and disadvantages, then your verdict will be in favor of the appellant William Anderson. If, on the other hand, you decide that under the evidence its cost and disadvantages outweigh its necessity or utility, then your verdict will be for the respondent board of supervisors."

The situation of Anderson and his means of access to his premises and the sufficiency of the cartway mentioned, were the subject of extended evidence introduced by both sides. I cannot bring myself to believe that



this was not a proper subject for consideration of the jury. Certainly no jury would disregard it, whatever the charge of the Court. I believe this view is in accord with the authorities.

In DeForest v. Wheeler, 5 Oh.St., 236, it is said:

The private interests and conveniences of ~~the~~ citizens must be considered and must operate very materially upon the determination of the question whether a township road should be vacated.

In Ashcraft v. Lee, 81 N.C., 135, it was held that evidence as to the number of families to be benefited by continuing the road is pertinent and important. The Court says:

The evidence was both material and important as showing how large a number used the road and the inconvenience of depriving them of the facilities it afforded. The whole question was one of public and general convenience, and the consequences of its disuse to those most interested.

But the significant fact in this case is that if the individual interest of William Anderson and others similarly situated cannot be considered, respondent town has no standing in court. The opening of this highway was decreed by this court in 1903. In 1904 it was established by the Board pursuant to this decree. It was never open for travel as a road, and in 1905 it was ordered vacated. The only change in conditions claimed between the former trial and this trial is, that in the meantime William Anderson had been furnished with a cartway which afforded him a means of ingress and egress. The adequacy of this cartway is the only new issue. In other respects the issues were identical on both trials. I believe the better rule to be that a decree for the opening of a highway is, at least, for the time being, res adjudicata as to its utility, that the defeated party cannot immediately and before the conditions have changed or the road even opened nullify the decree of the Court by vacating the road. This is the rule of many well-considered cases and I find none to the contrary.

People v. Griswold, 67 N.Y., 59;  
Miller v. Oakwood Township, (N.D.) 84 N.W., 556;  
Webb v. Rocky Hill, 21 Conn., 468.



In People v. Griswold, (supra) it was held that

The highway statute does not authorize the vacation of a highway because of 'a uselessness' existing at the laying out of it. That has been passed upon by a jury and the use for it found. The same question is not to be at once submitted to another jury. Ordinarily the road must be opened and time must elapse to prove its use or the contrary. We cannot but regard the conduct of the appellant and the applicants to him as an attempt to reverse the determination of the former commissioner rather than as a movement in good faith to discontinue an old road on account of ~~the~~ it having become useless and unnecessary. That action was not based upon a change from the circumstances in which the road was laid out but upon the very same facts as then existed, they asked and obtained from another jury a different certificate thereon. We do not think that is what the statute contemplated.

The above language is applicable here and would ~~be~~ have justified the court in emphasizing more strongly than was done in the charge, the importance to be given to this one new issue and which related to William Anderson alone. I believe there is no error in this portion of the charge.

See also Fohl v. Common Council, 80 Minn., 67 above cited.

Exception is taken to another portion of the charge on the ground that the word "disadvantage" was used. This term is frequently used in the statute and decisions relating to this subject, and I think there is no error in its use here. (Revised Laws, Secs. 1168, 1175.)  
Arbrush v. Town, 27 Minn., 61.

*Hallam J.*

Carver County  
Circuit Court

William Andersson

Down of San Francisco

Order denying motion  
for new trial

CARVER COUNTY,  
FILED

SEP 6 1907

H. O. Muehlberg, Clerk

(427)



State of Minnesota

ss

County of Carver

KNOW ALL MEN BY THESE PRESENTS, That we, William Anderson as Principal, and Aug. Nord and Aug. Brahe as Sureties, all of the County of Carver and State of Minnesota, are held and firmly bound unto John A. Olson, August Johnson and Peter A. Johnson as the Board of Supervisors of the Town of San Francisco in said County and State and their successors in office in the penal sum of Two Hundred and Fifty Dollars, lawful money of the United States of America, to be paid to the Board of Supervisors of said Town of San Francisco, for the payment whereof well and truly to be made we bind ourselves, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our Seals and Dated this 31st day of October A.D. 1905.

Whereas the Supervisors of the Town of San Francisco in said County and State by their Order made and dated on the 12th day of October 1905 and filed in the office of the Town Clerk of said Town on said day vacated a public highway described as follows, viz: Beginning at the point where the line between Sections 7 and 8, Township 114, Range 24, intersects the public highway, being at the corner of Sections 5, 6, 7 and 8, running thence south upon said line between said Sections 7 and 8 a distance of one mile, more or less, to a point where the said line between said Sections 7 and 8 intersects the public highway, being at the corner of Sections 7, 8, 17 and 18, its termination, the line between said Sections 7 and 8 being the center line of said highway.

And Whereas said above bounden William Anderson, feeling himself aggrieved by said determination of said Supervisors in so ~~refusing to~~ vacating said highway appeals from said determination to the District Court of the Eighth Judicial District of the State of Minnesota in and for said County of Carver to reverse entirely the decision of said Supervisors in so vacating said highway.

Now, The Condition of this obligation is such that if said above bounden William Anderson shall pay or cause to be paid all costs arising from his said appeal in case the determination of said Supervisors in so vacating said highway shall be sus-

tained then this obligation to be void, otherwise to be and remain of full force and effect.

IN WITNESS WHEREOF we have hereunto set our hands and seals the day and year aforesaid.

Wm Anderson (seal)

Aug Nord (seal)

Aug. Brahee (seal)

State of Minnesota

ss

County of Carver

Be it known that on this 31st day of October A.D. 1905 before me, a Notary Public, within and for said County and State, personally came William Anderson, Aug Nord and Aug. Brahee to me known to be the identical persons who executed the foregoing instrument, and each acknowledged that he executed the same freely and voluntarily for the uses and purposes therein expressed

Wm Odell

Notary Public, Minn.

My Commission expires July 18, 1907

State of Minnesota

ss

County of Carver

Aug. Brahee and Aug Nord

being first duly sworn, each for himself says, that he is a resident and freeholder of said County and State and is worth the sum of Two Hundred and Fifty Dollars over and above his just debts and liabilities and exclusive of property exempt from execution or attachment under the laws of this State.

Subscribed and sworn to before me  
This 31st day of October A.D. 1905.

Wm Odell  
Notary Public, Minn.

Aug Nord  
Aug. Brahee



District Court  
Carver County

William Anderson  
Appellant

- 74 -

The Supervisors of the Town  
of San Francisco  
Bond on Appeal

I hereby approve the within  
Bond on Appeal and the  
Sureties therein this 31<sup>st</sup>  
day of October, 1905.

J. P. Connolly  
County Auditor,  
Carver County, Minn.

Filed Oct 31<sup>st</sup>  
1905

H. O. Muehlberg  
Clerk Dist. Court

at Carver, Minn.  
(427)

State of Minnesota

County of Carver

Be it known that on this 31<sup>st</sup> day of October A.D. 1905 before me,

Notary Public within and for said County and State, personally appeared William Anderson,

and [Name] and [Name] to be known to be

the identical persons who executed the foregoing instrument, and who acknowledged

State of Minnesota.  
County of Carver.

District Court.  
Eighth Judicial District.

William Anderson.

Appellant.

-vs-

The Supervisors of the Town of  
San Francisco.

Respondent.

Appellant's Costs and Disbursements.

First Trial, September Term 1906.

Jury Fee

\$3.00

Clerk's Fees (to be taxed)

9.97

12.97

Witness Fees:

Names	Residence	No. Days	Dates	No. Miles.	
A. J. Burling	San Francisco.	2	Sent. 26-27-06	22	\$3.32 ✓
Herman Buschke	"	1	" 26-06	24	2.44 ✓
A. Mulberg	"	2	" 26-06	26	3.56 ✓
A. Larson	"	2	" 26-06	24 <i>Not shown</i>	3.44
A. Sandberg	"	2	" 26-06	24	3.44 ✓
J. L. Meldren	"	2	" 26-06	24	3.44 ✓
J. S. Anderson	"	2	" 26-06	24	3.44 ✓
A. Brahee	"	2	" 26-06	24 <i>Not shown</i>	3.44
Al Anderson	"	1	" 26-06	24 " "	2.44
L. J. Anderson	"	2	" 26-06	24 " "	3.44
J. A. Linstrum	"	1	" 26-06	24 " "	2.44

19.64

Second Trial, March Term 1907.

Statutory Costs

\$10.00

Sheriff

9.00

Jury

3.00



Clerk's Fees (to be taxed)  
Affidavits

12.65

\$ .50

35.15

Witness Fees:

Names	Residence	No. Days	Dates	No. Miles	
✓ A. J. Burling	San Francisco	1	March 6-07	22	\$ 2.32 ✓
✓ H. Ruschke	"	1	" 6-07	24	Not sworn 2.44
✓ A. Melberg	"	1	" 6-07	26	2.56 ✓
✓ A. Larson	"	1	" 6-07	24	Not sworn 2.44
✓ A. Sandberg	"	1	" 6-07	24	" " 2.44
✓ J. L. Meldren	"	1	" 6-07	24	" " 2.44
✓ J. S. Anderson	"	1	" 6-07	24	" " 2.44
✓ E. Bolmer	Charlton	1	" 6-07	2	1.12 ✓
John Peglow	"	1	" 6-07	2	1.12 ✓
A. Brahee	San Francisco	1	" 6-07	24	Not sworn 2.44
Al Anderson	"	1	" 6-07	24	" " 2.44
L. J. Anderson	"	1	" 6-07	24	" " 2.44
L. A. Linstram	"	1	" 6-07	24	" " 2.44

The above Bill of Costs and Disbursements taxed and allowed at

7.12

Total Amount

\$ 74.88

Dated June 13, 1908

H. O. Muehlberg  
Clerk.

State of Minnesota,  
County of Carver SS.

W. C. Odell being duly sworn, says on oath, that he is the Attorney of the Appellant in the above entitled action; that the foregoing is a true and correct statement of the costs and disbursements of said Appellant in the above entitled action, and that the foregoing items of disbursements, and each item thereof, have been actually and necessarily paid or incurred therein, by and on behalf of said appellant; and that each of the above named witnesses was a material witness for the said appellant in said action, and was duly sworn, and testified on the trial of said action, on behalf of said appellant. That each of said witnesses actually and

necessarily traveled the number of miles above set opposite his name, in going from his said place of residence to, and returning to said place of residence from, the place of trial of said action, and for the purpose of so testifying, actually and necessarily attended said Court the number of days and on the dates hereinbefore stated; and that the residence of each of said witnesses is at the place above stated.

*W. C. Ball*

Subscribed and sworn to before me this

8th day of June 1908.

*Shos F. Crover*

Notary Public, Carver County, Minn.



NOTICE OF TAXATION OF COSTS.

State of Minnesota  
County of Carver.

SS.

District Court,  
Eighth Judicial District.

-----  
William Anderson.

Appellant.

-vs-

The Supervisors of the Town of  
San Francisco.

Respondent.  
-----

Sir: Please Take Notice, That on the 13th day of June 1908 at 10 o'clock A. M., application will be made to H. O. Muehlberg, Esc., Clerk of said Court, at his office in the Court House in the City of Chaska in the County of Carver and State of Minnesota, to have the within bill of costs and disbursements taxed and inserted in the judgment then and there to be entered herein.

Dated June 8th 1908.

Yours respectfully,

W. C. Bull

Attorney for Appellant.

To

F. J. Leonard, Esc.,

Attorney for Respondent.

State of Minnesota<sup>ss.</sup>  
County of Carver.

W. C. Odell, being first duly sworn says that on the 9th day of June 1908  
he served the within Bill of Costs and Disbursements and Notice of Taxation on F. J. Lemmon Esq.  
attorney for Defendant by mail,  
subscribed and sworn to before me }  
this 11th day of June A.D. 1908.

W. C. Odell

F. O. Muehlberg  
Clerk Dist. Court.



District Court  
County of Carver.

William Anderson  
Appellant

-vs-

The Supervisors of the Town  
of San Francisco.  
Respondent.

Bill of Costs & Disbursements  
and Notice of Sale

CARVER COUNTY,  
FILED

JUN 18 1908

H. O. Muehlberg, Clerk.

(427)

W. C. Mullen

Attorney for Appellant

State of Minnesota, }  
County of Cass: }

District Court,  
8th Judicial Dist.

William Anderson, Appellants.

<sup>vs.</sup>  
The Supervisors of the Town of  
San Francisco, Respondent.

— 0 —  
Objections to taxation of certain items of costs  
proposed to be taxed and entered in the judg-  
ment herein.

— 0 —  
Now comes the above named respondent and  
objects to all of the items of costs proposed to be  
taxed by appellant herein and covering the second  
trial, except the items covering the witnesses A. J.  
Curling, A. Melberg and F. Bullmer, for the reason  
that not any of the other "witnesses", so called, were  
sworn nor did they, or any of them, give  
testimony on the trial of said action, and  
except the statutory, sheriff, jury + affidavits and  
clerk's fees.  
Respondent also objects to the taxation and allow-  
ance herein of all the items of costs proposed to be  
taxed and covering the first trial herein, except  
those proposed to be taxed for the witnesses, Herman  
Ruschke, A. Melberg, A. Sandberg, J. L. Mellgren and  
J. S. Anderson for the reason that none of the  
others mentioned were sworn or testified on the  
trial of said action, and except the jury  
and clerk's fees to be taxed.

Dated June 13, 1908.

J. Leonard.  
Atty. for Resp.,  
Jordan, Minn.



Carver County  
District Court.

— v —  
Mrs. Anderson,  
Appl.

vs.  
Town of San Fran-  
cisco, Resp.

— v —  
Objections to  
Taxation of costs.  
— v —

CARVER COUNTY,  
FILED

JUN 18 1908

H. O. Muehlberg, Clerk.

(427)

State of Minnesota,  
County of Carver.

District Court,  
Eighth Judicial District.

William Anderson,

Appellant.

-vs-

The Town of San Francisco,

Respondent.

This cause having been duly brought on for trial at the General March 1907 term of this Court, before a jury duly empanelled and sworn; and said jury, having by its verdict, duly returned and filed, found and determined that the road in controversy in said proceedings was of public benefit and utility and reversed the action of said respondent in vacating the same.

Now, On Motion of W. C. Osell, Attorney for said Appellant. It is Ordered, Adjudged and Determined that that certain highway in controversy in this action, to-wit, a highway described as follows, viz; beginning at the point where the line between Sections 7 and 8 of Township 114, Range 24 intersects the public highway, being at the corner of Sections 5, 6, 7 and 8, running thence south of said line between Sections 7 and 8 a distance of one mile, more or less, to a point where the said line intersects the public highway, being at the corner of Sections 7, 8, 17 and 18 its termination, is of public benefit and utility, and that the order of the Supervisors of said respondent town bearing date the 12th day of October 1905 and purporting to have been filed in the office of the Town Clerk of said Town on said day wherein and whereby said highway was vacated and discontinued, be and the same hereby is in all things reversed and annulled.

And, On Like Motion It is further Ordered and Adjudged that said appellant have and recover from said defendant his costs and disbursements in this action, taxed and allowed at the sum of \$74.88, and that he have his lawful process therefor.

By the Court,

*H. O. Muehlberg*  
Clerk.



District Court.  
County of Carver.

William Anderson  
Appellant.

- vs -

The Supervisors of the  
Town of San Francisco,  
Respondent.

Judgment Roll.

CARVER COUNTY,  
FILED

JUN 13 1908.

H. O. Muehlberg ... Clerk.

(427)

101 *Appts Ex B*

## ROAD PETITION.

TO THE SUPERVISORS OF THE TOWN OF SAN FRANCISCO IN THE COUNTY OF CARVER AND STATE OF MINNESOTA;

The undersigned legal voters who are residents and free holders of said Town within three miles of the road to be ~~abandoned~~ vacated hereby petition you to vacate that part of a certain public highway in said Town described as follows: Beginning at the point where the line between sections 7 and 8, Township 114, Range 24 intersects the public highway, being at the corner of sections 5, 6, 7, and 8, running thence south upon said line between said sections 7 and 8 a distance of one mile more or less to a point where said line between said sections 7 and 8 intersect the public highway, being at the corner of sections 7, 8, 17 and 18, its termination; the line between said sections 7 and 8 being the center line of said highway.

The description of the lands over which the said road proposed to be vacated passes and the names of the owners thereof, which are known, as well the lands, the names of whose owners are unknown, are as follows:

Owners of lands.	Description of lands.	Sec.	Town	Range
Jo. S. Anderson	: N. 1/2 of N.W. 1/4 of N.W. 1/4	: 8	: 114	: 24
John G. Johnson	: S. 1/2 of N.W. 1/4 of N.W. 1/4	: 8	: 114	: 24
Jo. S. Anderson	: S.E. 1/4 of N.E. 1/4	: 7	: 114	: 24
Wm. Anderson	: S.W. 1/4 of N.W. 1/4	: 8	: 114	: 24
Emma Sandberg	: E. 1/2 of N.E. 1/4 of S.E. 1/4	: 7	: 114	: 24
August Tengblad	: W. 1/2 of S.W. 1/4	: 8	: 114	: 24
August Larson	: S.E. 1/4 of S.E. 1/4	: 7	: 114	: 24
John G. Johnson	: N.E. 1/4 of N.E. 1/4	: 7	: 114	: 24

And your petitioners pray that you will proceed to vacate said road and cause the same to be vacated according to law.

Dated at San Francisco, County of Carver and State of Minnesota this day of August 1905.

Names.

Names.

*J. G. Johnson* : *E. A. Sandberg*  
*Jo. S. Anderson* : *John G. Johnson*  
*Emma Sandberg* :



OFFICE AND DEPT. OF MINNESOTA.

TO THE SUPERVISORS OF THE BOARD, FOR REVENUE IN THE COUNTY OF  
HOLD BELIEVE.

NAMES	:	NAMES.
J. P. Felt	:	M. J. Johnson
Richard L. Linn	:	Ed. Thielberg
C. H. Linn	:	J. A. R. Johnson
Peter. Klund	:	L. L. Johnson
John A. Hillstrom	:	Peter. Hjortstam
E. P. Hjortstam	:	E. J. Johnson
C. A. Carlsson	:	Mrs. Anton Berg
N. H. Johnson	:	G. J. Swanson
E. W. Hillstrom	:	E. M. Swanson
Alfred. Smith	:	James. L. Swanson
John. A. R. Linn	:	Frank. Thielberg
Ed. L. Hillstrom	:	E. P. Johnson
John. A. Hillstrom	:	August. Johnson
Al. L. Hillstrom	:	John. A. Hillstrom
E. J. Hillstrom	:	
E. W. Hillstrom	:	
	:	
	:	
	:	
	:	

State of Minnesota  
County of Carver } ss  
Town of Sau Francisco }

John G. Johnson being duly sworn says,  
that on the 24<sup>th</sup> day of August 1905, he posted copies  
of the within petition in three of the most public  
places of said Town viz: One at the Cross road  
at East Union, on a post; One at the Cross road  
next South of West Union Church, on a post -<sup>nd</sup>  
One at the Cross road of the Dahl & Henderson road,  
on a tree.

J. G. Johnson  
Subscribed & sworn to before me, this 24<sup>th</sup>  
day of August A.D. 1905.

A. J. Burling  
Town Clerk

23075



Road Petition.

For vacating a road  
running between sections 7 & 8,  
1 mile, more or less.

Filed this 24<sup>th</sup> day of  
August A.D. 1905.

A. J. Burling  
Town Clerk

The prayer of the within  
petition is hereby granted  
this 12<sup>th</sup> day of Oct. 1905.

John O. Olson  
August Johnson } Supervisors  
Peter F. Johnson }

## ROAD PETITION.

To the Supervisors of the Town of San Francisco in the County of Carver and State of Minnesota:

The undersigned, legal voters who own real estate, or who occupy real estate under the Homestead or Pre-emption Laws of the United States or under contract from the State of Minnesota, within two miles of the road to be laid out hereby petition you to lay out and establish a public highway as follows: Beginning at the point where the line between Sections 7 and 8 of Township No. 114 Range 24 intersects the public highway, being at the corner of Sections 5, 6, 7 and 8, running thence south upon said line between said Sections 7 and 8 a distance of one mile, more or less, to a point where said line between said Sections 7 and 8 intersects the public highway, being at the corner of Sections 7, 8, 17 and 18, its termination; the line between said Sections 7 and 8 to be the center line of said highway.

The description of the lands over which the said road passes and the names of the owners thereof, which are known, as well as the lands the names of whose owners are unknown, are as follows:

OWNERS OF LANDS	DESCRIPTION OF LANDS	SEC.	TOWN	RANGE
J. S. Anderson	N1/2 of N.W.1/4 of N.W.1/4	8	114	23
John Johnson	S.1/2 of N.W.1/4 of N.W.1/4	8	114	23
Wm. Anderson	S.E.1/4 of N.E.1/4	7	114	23
	S.W.1/4 of N.W.1/4	8	114	23
Ma Sandberg	E.1/2 of N.E.1/4 of S.E.1/4	7	114	23
August Tingblad	W.1/2 of S.W.1/4	8	114	23
August Larson	S.E.1/4 of S.E.1/4	7	114	23
John Johnson	N.E.1/4 of N.E.1/4	7	114	23

And your petitioners pray that you will proceed to lay out and establish said road and cause the same to be opened according to law.

ted at Sanfrancisco August A.D. 1902.

Wm. Anderson A. E. Felt John Nelson  
 Alfred Sandberg Aug. Brahe M. Edling  
 August <sup>son</sup> ~~son~~ <sup>here</sup> ~~son~~ Dr. Wandqvist <sup>son</sup> ~~son~~ <sup>son</sup> ~~son~~  
 Mary <sup>son</sup> ~~son~~ <sup>son</sup> ~~son~~ J. L. Mollgren S. Edblom <sup>son</sup> ~~son~~ <sup>son</sup> ~~son~~  
 S. Anderson H. Rasmussen J. S. Hallin  
 B. Anderson A. A. Mollberg  
 L. J. Anderson J. E. Filodini <sup>son</sup> ~~son~~ <sup>son</sup> ~~son~~  
 J. L. Lundborg J. E. Filodini <sup>son</sup> ~~son~~ <sup>son</sup> ~~son~~  
 A. S. Anderson Jacob Karman  
 Hans Johanson D. A. Sandqvist



State of Minnesota }  
 County of Carver } ss  
 Town of San Francisco

ROAD PETITION

I, *John Anderson*, being duly sworn, say that on the 26th day of August 1902, I presented a petition of the within petitioners in three of the most public places of said Town, viz: *East Main* on *quince road* and *one at the Town Hall*.

*John Anderson* being duly sworn, say that on the 26th day of August 1902, I presented a petition of the within petitioners in three of the most public places of said Town, viz: *East Main* on *quince road* and *one at the Town Hall*.

The description of the lands over which the said road passes and the names of the owners thereof, which are known, as well as the lands the names of whose owners are unknown, are as follows:

OWNERS OF LANDS	DESCRIPTION OF LANDS	SEC.	TOWN	RANGE
John Anderson	1/2 of N.W. 1/4 of N.W. 1/4	8	114	38
John Johnson	2 1/2 of N.W. 1/4 of N.W. 1/4	8	114	38
John Anderson	2 1/2 of N.W. 1/4	7	114	38

Appts Ect A

Road Petition

By Wm Anderson  
Jd others

September 17/1902

The within petition

Rejected on account

of it being irregular

in form

Andrew Wallace

Gustaf Johnson

John Olson Beatt

The above action was on motion

considered, etc. of the day of Oct.

1902

Andrew Wallace

John Olson Beatt

Gustaf Johnson

Supervisors

Filed in my office  
this 30<sup>th</sup> day of Aug 1902

A. J. Burling  
Town Clerk

297.



Ownership and Description of Lands as given in the Petition.

OWNERS OF LANDS	DESCRIPTION OF LANDS	Section.	Town.	Range.
Jo. S. Anderson	N $\frac{1}{2}$ of NW $\frac{1}{4}$ of NW $\frac{1}{4}$	8	114	24
John G. Johnson	S $\frac{1}{2}$ of NW $\frac{1}{4}$ of NW $\frac{1}{4}$	8	114	24
Wm. Anderson	SE $\frac{1}{4}$ of NE $\frac{1}{4}$	7	114	24
Wm. Anderson	SW $\frac{1}{4}$ of NW $\frac{1}{4}$	8	114	24
Emma Sandberg	E $\frac{1}{2}$ of NE $\frac{1}{4}$ of SE $\frac{1}{4}$	7	114	24
August Tengblad	N $\frac{1}{2}$ of SW $\frac{1}{4}$	8	114	24
August Larson	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	7	114	24
John G. Johnson	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	7	114	24

The names of the Petitioners, the places where, and the time when the copies of the Petition and of the Supervisors' Notice of hearing were posted; and the names of persons served with the Supervisors' Notice, and how served, personally or "by copy," are as follows, viz:

NAMES OF PETITIONERS.	Petition and Notices, When and Where Posted.	Supervisors' Notice on Whom Served.	How Served.
Jo. S. Johnson Anderson August Emma Sandberg Wm. A. P. Johnson W. P. Pelt August Lund C. H. Olson Peter Kliven Jr. A. Hillstrom E. Hogstad C. P. Carlson J. H. Johnson E. P. Hillstrom William Smith Olson Bratt Hurtig J. H. Johnson C. Sandquist G. P. Hurtig Wm. Nelson August Johnson A. Friberg	Petition was posted by John G. Johnson on the 24 <sup>th</sup> day of Aug. 1905; one at the cross road at East Union, on a post; one at the cross road next south of West Union Church, on a post; and one at the cross road of the Dahl & Henderson road, on a tree.  Supervisors' Notice of Hearing was posted by Peter Kliven Jr. on the 14 <sup>th</sup> day of September 1905, at the above named places where petition was posted.	John G. Johnson Wm. Anderson Emma Sandberg August Tengblad August Larson Jo. S. Anderson	By Copy given to them personally in hand  By Copy given to his wife at their residence

State of Minnesota, County of Carver Town of Sankrancien ss:

legal voters who own real estate or who occupy real estate under the Homestead or Pre-emption Laws of the United States, or under contract from the State of Minnesota, within <sup>Three</sup>~~one~~ mile of said road; which said road..... is set forth and described in the foregoing Supervisors' Order, made by us, ~~and~~

Whereas, a part of the damages sustained by reason of the laying out ..... said road has been ascertained by the agreement of the owners of the lands through which said road passes, with us, and a part of the owners of the said lands have in writing released all claims to damages, but not being able to agree with the owners of the following described lands, claiming damages by reason of said highway passing through, and the owners of some of the said lands being unknown, we have assessed the damages to each of such individual claimants with whom we could not agree, and awarded damages to the owners of such lands through which such highway passes as are unknown, at what we deemed just and right; taking into account and estimating the advantages and benefits the road will confer on the claimants and owners, as well as the disadvantages. We have assessed and awarded damages as follows:

And in case of the following lands and claimants for damages, we estimate that the advantages and benefits said road will confer on them are equal to all damages sustained by them by reason of ~~laying out~~ <sup>the vacation of</sup> ~~vacating~~ <sup>^</sup> said road, to-wit:

OWNERS OF LANDS.	DESCRIPTION OF LANDS.	Sec.	TOWN.	RANGE.
J. S. Anderson	N 1/2 of NW 1/4 of NW 1/4	8	114	24
- G. Johnson	S 1/2 of NW 1/4 of NW 1/4	8	114	24
W. S. Anderson	S. E. 1/4 of NE 1/4	7	114	24
" "	S NW 1/4 of NW 1/4	8	114	24
Emma Sandberg	E 1/2 of NE 1/4 of S E 1/4	7	114	24
August Tengblad	N 1/2 of S NW 1/4	8	114	24
Robert Larson	S E 1/4 of S E 1/4	7	114	24
- G. Johnson	NE 1/4 of NE 1/4	7	114	24

Given under our hands this 12<sup>th</sup> day of October 1905 A. D. 188

John Olson  
Ragnar Johnson.  
Peter H. Johnson

Supervisors.



STATE OF MINNESOTA, County of Carver Town of Sauvage ss :

Whereas, upon the petition of thirty-five legal voters, who own real estate, or who occupy real estate under the homestead or pre-emption laws of the United States, or under contract from the State of Minnesota, within three miles of the road proposed in said petition to be vacated, copies of said petition having been first duly posted up in three of the most public places of said Town, at least twenty days before any action was had in relation thereto, proof of which posting was duly shown to us by affidavit; which said road to be vacated is set forth and described in said petition as follows, viz: Beginning at the point where the line

between Sections 7<sup>th</sup> & 8<sup>th</sup>, Township 114, Range 24 intersects the public highway, being at the corner of Sections 5, 6, 7<sup>th</sup> & 8<sup>th</sup>, running thence South upon said line between said Sections 7<sup>th</sup> & 8<sup>th</sup> a distance of one mile, more or less, to a point where said line between said Sections 7<sup>th</sup> & 8<sup>th</sup> intersects the public highway, being at the corner of Sections 7, 8, 17<sup>th</sup> & 18, its termination; the line between said Sections 7<sup>th</sup> & 8<sup>th</sup> being the center line of said highway.

And Whereas, upon receiving said petition, we did, within thirty days thereafter, make out a notice and fix therein a time and place at which we would meet and decide upon such application, to-wit: on the 25<sup>th</sup> day of September A. D. 1905, at the north end of the above described road causing copies of such notice to be posted in three public places in said Town at least ten days previous to such meeting; and having met at such time and place as above named in said notice, and being satisfied that the applicant had, at least ten days previous to said time, caused said notice of time and place of meeting to be given to all the occupants of the land through which such proposed to be vacated highway highway passed by serving the same personally or by left at the usual place of abode of each of said occupants, proof of which was shown by affidavit, we proceeded to examine personally such highway, and heard any and all reasons for or against vacating the same, and being of the opinion that such vacation was necessary and proper, and that the public interest would be promoted thereby, we granted the prayer of said petitioners, and determined to vacate said road, and caused a survey thereof to be made according to the report and plat herewith accompanying, the description of which as so vacated is as follows, to-wit: Beginning at the point where the line between Sections

7<sup>th</sup> & 8<sup>th</sup>, Township 114, Range 24 intersects the public highway, being at the corner of Sections 5, 6, 7<sup>th</sup> & 8<sup>th</sup>, running thence South upon said line between said Sections 7<sup>th</sup> & 8<sup>th</sup> a distance of one mile, more or less, to a point where said line between said Sections 7<sup>th</sup> & 8<sup>th</sup> intersects the public highway, being at the corner of Sections 7, 8, 17<sup>th</sup> & 18, its termination; the line between said Sections 7<sup>th</sup> & 8<sup>th</sup> being the center line of said highway.

It is therefore Ordered and Determined that the road above described a road be, and the same is hereby vacated and established according to the description last aforesaid, and the report and plat herewith accompanying, which is hereby made part of this Order, and it is hereby declared to be a public highway vacated the full 4 rods wide, the said description above given being the center of said vacated road.

Given under our hands, this 12<sup>th</sup> day of October A. D. 1905.

John A. Johnson  
August Johnson  
Peter A. Johnson

Supervisors.

SUPERVISORS'  
**Road Order.**

(Copyright, 1880, by Walter S. Booth.)

Filed the 12<sup>th</sup> day of

October 1908

A. J. Burling

Town Clerk.

The Town Clerk must not record this Order within 30 days after filing, and not then, if an appeal has been taken until the order is confirmed on appeal. But if no appeal is taken, or if on appeal this order is confirmed, it together with the award must be recorded and then transmitted to the County Auditor, to be filed and preserved by him.

*Supers Ex C*



STATE OF MINNESOTA, } ss.  
COUNTY OF CARVER.

DISTRICT COURT,  
EIGHTH JUDICIAL DISTRICT.

No. 2392

THE STATE OF MINNESOTA

TO *A. J. Burling, John A. Olson, Peter A. Johnson, Peter Klevan, Aug Johnson & John A. Lindberg*  
In the name of the State of Minnesota, we command you, that all business and excuses being laid

aside, you, and each of you, appear and attend before the Judge of the said Court, at a Court to be held  
in the Court House in Chaska, in and for the County of Carver, on the *26<sup>th</sup>*  
day of *September* A. D. *1906*, at *9* o'clock in the forenoon, to testify in a  
certain action now pending in the District Court, then and there to be tried, between

*William Anderson* *Appl* *plaintiff*, and  
*The Supervisors of town of San Francisco* *Respt* *defendant* on  
the part of the *Respt.* and remain in attendance till said cause is disposed of; and  
for failure to attend you will be deemed guilty of contempt of Court, and liable to pay all loss and  
damages sustained thereby to the party aggrieved.

WITNESS The Hon. *P. W. MORRISON* *Francis Cadwell*, Judge of said Court, at Chaska,  
this *24<sup>th</sup>* day of *Sept* A. D. *1906*

Seal.

*H. O. Muehlberg* Clerk.

*E. J. Leonard* Attorney.

STATE OF MINNESOTA, }  
CARVER COUNTY. } ss.

DISTRICT COURT,  
EIGHTH JUDICIAL DISTRICT.

I HEREBY CERTIFY And return that I served the within Subpoena on the within named  
John A. Lundberg by reading said Subpoena to him in his  
presence, in County and State aforesaid, on this 24<sup>th</sup> day of Sep 1916

G. B. Galt  
Sheriff of Carver County.

Fees 3.20

By \_\_\_\_\_ Deputy Sheriff.



No.

**DISTRICT COURT,**  
EIGHTH JUDICIAL DISTRICT.

STATE OF MINNESOTA,  
COUNTY OF CARVER.

*Wm. Anderson*

AGAINST

*Supervisors of the Town  
of San Francisco*

**SUBPENA.**

Issued

*Sept 24<sup>th</sup> 1896*

*H. O. Muehlberg*

Clerk District Court.

RETURNED AND FILED

*Oct. 12<sup>th</sup> 1896*

*H. O. Muehlberg*

Clerk.

On part of

*Respt.*

*Received from Aug. Johnson  
# 520 Paid \$32. Box 104*

No. 3043.

(57)  
DISTRICT COURT,

Eighth Judicial District,  
County of Carver

William Anderson  
Appellant

The Supervisors of the Town of  
San Francisco - Respondent

NOTE OF ISSUE

Issue of Fact  
LAST PLEADING SERVED

Nov. 3, 1905

W. B. & W. S. Odell  
Attorney for Plaintiff  
Appellant

Attorney for Defendant

Will the Clerk please file this Note of  
Issue, and enter the cause on the Calen-  
dar for the March  
A. D. 1906 General Term  
of this Court.

Yours respectfully,

W. B. & W. S. Odell  
Attorney for Appellant

Filed Feb 24<sup>th</sup> 1906

(427.)  
HILLER & VINCENT, COM. PRINTER



STATE OF MINNESOTA,

DISTRICT COURT,

County of Carver.

Eighth

Judicial District.

William Anderson

Appr.

Plaintiff

No. 2.

Against

List of Jurors.

The Supervisors of the Town  
of San Francisco,Resp.  
Defendant

Attorneys Mark Here	NAMES	REMARKS
	1 <del>Gust Hartig</del>	excused
	2 <del>C. J. Smith</del>	excused
	3 <del>F. J. Truwer</del>	excused
	4 Casper Kapp	
	5 Geo. Goodridge	
	6 Henry H. Tustus	
	7 Jacob Hill	
	8 <del>P. H. Simons</del>	Resp. 1
	9 <del>Geo. Siegle</del>	Appel 1
	10 J. B. Johnson	
	11 <del>R. J. Neunsinger</del>	excused
	12 <del>H. Lindloff</del>	Resp. 2
	13 Andrew Matheson	
	14 <del>L. W. Werner</del>	excused
	15 Adolph Splittstorfer	
	16 Chas. Lobitz	
	17 <del>Wm. Abrahamson</del>	excused
	18 A. J. Truwer	
	19 Wm. Schwie	
	20 Henry Buesgens	
	21 L. Vlekman	
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No. ....

STATE OF MINNESOTA,

County of *Carver*

DISTRICT COURT.

*William Anderson*

*Appell*  
Plaintiff

Against

*The Supervisors of the*  
*Town of San Francisco*  
Defendant  
*Roper*

JURY LIST.

CARVER COUNTY,  
FILED

SEP 28 1906

*H.O. Muehlberg* Clerk

PIONEER PRESS CO., ST. PAUL, MINN.



STATE OF MINNESOTA,

DISTRICT COURT,

County of Carver

Eighth

Judicial District.

William Anderson

Applt

Plaintiff

No. 1.

Against

List of Jurors.

The Supervisors of the  
Town of San Francisco

Respt. Defendant

Attorneys Mark Here

NAMES

REMARKS

1	Ernest Kunze	
2	Aug. Johnson	excused
3	Chas. Roth	excused
4	J. P. Brinkhaus	Respt. Per. 1
5	B. Anhalt	excused
6	John Noll	
7	August Kasse	
8	Alfred Nord	excused
9	Peter Kleron	excused
10	John Watkins Jr	
11	E. Holt	excused
12	Fred Luthling Sr.	
13	Peter Staerk	excused
14	Alburt Grande	
15	L. H. H. H.	excused
16	L. J. Dole	Respt. Per. 2
17	Chas. Lundeen	
18	H. K. Gunn Berge	
19	H. D. Mielke	
20	P. M. Schepers	
21	Otto Pieper	
22	Norman Heuer	
23		
24		
25		
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28		
29		
30		

No.

STATE OF MINNESOTA,

County of *Carver*

DISTRICT COURT.

*William Anderson*

*Appl.*

*Plaintiff*

Against

*The Supervisors of the  
Town of San Francisco.*

*Defendant  
Respondent*

JURY LIST.

CARVER COUNTY,  
FILED

MAR 7 1907

*H. O. Muehlberg* *Clerk*

PIIONEER PRESS CO., ST. PAUL, MINN.



State of Minnesota,  
County of Carver.

District Court,  
Eighth Judicial District.

-----:  
William Anderson, Appellant,  
-----  
The Town of San Francisco, Respondent.  
-----:

State of Minnesota,  
County of Carver.

F.J. Leonard being first duly sworn deposes and says, that he is the attorney for the respondent above named; that said cause was tried at the General March 1907 term of said court before Hon. Oscar Hallam, one of the Judges of the Second Judicial District of said state, acting in the place and stead of Hon. P.W. Morrison, Judge of said court, and a jury; that a verdict in said cause was rendered by said jury the 7th day of Mar. 1907 in favor of said appellant and against said respondent, reversing the order of the Town Board of said respondent in vacating a certain highway of said Town, and herein in controversy; that a stay of proceedings in said matter was, on said 7th day of Mar. 1907, granted for a period of 40 days therefrom.

That, on the 9th day of Mar. 1907, a transcript of the evidence, given on the trial of said action, was ordered to be made by C.G. Bowditch, the short hand court reporter of said court, and at the same time copies of the exhibits, used in evidence on said trial, were ordered to be made

H.O. Muehlberg, the clerk of said court, who promised to furnish the same.

That said affiant did not receive the transcript of the evidence herein from said court reporter till the evening of the 9th day of April 1907, although said affiant had urged said reporter to furnish it as early as possible both by personal interviews with him on Mar. 29, 30, 31 and April 4, 1907 and by letter April 9, 1907; but that on account of said court reporter being part of the time engaged in court as such reporter since the 9th day of Mar. 1907, and having to get out transcripts of the evidence given in cases that were tried before the one above entitled, and which transcripts were ordered before Mar. 9, 1907, said court reporter was not able to furnish, as affiant believes and charges the fact to be, a transcript of the evidence herein before said Mar April 9, 1907;

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OFFICE OF CLERK  
STATE OF MINNESOTA

ST. PAUL DISTRICT  
DISTRICT COURT

that upon receiving the evidence so transcribed herein, and of about 150 pages, said affiant immediately proceeded to prepare a settled case therefrom, and had settled case (in so far as the evidence furnished by said court reporter was concerned) ready for service Mar. 13, 1907.

That said clerk of court did not furnish copies of said exhibits as promised, although his attention was called to the urgent need of doing the same by said affiant both by personal interviews on April 3, 1907 and April 13, 1907, and by letter April 10, 1907, but instead thereof mailed said exhibits to said affiant for the latter to make copies, and they were so received by said affiant April 15, 1907.

That a case herein will have to be settled and motion for a new trial herein made before said Hon. Oscar Hallam, at St. Paul, Minn., and that such motion can only be entertained on Saturdays, and that said motion and settled case is all prepared and ready to serve for such settlement and motion to be so made on the 27th day of April 1907; that, in order to settle such case and make such motion, it will be necessary to get an order of the above court, or the judge thereof, granting a further stay of proceedings herein and for leave, during such stay, to settle said case and make said motion, and the same will be then so made and done.

Wherefore, said affiant prays, the order of said court herein granting and ordering a further stay of proceedings herein and allowing and permitting said respondent, during such time, to settle a case herein and make a motion for a new trial herein.

Subscribed and sworn to before me this 16th day of April, 1907.

*F. J. Leonard*  
*J. J. Donnelly*  
*County Auditor*  
*St. Paul, Minn.*

ORDER.

Upon reading and filing the affidavit of F. J. Leonard hereto attached, the contents thereof appearing to me to be true, and upon motion of F. J. Leonard, attorney for said respondent, it is--

ORDERED, that leave be, and the same is hereby, granted to said respondent to have a case settled and move for a new trial herein within 20 days from the date hereof, and for such purpose a stay of proceedings is hereby granted for 20 days from the date hereof.

Dated April 16, 1907.

*Paul Hallam*  
Judge.



State of Minnesota,  
County of Carver,  
District Court

Wm. Anderson, Appt.

<sup>r</sup>  
Town Supervisors of  
San Francisco, Resp.

Affidavit and Order  
staying proceedings &c

CARVER COUNTY,  
FILED

APR 16 1907

H. O. Muehlberg  
(427)

F. J. Leonard  
Atty. for Resp.,  
Jordan, Minn.

The Respondent requested the following instructions to be given the Jury.

1. The main contention on the part of the appellant is that the road is a public necessity and for that reason should continue to exist. To be a public necessity it must be demanded by more than a few private individuals who occasionally use the road. It must be a necessity from the people generally and in common.

2. If the cost and expense of putting the road in a passable condition and then keeping it in repair exceed the benefit that the public may derive from its continuance, the road then does not become a public necessity and the Town Board was justified in vacating it and your verdict must be for the Respondent.

*Refused.*



did not go for the photograph.

and the two boys were taken to the station at New York City. They were taken from the station and the boys were not seen for some time. The boys were taken from the station and the boys were not seen for some time. The boys were taken from the station and the boys were not seen for some time.

It is the only one of the boys who was taken to the station.

and the boys were taken to the station. It is the only one of the boys who was taken to the station. The boys were taken from the station and the boys were not seen for some time. The boys were taken from the station and the boys were not seen for some time. The boys were taken from the station and the boys were not seen for some time.

and the boys were taken to the station. It is the only one of the boys who was taken to the station.

ARVER COUNTY, FILED  
SEP 27 1906  
H.O. Muehlberg  
(427)

OWNERSHIP AND DESCRIPTION OF LANDS AS GIVEN IN THE PETITION.

OWNERS OF LANDS	DESCRIPTION OF LANDS	SECTION	TOWN	RANGE
John B. Johnson	NE <sup>1</sup> / <sub>4</sub> of NE <sup>1</sup> / <sub>4</sub>	7	114	24
John P. Lundgren	NE <sup>1</sup> / <sub>4</sub> of NE <sup>1</sup> / <sub>4</sub>	7	114	24
" "	NE <sup>1</sup> / <sub>4</sub> of NE <sup>1</sup> / <sub>4</sub>	7	114	24
Wm Anderson	SE <sup>1</sup> / <sub>4</sub> of NE <sup>1</sup> / <sub>4</sub>	7	114	24

The names of the Petitioners, the places where, and the time when the copies of the Petition and of the Supervisors' Notice of Hearing were posted; and the names of persons served with the Supervisors' Notice, and how served (personally or "by copy"), are as follows, viz:

NAMES OF PETITIONERS	PETITION AND NOTICES, WHEN AND WHERE POSTED	SUPERVISORS' NOTICE, ON WHOM SERVED	HOW SERVED
Gavin Anderson	Petition posted 25 <sup>th</sup> & 26 <sup>th</sup> of November 1904, one at E. Lake's cross road, on a tree, one at the T road next South of West Union Church on a post and one at East Union on a post.	John B. Johnson	By Copy given to him personally
P. Felt		John P. Lundgren	By Copy given to him personally
G. Johnson		William Anderson	By Copy given to him personally
John Almqvist			
Gust Johnson			
J. E. Bodin			
L. Wanguist			
Alfred Lund			
J. S. Hallin			
	Notice of Hearing posted Dec. 23 <sup>rd</sup> 1904 at above named place where petition was posted.		



State of Minnesota, County of Crow Town of San Francisco SS:

Whereas, Upon the petition of eight legal voters who own real estate or who occupy real estate under the homestead or pre-emption laws of the United States, or under contract from the State of Minnesota, within two (2) miles

of the road proposed in said petition to be laid out; which said petition was filed with the Town Clerk previous to the time of posting copies thereof, and copies of said petition having been first duly posted up in three of the most public places of said Town, at least twenty days before any action was had in relation thereto, proof of which posting was duly shown to us by affidavit; which

said proposed public Cartway two rods wide is set forth and described in said petition as follows, viz: Beginning at the public Cartway at the N.E. corner of the N.W.  $\frac{1}{4}$  of the N.E.  $\frac{1}{4}$  of Sec. 7, Town One Hundred-fourteen (114) Range Twenty-four (24), running thence South on the line between the East and West halves of the said N.E.  $\frac{1}{4}$  of Sec. 7, Eighty (80) rods, more or less, thence South on the said line forty (40) rods, thence S.E. Twenty-four (24) rods to a point 10  $\frac{1}{2}$  rods West of the line between the East and West halves of the above named N.E.  $\frac{1}{4}$ , thence S.E. Thirteen and one fourth (13  $\frac{1}{4}$ ) rods to the aforesaid line, thence South on said line seven (7) rods to a point forty (40) rods North of the line between the N.E.  $\frac{1}{4}$  and the S.E.  $\frac{1}{4}$  of Sec. seven (7) Town One Hundred-fourteen (114) Range Twenty-four (24) there to terminate, the above described line to be the center of road.

And Whereas, Upon receiving said petition, we did, within thirty days thereafter, make out a notice and fix therein a time and place at which we would meet and decide upon such application, to-wit: On the 4<sup>th</sup> day of January A. D. 1905

at 10 o'clock in the forenoon, at the North end of the proposed Cartway (the meeting adjourned till Feb. 1<sup>st</sup> 1905 at 10 o'clock A.M.)

giving copies of such notice to be posted in three public places in said Town, at least ten days previous to such meeting; and having met at the time and place as above named in said notice, and being satisfied that the applicant had, at least ten days previous to said time, served said notice of time and place of hearing to be given to all the occupants of the land through which such highway might pass, by serving the same personally or by copy left at the usual place of abode of each of said occupants, proof of which was shown by affidavit, we

proceeded to examine personally such highway, and heard any and all reasons for or against the laying out

the same, and being of opinion that such laying out was necessary and proper, and that the public interest would be promoted thereby, we granted the prayer of said petitioners and determined to lay out said road, and caused a survey thereof to be made according to the report and plat herewith

accompanying, the description of which as so laid out is as follows, to-wit: Beginning

at the public cartway at the North-East corner of the N.W.  $\frac{1}{4}$  of the N.E.  $\frac{1}{4}$  of Section Seven (7) Town One Hundred-fourteen (114) Range Twenty-four (24), running thence South on the line between the East and West halves of the said N.E.  $\frac{1}{4}$  of Sec. 7 Seventy-nine (79) rods, more or less, to a point one rod North of the line between the North and South halves of the N.E.  $\frac{1}{4}$  of said Section Seven (7), thence West one rod, thence South (one rod West of the line between the East and West halves of the N.E.  $\frac{1}{4}$  of above described Sec. 7) Forty-one (41) rods more or less to a point forty (40) rods North of the line between the N.E.  $\frac{1}{4}$  and the S.E.  $\frac{1}{4}$  of Section Seven (7) Town One Hundred-fourteen (114) Range Twenty-four (24), there to terminate, the above described line to be the center of road.

It is Therefore Ordered and Determined, That a road be, and the same is hereby laid out

and established according to the description last aforesaid, and the report and plat herewith accompanying, which is hereby made a part of this Order, and it is declared to be a public highway Cartway Two rods wide rods wide, the said description above given being the center of said road.

Given under our hands, this 1<sup>st</sup> day of Feb A. D. 1905

John H. Olson  
Peter H. Johnson  
August Johnson } Supervisors.

State of Minnesota, County of Carver Town of San Francisco ss:

..... of said road, which said road  
..... is set forth and described in the foregoing Supervisors' Order, made by us, and,  
911

OWNERS OF LANDS

### DESCRIPTION OF LANDS

SECTION	TOWN	RANGE	DAMAGES
---------	------	-------	---------

OWNERS OF LANDS

### DESCRIPTION OF LANDS

SECTION	TOWN	RANGE
---------	------	-------

Given under our hands, this

day of

A. D. 1905-

**Supervisors.**



Respts Ex 1

## SUPERVISORS' ROAD ORDER

Filed this 1<sup>st</sup> day of Feb.  
A. D. 1905

A. J. Burling  
Town Clerk.

The within Road Order, together with  
the Award of Damages, was recorded by  
me the 28 day of October, 1905,  
in the Road Record Book of the Town, and  
then sent by me to the County Auditor, to  
be filed and preserved by him.

A. J. Burling  
Town Clerk.

### Office of County Auditor,

County of Carver Minn.

Filed this 6<sup>th</sup> day of Nov  
1905, at 11 o'clock A.M., in this office.

J. B. Connolly  
County Auditor.

The Town Clerk must not record this order within thirty  
days after filing, and not then, if an appeal has been taken,  
until the order is confirmed on appeal. But if no appeal is  
taken, or if on appeal this order is confirmed, it, together with  
the award, must be recorded and then transmitted to the  
County Auditor, to be filed and preserved by him.

TAKE NOTICE—General Laws 1885, Chapter 29, as amended  
General Laws 1893, Chapter 103, allows "eight legal voters who  
are freeholders and residents of the town within three miles of  
the road" to sign the petition. When such persons sign the  
petition it must be so stated on the blank line left for that  
purpose after the \* in the following blank "Supervisors' Road  
Order" and the "Award of Damages."

### CARVER COUNTY

Entered according to Act of Congress in the year 1880, by

WALTER S. BOOTH,

In the office of the Librarian of Congress at Washington

WALTER S. BOOTH & SON, TOWNSEND AND LAW, BLANK PUBLISHERS, MINNEAPOLIS, MINN.

SEP 25 1906

H. O. Muehlberg  
Clerk.

State of Minnesota,  
County of *Carver*

ss.

District Court,

*Eighth*

Judicial District.

*William Anderson, appellant*  
<sup>AGAINST</sup>  
*The supervisors of the town*  
*of San Francisco, Respondents*

We, The Jury in the above entitled action, find a Verdict in favor of the *appellant-*  
*William Anderson*, and that the order of the Board of Super-  
 visors of the town of San Francisco, dated and filed  
 October 12<sup>th</sup> A.D. 1905, vacating a certain public road in  
 said town should be in all things reversed.

*Henry D. Mielke*

Foreman.

Dated at *Chaska Minn* this *6<sup>th</sup>* day

*March* A.D. 1907.

*Stay of proceedings 40 days*



No. \_\_\_\_\_

STATE OF MINNESOTA,

County of *Carver*

DISTRICT COURT,

*Eighth* Judicial District.

*William Anderson*  
*appet*

AGAINST *Plaintiff*.

*Supervisors of the Town*  
*of San Francisco Co. Resp't.*  
*Defendants.*

VERDICT.

Filed *Mar 7<sup>th</sup> 1897*

*H. O. Muehlberg*  
*Clerk.*

By \_\_\_\_\_

Deputy.

Witnesses sworn on behalf of Appellant  
Anderson, at first trial:

A. J. Burling	3.32
A. A. Mellborg	3.56
J. S. Anderson	3.44
John L. Mellgren	3.44
Herman Ruschke	2.44
Alfred Sanberg	3.44
	<hr/> 19.64
	12.97
	<hr/> 32.61

Second Trial

A. J. Burling	2.32	32.61
Andrew A. Mellborg	2.56	42.27
Fred Bullemund	1.12	<hr/> 74.88
John Paglow	1.12	
	<hr/> 7.12	
	35.15	
	<hr/> 42.27	



State of Minnesota,  
County of Carver.

District Court,  
Eighth Judicial District.

-----:

William Anderson, Appellant in  
District Court, Respondent in Supreme Court,

-----  
The Town of San Francisco, Respondent  
in District Court, Appellant in Supreme Court.

-----:

To W.C. O'Saki, attorney for the abovesaid William Anderson and to  
R.C. Muhlberg, clerk of said court:

Please to take notice that the above named Town of San Francisco  
heretby appeals to the Supreme Court of the State of Minnesota from that  
certain order of said District Court made by Hon. Oscar Hallen acting as  
judge of said District Court, on the 4th day of Sept. 1907 and filed in  
the office of the clerk of said court on the 6th day of Sept. 1907 wherein  
and whereby the motion of said Town of San Francisco for an order set-  
ting aside the verdict herein and for a new trial of said action was,  
in all things, denied, and from the whole thereof.

Dated This 11th day of Sept. 1907.

W. J. Leonard  
Jordan, Minn., Att'y. for said Town  
of San Francisco.

William Anderson  
 vs  
 Town of San Francisco  
 and service thereof  
 admitted Sept. 11, 1907  
 W. C. Smith  
 Atty. for Wm Anderson  
 H. O. Muehlberg  
 Clerk of said Court

CARVER COUNTY  
 FILED  
 SEP 11 1907  
 H. O. Muehlberg  
 (427)  
 Sep. 11, 1907

Director General's Headquarters in Ankara, Turkey

### ATTENTION: INFORMATIONAL

PROPERTY OF GOVERNMENT

English Institute, New York.

...a few more to go...

**Disrupt Control**

CARVER COUNTY  
FILED

SEP 11 1947

H. O. Muehlberg

(427)

Sept. 11, 1907. - 10 a.m.



No. 3011

DISTRICT COURT,  
CARVER COUNTY, MINN.

*In the Matter of the Application  
of John Heider and Others  
for the Establishment and  
Construction of a Judicial Pith.*  
Plaintiff.  
vs.

~~Defendant.~~

*W.C. & W.T. Bell*  
Plaintiff's Attorneys

Defendant's Attorney.

Date of Entry November 3, 1905  
Register of Actions 2 Page 428  
Term Tried 1  
Judgment for \_\_\_\_\_  
Amount of Judgment \$ \_\_\_\_\_  
Date of Judgment 1  
Judgment Book \_\_\_\_\_ Page \_\_\_\_\_  
Default Judgment Book \_\_\_\_\_ Page \_\_\_\_\_  
Date of Docketing 1



STATE OF MINNESOTA

DISTRICT COURT

County of Carver

Eighth Judicial District

-----::-----  
In the Matter of the Application  
of John Geiser and others for  
the Establishment and Construction  
of a Judicial Ditch  
-----::-----

To the Honorable P. W. Morrison, Judge of the District Court of the Eighth Ju-  
dicial District in and for said County and State:

The undersigned, land owners whose lands will be liable to be affected by, and  
assessed for the expense of the construction of, the ditch hereby petitioned for, here-  
by petition you for the establishment and construction of a ditch extending into the  
counties of Carver and Hennepin in said State, which said proposed ditch is described  
as follows, viz: Commencing at a point two hundred and sixty (260) feet north of the  
southwest corner of the northwest quarter (N.W. 1/4) of the southeast quarter (S.E.  
1/4) of Section Thirteen (13), Township One Hundred and Sixteen (116) north, Range  
Twenty Three (23) west of the 5th prime meridian; thence following and consisting  
of the bed of the natural watercourse running through said Section Thirteen (13)  
and Sections Eighteen (18) and Nineteen (19), Township One Hundred and Sixteen (116)  
north, Range Twenty Two (22) west of the 5th prime meridian, and terminating at a point  
on the east and west quarter line in Section Nineteen (19), Township One Hundred and  
Sixteen (116) north, Range Twenty Two (22) west, in the natural watercourse aforesaid,  
at a distance of about eighty (80) rods east of the Range line, its place of termina-  
tion, as its outlet, said outlet being the inlet of Riley's Lake.

Your petitioners respectfully state that the establishment and construction of  
said proposed ditch, hereinbefore described, is necessary for the drainage and reclaim-  
ing of valuable agricultural lands which, from the lack of proper drainage, and with-  
out the establishment and construction of said proposed ditch, are, and will continue  
to be, unproductive and of no value; that during the greater part of the year, and es-  
pecially during the wet seasons, the water spreads out over large portions of these  
lands, and in warm weather it becomes stagnant and foul, creating a great stench, and  
becoming dangerous to the health of the community residing in the vicinity; that the



establishment and construction of said proposed ditch, because of the use to which it would be put in draining and reclaiming such lands, will be of public benefit and promote the public health.

Wherefore your petitioners pray that you will establish the ditch herein petitioned for, and cause the same to be opened and constructed according to law.

Dated September 1905.

John Geiser

Katherine Geiser

John Jensen

Peter Weller

Joe. Anderson

A. Erickson

Gustav Griegentrog

Emil O. Olsen



District Court  
Carver County

In the Matter of the Petition  
of John Geier and others  
for the Establishment and Con-  
struction of a Judicial Ditch.

Petition  
Original

Judicial Ditch No. 1.

CARVER COUNTY,  
FILED

NOV 3 1905

H. O. Muehlberg, Clerk  
(428)

W. C. & W. S. Edges  
Attys. for Petitioners  
Charles, Minn.



No. 3012

DISTRICT COURT,  
CARVER COUNTY, MINN.

In the Matter of the  
Proceedings by <sup>Plaintiff</sup> John  
Dist. No. 8 etc.

Defendant.

W.C. & W.F. Odell  
~~Petitioner~~ Plaintiff's Attorney,

Defendant's Attorney.

Date of Entry Nov. 7, 1905

Register of Actions 2 Page 429

Term Tried 1

Judgment for Petitioners

Amount of Judgment \$           

Date of Judgment Mar. 6, 1906

Judgment Book D Page 2145-6

Default Judgment Book            Page           

Date of Docketing            1



STATE OF MINNESOTA

County of Carver

DISTRICT COURT

Eighth Judicial District

-----:-----  
In the Matter of the proceedings by School  
District No. 3 of said County of Carver to  
acquire an addition to the school house  
site of said District  
-----:-----

To the Honorable

The District Court of the Eighth Judicial District of the State of Minnesota in and for the County of Carver, and P. W. Morrison, Judge of Said Court:

The undersigned, as the Board of Trustees of Common School District No. 3 of said County of Carver, on behalf of said School District, respectfully represent that it is necessary for said School District to acquire for an addition to the school house site of said District the title to certain real estate hereinafter more particularly mentioned and described, and such title to said real estate cannot be acquired by agreement with the owner thereof. And your petitioners as such Trustees of said School District, and on behalf of said District hereby petition for the appointment of three disinterested persons residents of said County as commissioners to appraise the value of said real estate, the title to which it is so necessary to acquire, and the damages which may accrue by the taking and use of the same for the purpose aforesaid.

The real estate which it is necessary for said District to acquire for an addition to the school house site of said District as aforesaid is described as follows, viz: Commencing at a point on the quarter section line of Section Twenty Six in Township One Hundred and Seventeen of Range Twenty Six in the County of Carver and State of Minnesota at a distance of one chain and fifty nine links north of the quarter section post on the south line of said section; thence running north along the quarter section line ninety one links to a post; thence east four chains; thence south two chains and fifty links; thence west two chains and forty one links; thence north one chain and fifty nine links; thence west one chain and fifty nine links to the place of beginning, containing fifty one hundredths of an acre, more or less.

And the names of the owners of said real estate are Lillie Weber Koentopf



and Herman Koentopf, her husband, and their place of residence is the Township of Hollywood in said County and State, and there are no other persons who appear by the records of said County to have any interest in or lien upon such real estate.  
Dated Chaska, October 16, 1905.

E. Loderstrom

C. Burchart

H. Wilschinsky

Board of Trustees  
of School District No 8, of  
Carver County, Minn

State of Minnesota,

County of Carver } ss.

I hereby certify and return, that on the  
17<sup>th</sup> day of Oct 1905, at the Town of Hollywood  
in the County of Carver in said State, I served the within Order  
upon the within named defendant, Lillie Webb Kautopf  
by then and there handing to and leaving with each of them a true  
copy of said Order.

Dated this 19<sup>th</sup> day of October 1905Sheriff's Fees, Return, \$ 2.00Mileage, 44 \$ 4.40Total 6.40Sheriff G. A. Gatz County, Minn.By John Barker Deputy.



District Court  
Carver County

In the matter of the pro-  
ceedings by School District  
No. 8 to acquire an addition  
to the school house site of  
said District.

Petition  
Original

CARVER COUNTY,  
FILED

NOV 7 1905

H. O. Muehlberg, Clerk.

(429)

W. B. O'Leary  
Attys for Petitioners  
Chaska, Minn.



STATE OF MINNESOTA

County of Carver

DISTRICT COURT

Eighth Judicial District

-----:-----  
In the Matter of the proceedings by School  
District No. 8 of said County of Carver to  
acquire an addition to the school house  
site of said District  
-----:-----

It having been made to appear by the petition of the Board of Trustees of Common School District No. 8 of said County of Carver, on behalf of said District, that it is necessary for said School District to acquire for an addition to the School House site of said District the title to certain real estate in said petition and hereinafter more particularly mentioned and described, and that such title to said real estate cannot be acquired by agreement with the owner thereof;

And it further appearing by said petition that the real estate which it is necessary for said District to acquire for an addition to the school house site of said District as aforesaid is described as follows, viz: Commencing at a point on the quarter section line of Section Twenty Six in Township One Hundred and Seventeen of Range Twenty Six in the County of Carver and State of Minnesota at a distance of one chain and fifty nine links north of the quarter section post on the south line of said section; thence running north along the quarter section line ninety one links to a post; thence east four chains; thence south two chains and fifty links; thence west two chains and forty one links; thence north one chain and fifty nine links; thence west one chain and fifty nine links to the place of beginning, containing fifty one hundredths of an acre, more or less. And that the names of the owners of said real estate are Lillie Weber Koentopf and Herman Koentopf, her husband, and their place of residence is the Township of Hollywood in said County and State, and that there are no other persons who appear by the records of said County to have any interest in or lien upon such real estate.

And said Board of Trustees of said District having, on behalf of said District, duly petitioned for the appointment of three disinterested persons, residents of said County, as Commissioners to appraise the value of said real estate, the title to which it is so necessary to acquire, and the damages which may accrue by the taking and use



of the same for the purpose aforesaid.

Now, on motion of W.C. & W.F. Odell, Esqs., Attorneys for said Petitioners, Ordered,  
That Tuesday the 7th day of November A.D. 1905 at ten o'clock in the forenoon of said  
day, and the Court House in the City of Chaska in said County of Carver, be and the  
same is hereby designated as the time and place when and where commissioners will be  
appointed to appraise the value of such land, and the damages which may accrue by the  
taking and use of the same for the purpose aforesaid.

Dated October 17th, 1905.

P. Morrison

Judge of said Court.

District Court  
Carver County

In the Matter of the proceed-  
ings by School District No. 8  
to acquire an addition to the  
school house site of said  
District

Order  
Original

261 720

22) 640

CARVER COUNTY,  
FILED

NOV 7 1905

H.O. Muehlberg, Clerk

(429)

W.B. Woodruff  
Att'y for Petitioners  
Charles, Minn.



STATE OF MINNESOTA

County of Carver

DISTRICT COURT

Eighth Judicial District

-----:-----  
In the matter of the proceedings by School  
District No. 8 of said County of Carver to  
acquire an addition to the School House  
site of said District

-----:-----  
The above entitled proceedings came on for hearing before the undersigned, Judge  
of said Court, at the Court House in the City of Chaska in said County and State on  
the 7th day of November A.D. 1905, W.C. & W.F. Odell, Esqs., appearing as attorneys for  
the Board of Trustees of said School District No. 8, petitioners herein.

And it having been made to appear, by satisfactory proof, that due, legal and time-  
service of the order designating a time and place when and where commissioners  
would be appointed to appraise the value of the lands hereinafter described and the  
damages which may accrue by the taking and use of said lands for an addition to the  
school house site of said District was duly made upon each and all of the owners and  
other persons interested in the lands described in the petition herein and hereinaf-  
ter described by said petitioners, said Board of Trustees of said School District.

And it having been further made to appear, by satisfactory proof, that it is ne-  
cessary for said School District No. 8 to acquire for the use thereof for an addi-  
tion to the school house site of said School District the title to the real estate  
described in the petition herein, that is to say: Commencing at a point on the quar-  
ter section line of Section Twenty Six in Township One Hundred and Seventeen of  
Range Twenty Six in the County of Carver and State of Minnesota at a distance of one  
hundred and fifty nine links north of the quarter section post on the south line of  
said section; thence running north along the quarter section line ninety one links  
to a post; thence east four chains; thence south two chains and fifty links; thence  
west two chains and forty one links; thence north one chain and fifty nine links;  
thence west one chain and fifty nine links to the place of beginning, containing sev-  
enty five one hundredths of an acre, more or less; and that the title to said real  
estate cannot be acquired by agreement with the owner thereof.

And it further appearing that Fred Westermann, J.F. Kelly and Herman Gondoll are residents of said Carver County and competent, disinterested and proper persons to be appointed commissioners to appraise the value of the lands mentioned in the petition herein and hereinbefore described and the damages for the taking and use thereof.

Now, on motion of W.C. & W.F. Odell, Esqs., Attorneys for said Petitioners, Ordered, That Fred Westermann, J.F. Kelly and Herman Gondoll, residents of said Carver County, are hereby appointed Commissioners to appraise the value of the lands mentioned in the petition herein and hereinbefore described and the damages to be paid for the taking and use of said lands as and for an addition to the school house site of said School District No. 8; and said Commissioners shall give due and timely notice to all persons named in the petition herein when they will meet upon the lands described in such petition to appraise the value of the same and the damages which may accrue by the taking and use thereof for the purpose hereinbefore set forth.

R. W. Morrison

Judge of said Court.



State of Minnesota,  
County of Carver  
District Court.

In the matter of the proceedings  
by School District No. 8 to  
Acquire an addition to the school  
house site of said District.  
*Plaintiff*  
*Defendant*  
Order Appointing Commissioners

Due and personal service of the within  
admitted  
this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

CARVER COUNTY,  
FILED

Attorney for  
NOV 21 1905

J. F. O. Muehlberg, Clerk.

W. C. Russell

Attorney for Petitioner

Charles M. Munn

MILLER-DAVIS PRINTING CO., MINNEAPOLIS

(429)

STATE OF MINNESOTA

County of Carver

DISTRICT COURT

Eighth Judicial District

-----:-----  
In the Matter of the proceedings by School  
District No. 8 of said County of Carver to  
acquire an addition to the school house  
site of said District

-----:-----  
State of Minnesota

ss

County of Carver

Fred Westermann, J. P. Kelly and Herman Gondoll, being each for himself  
duly sworn, says, that he is one of the Commissioners appointed by the District Court  
of Carver County, Minnesota, sitting at Chaska in said County and State on the 7th  
day of November A.D. 1905, in the above entitled proceedings, and that he will faithful-  
ly perform his duty as such Commissioner without partiality, and to the best of his  
knowledge and ability.

Subscribed and sworn to before me  
this 4th day of December 1905.

W. H. Schrader

Notary Public

Fred Westermann

J. P. Kelly

H. Gondoll



State of Minnesota,

County of Carver

District Court.

In the matter of the proceedings  
by School District No. 8 to acquire <sup>Plaintiff.</sup>  
An addition to the School House site <sub>Defendant.</sub>  
of said District  
Out of Commissioners

Due and personal service of the within  
admitted  
this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

CARVER COUNTY.

FILED  
Attorney for

DEC 8 1905

H.O. Muehlberg... Clerk.

W.C. Wood  
Attorney for Petitioner

Charles W. Wain

MILLER-DAVIS PRINTING CO., MINNEAPOLIS

(429)

STATE OF MINNESOTA

County of Carver

DISTRICT COURT

Eighth Judicial District

-----:-----  
In the matter of the proceedings by School  
District No. 8 of said County of Carver to  
acquire an addition to the school house  
site of said District.

-----:-----  
To Lillie Weber Koentopf and Herman Koentopf, her husband:

You will please take Notice, That the undersigned were, by an Order of the  
Judge of said Court made and entered in the above entitled proceedings on the 7th  
day of November A.D. 1905, duly appointed Commissioners to appraise the value of the  
lands described in said Order and in the Petition herein, and the damages for the  
taking and use of the same as and for an addition to the school house site of said  
School District No. 8.

And you will also take Notice, That the undersigned, as such Commissioners, will  
meet on said lands, hereinafter particularly described, to appraise the value of the  
same and the damages which may accrue by the taking and use thereof for the purpose  
aforesaid on Tuesday the 12th day of December  
A.D. 1905, at Two o'clock in the after noon of said day.

The lands described in the Petition herein and in the Order above mentioned are  
as follows, viz: Commencing at a point on the quarter section line of Section Twenty  
Six in Township One Hundred and Seventeen of Range Twenty Six in the County of Car-  
ver and State of Minnesota at a distance of one chain and fifty nine links north of  
the quarter section post on the south line of said section; thence running north  
along the quarter section line ninety one links to a post; thence east four chains;  
thence south two chains and fifty links; thence west two chains and forty one links;  
thence north one chain and fifty nine links; thence west one chain and fifty nine  
links to the place of beginning, containing seventy five one hundredths of an acre,  
more or less.

Fred Westerman

J. B. Kelly  
A. A. Grogan



STATE OF MINNESOTA

County of Carver

DISTRICT COURT

Eighth Judicial District

-----:-----  
In the matter of the proceedings by School  
District No. 8 of said County of Carver to  
acquire an addition to the school house  
site of said District  
-----:-----

State of Minnesota

ss

County of Carver

W. H. Shrader

being first duly sworn,

vs that on the 4th day of December 1905.

at the Township of Hollywood in said County and State he served the foregoing and  
annexed Notice of Meeting of Commissioners on Lillie Weber Koentopf and Herman Koentopf, her husband, personally by then and there handing to and leaving with each of  
em a true and correct copy of said Notice.

Subscribed and sworn to before me  
This 4 day of December 1905.

W. H. Shrader

Fred Scheidegger

Justice of the Peace

State of Minnesota,

County of Carver

District Court.

In the matter of the proceedings by  
School District No. 8 to acquire  
an addition to the school house  
Site of said District  
Plaintiff,  
Defendant.

Notice of Meeting of Commissioners

Due and personal service of the within  
admitted  
this..... day of..... 19.....

Attorney for.....

CARVER COUNTY,  
FILED

DEC 26 1905

H.O. Muehlberg, Clerk.

Attorney for.....

MILLER-DAVIS PRINTING CO., MINNEAPOLIS

(429)



1 State of Minnesota  
2 County of Carver

3 <sup>member of the</sup>  
4 In the proceedings by School District  
5 No 8 of said County of Carver to acquire an  
6 addition to the School house site of said District.

7  
8 We the Commissioners appointed  
9 by the District <sup>Court</sup> of said County of Carver  
10 to appraise lands in the above Intitled  
11 proceedings, did meet and take our Oath  
12 on the 4<sup>th</sup> day of December 1905 and thereafter  
13 on the same day we did decide <sup>upon</sup> and fixed  
14 the date and time for our meeting to appraise  
15 said lands, which said time we decided  
16 upon to be the 12<sup>th</sup> day of December 1905  
17 at 2 O'clock P.M. and we did then and there  
18 made out notice of our said meeting and  
19 had Copy<sup>s</sup> served upon Lillie Weber Koentopf  
20 and Herman Koentopf, proof of service is  
21 shown by affidavit, and more than 5 days  
22 having elapsed from the date of service  
23 we did meet on the 12<sup>th</sup> day of December 1905  
24 at 2 O'clock P.M. on the following described  
25 lands to wit: Commencing at a point  
26 on the quarter section line of Section Twenty  
27 six in Township one hundred and seventeen  
28 of Range Twenty six in the County of Carver  
29 and State of Minnesota a distance one chain  
30 and fifty nine links north of the quarter  
31 section post on the south line of said section;  
32 Thence running north along the quarter



1 section line ninety one links to a post;  
2 thence east four Chains; Thence south  
3 Two Chains and fifty links; Thence west  
4 Two Chains and forty one links; Thence  
5 north One Chain and fifty nine links; Thence  
6 west One Chain and fifty nine links to the  
7 place of beginning, Containing seventy five  
8 one hundredths of an acre, more or less.  
9 and we did then and there appraise the  
10 above described lands; The value of the  
11 said lands and the damages to the owners  
12 thereof at One hundred and sixty Dollars

13 Dated This 12<sup>th</sup> day of December 1905

16 Fred Westermann

17 J. R. Kelly

18 H. A. Gongoll.

Commissioners



State of Minnesota,

County of Carver

District Court.

In the Matter of the proceedings  
by School District No. 9 to as-  
quire an addition to the school  
House site of said District.

Plaintiff.

Defendant.

Report of Commissioners

Due and personal service of the within  
admitted  
this.....day of.....19.....

Attorney for.....

CARVER COUNTY,  
FILED

DEC 26 1905

H. O. Muehlberg Clerk

Attorney for.....

MILLER-DAVIS PRINTING CO., MINNEAPOLIS

(429)

STATE OF MINNESOTA

County of Carver

DISTRICT COURT

Eighth Judicial District

-----:-----  
In the matter of the proceedings by School  
District No. 8 of said County of Carver to  
acquire an addition to the school house  
site of said District

-----:-----  
It Appeared by the records and files in this proceeding, That E. Cederstrom, C.  
Burchart and H. Wilchewsky, as the Board of Trustees of Common School District No. 8  
of said County of Carver and on behalf of said District, presented to this Court their  
petition representing that it is necessary for said School District to acquire for an  
addition to the school house site of said District the title to certain real estate  
described as follows, viz: Commencing at a point on the quarter section line of Sec-  
tion Twenty Six in Township One Hundred and Seventeen of Range Twenty Six in the Coun-  
ty of Carver and State of Minnesota at a distance of one chain and fifty nine links  
north of the quarter section post on the south line of said Section; thence running  
north along the quarter section line ninety one links to a post; thence east four  
chains; thence south two chains and fifty links; thence west two chains and forty one  
links; thence north one chain and fifty nine links; thence west one chain and fifty  
nine links to the place of beginning, that the title to such real estate cannot be  
acquired by agreement with the owner thereof, and that the names of the owners of said  
real estate are Lillie Weber Koentopf and Herman Koentopf, her husband, of the Township  
of Hollywood in said County and State, and there are no other persons who appear by  
the records of said County to have any interest in or lien upon such real estate, and  
praying for the appointment of three disinterested persons, residents of said County,  
as Commissioners to appraise the value of said real estate and the damages which may  
accrue by the taking and use of the same for the purposes aforesaid; and that this  
Court, by an Order duly filed in this proceeding, designated Tuesday, the 7th day of No-  
vember at 10 o'clock in the forenoon of said day, and the Court House in the City of  
Chaska in said County of Carver as the time and place when and where said Commission-  
ers would be appointed to appraise the value of such lands and the damages which may



accrue by the taking and use of the same.

And It Further Appearing, That due, legal and timely service of such order designating a time and place when and where Commissioners would be appointed to appraise the value of the lands described in said petition and the damages which may accrue by the taking and use of said lands for an addition to the school house site of said District was duly made upon each and all of the owners and other persons interested in said lands by said petitioners, said Board of Trustees of said School District.

And It Further Appearing, That, at the time and place appointed by the Order hereinbefore mentioned, the Court, having received satisfactory proof of the service of such Order and of the necessity of the taking and appropriating such lands, by an Order duly filed in these proceedings appointed Fred Westermann, J. E. Kelly and Herman Randall, disinterested persons and residents of said Carver County, Commissioners to appraise the value of the lands mentioned in the petition herein and hereinbefore described and the damages to be paid for the taking and use of said lands as and for an addition to the school house site of said School District No. 2.

And It Further Appearing, That said Commissioners, having severally taken <sup>and subscribed</sup> an oath before entering upon the duties of his office that he would faithfully perform his duty as such Commissioner without partiality and to the best of his knowledge and ability, and having given due, timely and legal notice to all persons named in the petition herein when they would meet upon the lands described in such petition to appraise the value of the same and the damages which may accrue by the taking and use thereof, did, at the time appointed in said notice, meet upon the lands described in the petition herein and examined the same and heard the allegations and testimony of all persons interested and appearing; and, that said Commissioners, within ten days thereafter and on the 12th day of December A.D. 1905, made their appraisement and award of the value of the lands described in the petition herein and of the damages sustained by reason of the taking and use thereof, and by said appraisement and award appraised the value of said lands and the damages which may accrue by the taking and use thereof at One Hundred and Sixty Dollars; and, that said appraisement and award of said Commissioners was thereafter filed in the office of the clerk of the District Court in and for the County of Carver and that more than thirty days have elapsed since said

appraisement and award was so filed and no appeal has been taken in this proceeding.

Now, on Motion of W.C. & W.P. Odell, Esqs., Attorneys for said Petitioners, It is Hereby Adjudged, Decreed and Determined, That Lillie Weber Koentopf and Herman Koentopf, her husband, as the owners of the following described tract or parcel of land, viz: Commencing at a point on the quarter section line of Section Twenty Six in Township One Hundred and Seventeen of Range Twenty Six in the County of Carver and State of Minnesota at a distance of one chain and fifty nine links north of the quarter section east on the south line of said Section; thence running north along the quarter section line ninety one links to a post; thence east four chains; thence south two chains and fifty links; thence west two chains and forty one links; thence north one chain and fifty nine links; thence west one chain and fifty nine links to the place of beginning, containing seventy five-one hundredths of an acre, more or less, have and recover from said School District No. 8 the sum of One Hundred and Sixty Dollars; and, upon payment of said sum of One Hundred and Sixty Dollars by said School District No. 8 to said owners of such lands or to the Clerk of the District Court in and for said County for the use and benefit of said Lillie Weber Koentopf and Herman Koentopf, her husband, the title to the tract or parcel of land aforesaid, for the purposes aforesaid, shall as against said Lillie Weber Koentopf and Herman Koentopf, her husband, the owners of and the parties interested in said tract of land, and as to all persons claiming under and through them or either of them, pass to and vest in said School District No. 8, and be and remain therein, and such School District No. 8 shall have the right to have and occupy the said tract or parcel of land for an addition to the school house site of said District.

By the Court,

*H. O. Muehlberg*  
Clerk.

Received of H. O. Muehlberg, Clerk of said Court, the sum of \$160.00 in satisfaction of the foregoing judgment, this 4<sup>th</sup> day of April 1906, and said judgment is hereby satisfied.

Lillie Weber Koentopf  
by Herman Koentopf.  
Herman Koentopf.



State of Minnesota,

County of Carver

District Court.

In the Matter of the probate  
of the will of John J. Schuch deceased

Order by School Dist. No. 8  
etc.

Judgment

Due and personal service of the within  
admitted  
this 6th day of March 1906

Attorney for

Filed Mar. 6<sup>th</sup> 1906

H.O. Muehlberg  
Chas.

W.C. & W.F. Odece

Attorneys for the estate

MILLER-DAVIS PRINTING CO., MINNEAPOLIS

(214-5-6)