

No 78- Law

in  
Circuit Court

J A Davis et al  
Plaintiff's

vs

John Way  
Defendant

Action for

Docket

Page

Baker Shelton & Baker  
Attorney for Plaintiff's

Attorney for Defendant

43-8

RECEIVED AT THE CLERK'S OFFICE OF THE DISTRICT COURT OF THE DISTRICT OF COLUMBIA ON 10-10-1900

**Record of the Case**

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Veritas aff'd  
Journal a p 744 ✓  
App assess aff'd  
Journal a p 760 ✓  
Mar & Declared as he law  
Journal a p 112 ✓  
Incl notes to Surver  
Journal a p 715 ✓

Note 775 only  
Incl notes

74

Road

From Houghton Bridge on Main Powder  
River to Eagle Valley

**WITNESSES**

74

**DIRECTIONS**—Place papers on TOP OF RUBBER  
Fold ends first then sides Throw the rubber cords  
over the ends and package is complete

To the Honorable County Court of Union County, Oregon -

We, the undersigned twelve householders, and others living in the vicinity, and along the route of the hereinafter described road respectfully ask your honorable body to lay out and grant a public highway described as follows -

Commencing at the Houghton's Bridge on Main Powder River, and running thence in an easterly direction on the nearest and most practicable route, to intersect the County Road running from Union to Eagle Valley, at or near the ranch of A J Brown, said point being near the base of the Goose Creek Hill, all of which said points and places are in Union County, Oregon

Names -

Geo. W Hall,

Thos Keating,

John A Tucker,

Thos Smith,

A J Brown,

David Steele,

Arthur Merwin,

Joseph Graham,

S Mitchell,

E. Walraven,

Jeremiah Bresnahan,

Names -

Phillip Houghton,

David S. Love,

R. W Dillingham,

Samuel Gover,

John Furman,

Augustus Sanders,

I. Wort,

Thomas Huffman,

Wm Hobbe,

F F Schlickeisen,

Endorsed -

Petition for road, Houghton & others, Filed Nov. 3rd, 1875.

R S Cates, Clerk

Geo Ames, Robt. Brannan, Robt Cochran, Viewers to meet at P Houghton's House on the 18th inst

To the Hon. Board of County Commissioners, of Union Co , -

There will be a petition presented at the Sept. Term of the Co Court, praying for the location of a Co Road Commencing at the Houghton Bridge, on Main Powder River, and Terminating at or near Brown's Ranch, on Goose Creek. You will notice my name appears on said petition, which was placed there not knowing there was trouble existing. Since learning that there are parties that will be damaged by the location of said road, and there is also a remonstrance in circulation with a considerable No. of names I do not desire that my name should be counted on said petition.

This the 28th day of August, 1875.

Dunham Wright

Endorsed - Filed Sept 6th, 1875

R S Cates, Clerk.

Whereas, a petition has been presented to the County Court of Union County, Oregon, at the November Term thereof, for the year 1875, for a County Road Commencing at Houghton's Bridge, and terminating at or near the Ranch of A J Brown.

Now, therefore, I Phillip Houghton am held and firmly bound to the County of Union in the sum of One Hundred Dollars, conditioned that if the prayer of the petitioners be not granted and allowed, I will pay all costs and expenses that may accure by reason of such survey & view, not exceeding the above amount

Dated Nov. 4th, A D 1875.

Phillip Houghton,

Endorsed - Bond for Road, Filed Nov. 4th, 1876.

R S Cates, Co Clerk

State of Oregon,)
( ss.
Union County, )

I Phillip Houghton, first being sworn, say that I have posted three notices on the proposed road commencing at Houghton's Bridge, and terminating at or near the ranch of A J Brown, and one on the Court House Door, and that said notices have been posted according to law.

Phillip Houghton,
Subscribed and Sworn to before me, this 4th day of November,
A D. 1875

E C Brainard, County Judge.

Endorsed - Notice.

Filed Nov 4th, 1875.

R S Cates, Co Clerk

State of Oregon, )  
Union County, )

ss.

I, N. F. Ficklin, being duly sworn, say that I will to the best of my ability view out and assess the damages that one B. F. Sturgill would sustain by reason of the location & opening of a County Road through his premises of which I have been appointed one of the viewers.

N F Ficklin,

Subscribed and sworn to before me this 14th day of Jan 1876.

F. S. Cates, Co Clerk

Endorsed - (No filing)

To the Hon . County Court of Union County, Oregon -

Whereas, a road petition has been presented to your Hon. Body, asking for the location of a County Road from Houghton's Ranch on Powder River to Goose Creek, & the same & having been surveyed & viewed, passing over the farm of B F. Sturgill, you are therefore notified that I hereby claim damages if said road is located through my farm to the amount of \$200 00

Said road if located would cause me to build about 800 yds. of fence, besides, if the road is ordered open immediately, I would be compelled to herd stock off of my farm until I could get out fencing in the spring & summer.

B F Sturgill.

Endorsed -

Petition for damages.

Filed Jan 5th, 1875

R S. Cates, Co. Clerk.

To the Hon Board of County Commissioners of Union County -

There will be a petition presented at the Sept. Term of the Co. Court, praying for the location of a Co. Road Commencing at the Houghton Bridge on Main Powder River, and terminating at or near Brown's Ranch on Goose Creek. You will notice our names appear on said petition which were placed there not knowing there was trouble existing

Since learning that there are parties that will be damaged by the location of said road, and there is also a remonstrance in circulation with a considerable number of names, we do not desire that our names should be counted on said petition

This the 31st of August, 1875.

John<sup>A</sup> McLane,

R R Smith,

J L Mitchell,

David Gobie,

Endorsed - Filed Sept 6th, 1875

R. S. Cates, Clerk

REMONSTRANCE

To the Hon The Board of Co Commissioners, of Union Co Oregon -

We, the undersigned remonstrators, to the petition of Phillip Houghton, et al, for laying out a County Road, (Which road is to commence at the easterly end of the bridge across Main Powder River, known as the Houghton Bridge, situated on the Sturgill Ranch in Union Co Oregon, thence running in an easterly Course, and down Powder River, aforesaid, on the most practicable <sup>and nearest</sup> route to the Co road running from Sparta to Union, at a point near the Brown Ranch on Goose Creek, on said Co. Road ) Citizens and householders, residing near the said contemplated road, most respectfully represent to your Hon Board, that we are householders in the Co of Union, aforesaid, who are residing in the vicinity of the said contemplated road, that said road would run through the ranch of John I Sturgill and if made a public highway, would put said Sturgill and said Co. of Union to great expense in fencing and grading the same, to-wit In the sum of two hundred dollars in fencing or thereabout, and in the further sum of Two Hundred Dollars or thereabout in grading to make the same a practicable and passable road in times of high water, and further that it would pass through the meadows of said Sturgill to the great injury thereof, making in all greater expenses and damage to the County and said Sturgill than would be the benefit accruing to the public, therefore we, the undersigned in justice to all parties concerned, most respectfully remonstrate against said route being made a public highway and pray that said petition of Messrs Houghton & others, be denied at their costs or otherwise as may appear just upon a full hearing as regards the cost herein made by said petitioners.

Names of petitioners.

Names of petitioners.

Dan. F Fruit,

D. Steele,

F M. Denny,

James Alger,

Geo B Sturgill,

Frank Harmon

Fred Henderson,

G W. W Lewis,  
L C Sturgill,  
J W. Sturgill,  
C L Wilson,  
G Q. Harwin,  
N. Owenby,  
J. B Sams,  
D. B Wilson,  
J J. Turner,  
H. T. Ray,  
John I Sturgill,

Endorsed - Remonstrance

To the Board of Co Commissioners, of Union Co. Oreg.

Filed Sept. 6", 1875

R S Cates, Clerk.

IN County Commissioner's Court of Union Co. org Sept. Term,  
To the Honorable Board of Commissioners of Union Co -

Whereas, John A Tucker & Others have circulated a petition,  
and will present the same to the Court, praying said Court to  
establish a County Road Commencing at P Houghton's Bridge on  
Powder River, and running on the nearest route to intersect the  
Co Road leading from Union to Eagle Creek therefore, I F A.  
Struggill, claim that by reason of the location of said road which  
will pass through my farm and cuts it in an unhandy & inconvenient  
shape and damages me thereby to the sum of \$150 00 which I  
claim as damages for fencing

F. M Stargill,

Per John F Sturgill

Endorsed - Claim for damages

Filed Sept 6", 1875.

R. S. Cates, Clerk

Report to viewers of the survey of the proposed County Road from  
 Houghton's bridge on Main Powder, to intersect the County Road  
 from Union to Sparta, at the foot of Goose Creek Hill

Commencing at a post at the Bridge, marked R thence

North	87°	east	20 75	Chains to Post	marked	A	I.	thence
South	74°	East	70	Chs	" "	A.	II.	thence
South	2°	west	26	chs	" "	A	III.	thence
South	45°	East	59	chs	" "	A	IV	thence
South	72°	East	82 50	Chs	" "	A	V.	thence
South	10°	East	18	Chs	" "	A	VI	thence
South	46°	East	81	Chs.	" "	A.	VII.	thence
South	65°	East	42	Chs	" "	A.	VIII.	thence
South	60°	East	18 50	Chs	" "	A	IX	thence
East			20	Chs	" "	A	X	thence
South	86°	East	34	Chs.	" "	A.	XI.	thence
North	35°	East	17	Chs.	" "	A.	XII.	thence
North	24°	East	6	Chs	" "	A	XIII.	Thence
North	61°	East	14	Chs	" "	A.	XIV.	Thence
east			50. <sup>10</sup> / <sub>10</sub>	Chs	" "	A	XV.	thence
South	77°	East	70	Chs	" "	A.	XVI.	thence
South	42°	East	39	Chs	" "	A	XVII	thence
North			25	Chs	" "	A	XVIII.	thence
North	50°	East	12 50	Chs	" "	R T.	placed at the	

intersection of the County Road.



At a regular term of the County Court of Union County, Oregon, begun and held at the Court House in Union, in said Co. On Wednesday Nov. 31d, 1875, the same being Commissioners day for Court,  
Present -

Hon. E. C. Brainard, County Judge,  
E. T. Neville, and  
Jesse Imbler, Commissioners,  
J. L. Curtis, and P. S. Cates Clerk,

When on Thursday, the 4th day of November, A.D. 1875, or the second judicial day of said term, among other proceedings the following was had, to-wit:

In the matter of road petition )

Now on this day was presented a petition for Co. Road of which the following is a copy, to-wit:

To the Hon. County Court, of Union Co., Oregon -

We the undersigned twelve householders and others, living in the vicinity and along the route of the hereinafter described road, respectfully ask your honorable body to lay out and grant a public highway described as follows Commencing at the Houghtons Bridge on Main Powder River, and running thence in an easterly direction on the nearest and most practicable route to intersect the Co. Road running from Union to Eagle Valley at or near the ranch of A. J. Brown, said point being near the base of the Goose Creek hill, all of which said points and places are in Union County.

Names

George W. Hull,  
Thomas Keating,  
John A. Tucker,  
Thomas Smith,  
A. J. Brown,  
David Steele,

Names

Phillip Houghton,  
David S. Love,  
R. W. Dillingham,  
Samuel Cover,  
John Furman,  
Augustus Sanders,

Arthur Merwin,

Joseph Graham,

S. Mitchell,

F. Valoreven,

Jeremiah Brornahar

J. Warp,

Thomas Huffman,

Wm. Hoobs,

F. F. Schlickerisen,

The following is each of posting notices by Phillip Houghton.  
 State of Oregon, )  
 Union County, ) ss.

I, Phillip Houghton, first being sworn, say that I have posted four notices on the proposed road, commencing at Houghtons bridge and terminating at or near the road of A.J. Brown, and one on the Court House Door, and that said notices have been posted according to law.

Phillip Houghton

Subscribed & Sworn to before me this 4th day of November, A.D. 1875.

B. C. Brainerd,

County Judge.

And it appearing to the satisfaction of the Court, that the proceedings had in this case are according to law, it is therefore ordered that George Ames, Robert Brannan, and Robert Cochran, three disinterested householders of this Co. Be and they are hereby appointed viewers, to meet at the House of Phillip Houghton, on Main Powder River, on Thursday, Nov. 18<sup>th</sup>, 1875, and view, survey and locate the above described & proposed road and report their proceedings to the next term of this Court.

(Signed) B. C. Brainerd,

County Judge.

The foregoing order is entered in Comr's Sal. A page 744 thereof.

At a regular term of the County Court of Union County, State of Oregon, by the Board of Commissioners begun and held at the Court House in Union, in said County, on Wednesday Jan. 5<sup>th</sup>, A.D. 1876, there was present -

- Hon. E. C. Brainard, County Judge,
- L. P. Neville, &
- Jesse Imbler, County Commissioner,
- J. L. Curtis, Sheriff, &
- R. S. Coten, Clerk.

When on Thursday, the 6th day of January, A.D. 1876, or the second judicial day of said term, among other proceedings the following was had, to-wit:

In the matter of viewers report. )  
- - - - - )

Now on this day was read a second time the report of the viewers, on the road from Houghton's bridge on Powder River, to Goose Creek, and a petition for damages having been presented by one Benjamin F. Sturgill, claiming damages in the sum of \$200, by reason of the location of said road, it is therefore ordered that John Wilkinson, Warden Hathaway, and N. F. Ficklin, be and they are hereby appointed viewers, to meet at the house of Phillip Houghton on Powder River, on Saturday, the 15<sup>th</sup> day of January, 1876, and proceed to view out and assess the damages the said Benjamin F. Sturgill would sustain by reason of the location of said road, through his premises, and report the same to the March Term of this Court.

(Signed) E. C. Brainard, Co. Judge.

The foregoing order is entered in Com's Jnl. A. at page 760 thereof

At a regular term of the County Court of Union County, Oregon begun and held at Union, in said County on Wednesday March 8<sup>th</sup>, 1876, there was present

Hon. E. C. Mainard, Co. Judge.

Jesse Imbler,

J. M. Curtis, Sheriff, &

R. J. Cates, County Clerk,

When on Wednesday the 8<sup>th</sup> day of March, A.D. 1876, or the first Judicial day of said Term, among other proceedings the following was had, to-wit:-

In the matter of damages  
by Location of County Road &  
buying Bridge.

Now at this time the Court takes up for consideration the report of the viewers heretofore appointed to assess damages to one Benjamin F. Sturgill, by reason of the location of a County road through his premises, situated on Main Powder River, where Houghton bridge crosses said river, the viewers reported that said B. F. Sturgill was entitled to the sum of forty (\$40.00) Dollars as damages.

And now at this time came George Hall, & John A. Tucker, and represented that the Bridge on Main Powder, and known as Houghton's Bridge belongs to a company as follows, Phillip Houghton, John A. Tucker, George Hall, and B. F. Sturgill, who were willing to deed said bridge to Union County with the exception of B. F. Sturgill, who was willing to make said deed for the sum of \$60 and said bridge crossing Powder River at the point where the said County Road strikes said river, and after due consideration by the Court, it is ordered that the damages reported by the viewers in favor of B. F. Sturgill, be and the same is hereby allowed and the same is hereby declared a public highway, and further ordered

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November Term 1875  
Second day

Court met pursuant to adjournment

Same officers present as on yesterday.

Due proclamation of the opening of Court having been made the following proceedings were had. to wit:

In the matter of  
 Road Petition.

Now on this day was presented a petition for Co Road of which the following is a copy. to wit:

To the Hon County Court of Union Co. Oregon  
 We the undersigned twelve householders, and others living in the vicinity, and along the route of the hereinafter described road, respectfully ask your honorable body to layout, and grant a public highway, described as follows. Commencing at the Houghton Bridge on main Powder River, and running thence in an Easterly direction on the nearest, and most practical route, to intersect the Co Road running from Union to Eagle Valley at or near the ranch of A. J. Brown, said point being near the base of the goose creek hill, all of which said points and places are in Union County.

Names: George W. Hull: Philip Houghton:  
 Thomas Keating: David S. Love: John A. Tucker:  
 R. W. Dillingham: Thomas Smith: Samuel  
 Lever: A. J. Brown: John Furman: David  
 Steel: Augustus Saunders: Arthur Merwin:

J. Wart: Joseph Graham: Thomas Huffman:  
S. Mitchell: Wm Hobbs: E. Walraven: F. F.  
Schlecker: Jeremiah Bronahar:

Following is oath of posting notices by Phillip Houghton.

State of Oregon }  
Union County } ss I, Phillip Houghton first being  
sworn say that I have posted four notices  
on the proposed Road commencing at Houghtons  
Bridge and terminating at or near the  
ranch of A. J. Brown, and one on the Court  
house door, and that said notices  
have been posted according to law.  
Subscribed & sworn to }  
before me this 4<sup>th</sup> day of } Phillip Houghton.  
November A.D. 1875. }  
E. C. Braungard }  
County Judge.

And it appearing to the satisfaction of the Court  
that the proceedings had in this case, <sup>are according to law</sup> it is  
therefore ordered, that George Ames: Robert  
Braunman, and Robert Cochran, three dis-  
interested householders of this Co., be and  
they are hereby appointed viewres to meet  
at the house of Phillip Houghton on Main  
Powder River on Thursday Nov 18<sup>th</sup> 1875, and  
with Willis Skiff County Surveyor proceed to  
view survey, and locate the above described  
& proposed Road, and report their proceedings  
to the next term of this Court.

In the matter of } Jan 5<sup>th</sup> 1876  
Viewers Report } Haughton Road.

Now on this day was read the first time the report of the viewers made Dec 20<sup>th</sup> 1875 on the Proposed Road from Haughtons Bridge to Goose Creek.

In the matter of } Jan 5<sup>th</sup> 1876  
Road Petition } By W. A. Bates, and others.

Now on this day was presented the following Road Petition.

To the Hon County Court of Union County Oregon.  
We the resident householders of Union County Oregon respectfully petition your Hon body to view, survey and locate a county Road, as follows.  
Commencing about one eighth of a mile due south of the center of the N E 1/4 of Sec 20 T 4 S R 40 E and running thence in an easterly direction, about about one and one half mile to the mouth of the Canyon coming into July Ann Creek from the south in which is now a wagon Road used as a timber road; thence up said Canyon to Gannas Prairie, thence northerly, about 40 rods, thence in an easterly direction, indirectly over the divide and down the north side of what is known as the Saddle or Ames hill to the mouth of dry canyon in High Valley; thence up said canyon, about 3/4 of a mile; thence leaving said canyon, and running in an easterly direction to a cove in the base of the Mountain East of high valley; thence up said Mountain to a point about 40 rods above the spring on said Mountain terminating at said point, all of which of said points are in Union County Oregon.  
Names. W. J. Hamilton; E. Townsend; E. Draper;  
W. A. Bates; John Smith; A. Swiger; J. W. McD. Culley;  
A. Schwoor; A. Chauncey Steer; Amos Rundall; D. E. Baird; John A. Bates;

In the matter of } Jan 6<sup>th</sup> 1876  
Viewers Report

Now on this day was read a second time the Report of the viewers on the Road from Haughton's Bridge on Powder River to Goose Creek, and a petition for damages having been presented by one Benjamin F. Sturgill, claiming damages in the sum of \$300. by reason of the location of said Road. It is therefore ordered that John Wilkinson, Warden Hathaway and N. F. Ficklin be and they are hereby appointed viewers to meet at the house of Phillip Haughton on Powder River on Saturday the 15<sup>th</sup> day of January 1876 and proceed to view out & assess the damages the said Benjamin F. Sturgill would sustain by reason of the location of said Road through his premises and report the same to the March Term of this Court.

In the matter of appointment } Jan 6<sup>th</sup> 1876  
of Road Supervisor. } Dist No 1

Now, at this time it was ordered that E. C. [unclear] be and he is hereby appointed Road Supervisor of County Road in Road Dist No 1 Union Co for the year ending Jan 1<sup>st</sup> 1877.

In the matter of appointment } Jan 6<sup>th</sup> 1876  
of Road Supervisor } Dist No 2.

Now at this time it is ordered that Jacob Newman be and he is hereby appointed Supervisor of Roads in Road Dist No 2 for the year ending Jan 1<sup>st</sup> 1877.

about 100 yds. thence in an easterly direction about 600 yds thence up a dividing ridge to the spring on Elizabeth Creek.

The Petitioner made affidavit that four notices were posted as follows, one on the Court house door in said County & 3 in the vicinity of said road, and also filed a Bond that he would pay all costs in case said road was not allowed, which Bond was approved by the Court

and it appearing to this Court that the Petitioners herein have proceeded according to law, it is therefore ordered that John Phy. Weldon Morris and Simon Miller be and they are hereby appointed viewers and Willis Skiff surveyor to meet at W. Daniels on Tuesday March 21<sup>st</sup> 1876 and proceed to view out & survey the above petitioned part.

In the matter of damages  
by location of County Road &  
buying Bridge. } March 8<sup>th</sup> 1876

Now at this time the Court takes up for consideration the report of the viewers heretofore appointed to assess damages to one Benjamin F. Sturgill by reason of the location of a County Road through his premises, situated on Main Powder River where Haughton Bridge crosses said River, the viewers reported that said B. F. Sturgill was entitled to the sum of Forty (\$40.00) dollars as damages.

and now at this time came George Hall & John A. Tucker and represented that the bridge on Main Powder and known as Haughton's Bridge belongs to a company as follows. Phillip Haughton John A. Tucker, George Hall and F. H. Sturgill, who were willing to deed said Bridge to Union County with the exception of F. H. Sturgill who was willing to make said deed for the sum of \$60. and said Bridge crossing Powder River at the point where the said

County road strikes said River, and after due consideration by the Court it is ordered that that the damages reported by the viewers in favor of B. P. Sturgill be, and the same is hereby allowed, and the same is hereby declared a public highway, and further Ordered that the proposition of the owners of said Bridge be accepted, and that an order issue to said F. H. Sturgill in the sum of \$60.--

In the matter of Supervisors } March 8<sup>th</sup> 1876  
 Report of Road Dist No 6 } Now on this day came  
 Wm Hull Supervisor of Roads  
 in Road No 6 in Union Co for the year ending Jan  
 1<sup>st</sup> 1876 and makes his report as such, which report  
 was accepted and filed.

In the matter of A. D. Saunders Dec<sup>d</sup> } March 8<sup>th</sup> 1876  
 Drowned in Phillips creek, April 1875 } Now at this time  
 it is ordered that the County Clerk of this Co  
 be, and he is requested to obtain from J. Hopper  
 Treasurer a report of the property belonging to  
 A D Saunders who was drowned in Phillips  
 Creek in said Co in April 1875, and also what  
 disposition he has made of said property.