

No. 3, Sept Term, 1885

Petition for Viewers

to VERSUS

Assess damages in
Sandy Township

Contents:

10/10/10

Good Luck

CLEARFIELD COUNTY, SS:❖

At a Court of Quarter Sessions of the Peace of the county of
Clearfield, held at Clearfield, in and for said county, on the
18th day of Sept, A. D. 1885,
before Judges of said Court, upon a petition of ~~sundry inhabi~~
~~of the township of~~ Sandy, in
said county, setting forth that he is the owner

of a tract of land in said township through
which a public road leading from the
Turnpike near M DeCarus to the Troutville road
has been opened within the year last past,
that by reason of said road passing through your
petitioner's land he has sustained great damage,
by having to build fences and also for the loss of
the land occupied which is taken out of one
of the best fields on his farm

and therefore praying the Court to appoint ^{Six} ~~proper~~ ^{Competent} persons to view and ^{assess} ~~lay out~~ the ~~same~~
~~according to law, said damages~~
whereupon the Court, upon due consideration had of the premises, do order and appoint
Honzor Vorling, Daniel Goodlander, Andrew Liddell
Andrew Smith, M H Luther, J P Taylor
who, after being respectively sworn or affirmed to perform the duties of their appointment
with impartiality and fidelity, are to view the grounds ~~proposed for said road~~, and if they
view the same and any two of the actual viewers agree that there is occasion for such road,
they shall proceed to lay out the same agreeable to the desire of the petitioners, as may be, having
respect to the best ground for a road and the shortest distance, and in such manner as to do
least injury to private property, and state particularly whether they judge the same necessary
for a public or private road, together with a plot or draft of the same, with the courses and
distances and reference to the improvements through which it passes, and shall also procure
releases of damages from persons through whose lands said road may pass, or failing to
procure such releases, shall assess the same, if any sustained, and shall make report thereof
to the next Court of Quarter Sessions to be held for the said county, in which report they shall
state that they have been sworn and affirmed according to law. Notice is directed to be
given to the owners or occupants of seated lands through which the within road is intended
to pass, of the time of the view, according to the 147th Rule of Court.

BY THE COURT.

James Kerr

CLERK.

RELEASE OF DAMAGES.

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned, owners of lands through which the road located by the viewers, under the annexed order, passes, for and in consideration of the sum of ONE DOLLAR to us respectively paid by the _____ at and before the ensealing and delivery hereof, have remised, released and forever quit-claimed and do hereby remise, lease and forever quit-claim to the said _____ all damages that may arise to us respectively by reason of the location and opening of the said road; so that neither we, nor any of us, nor any person claiming under us, can or may hereafter ask, sue for, demand, have or receive any damages for injuries arising or growing out of the location and opening of the road aforesaid.

Witness our hands and seals this _____ day of _____
A. D. 188 .

+++++
[L. S.]
+++++

+++++
[L. S.]
+++++

+++++
[L. S.]
+++++

+++++
[L. S.]
+++++

ASSESSMENT OF DAMAGES.

The following persons, having refused to release the damages to which they respectively may be entitled by reason of the location and the opening of the said road in the annexed return described, we, the undersigned viewers, under oath in pursuance of our duty, under the Act of Assembly do assess their damages and make report thereof, as follows:

To Myers Delorm the sum of Three Hundred dollars

To _____ the sum of _____

To _____ the sum of _____

Witness our hands this 12th day of December A. D. 1885

J. P. Taylor
Andrew Smith
H. H. Hagan
Geo. C. Slack
David Walborn

NOTE.—In case of a Private Road, the release must be executed in favor of the petitioner for said road.
 Also.—Viewers will carefully note the number of days employed and set the amount out at the foot of their return. Reviewers cannot interfere with damages assessed by the original viewers, except so far as the location may be changed by the reviewers.
 N. B.—If the viewers believe the parties are not entitled to damages, taking into consideration the advantages as well as the disadvantages of the road, they will report to that effect.

J. D. Yeager	#125	Days 1	Amount.
		Miles 10.	\$ 2.60
A. S. Kavan	#122	Days 1	
		Miles 10	2.60
S. Walburn	#125	Days 1	
		Miles 10	2.60
A. Smith	#123	Days 1	
		Miles 11	2.60
W. A. Slack	#124	Days 1	
		Miles 10	2.60

14 Dec. 1888 Reorder Confine
 in H. By M. S. Court
 D. Z. Smith
 24 March 1886 Consensus
 Continued By M. S. Court

No. 3 Sept. Session, 1885

ORDER

Reorder damages
 To ~~the road~~ lay out a Road
 For J. M. Dorn
 in the township
 of Sandy Clearfield county.

Now 7 Dec. 1885 The former
 viewers appointed having
 failed to do, then appointed
 is reset and Andrew Smith
 Samuel Smith. Walburn Geo
 A. Slack, J. D. Yeager Wm. Kavan
 are appointed to view and
 assess the said damages and
 report the same to the Court
 this order authorized
 By M. S. Court
 D. Z. Smith

Filed 15 Dec. 1885

Fees \$1.25 paid by A. S. Kavan

[Signature]

In Re Assessment of
 Road Damages
 to
 J. A. Delorme
 Re Argument.

Road received under Special Law of 1845 -
 Viewers of Damages - Gen. Law of 1836.

Cole.	In Re Grange St	17 votes	121.-
	In Re Bridge Ave.	5 votes	469.
	Comy, ad, Sup East Union	4 votes	219.

Conclusion of 1873 removes the limitations,

In Re Assessment
of Damages for
road through lands
of
J. M. Delorme

In the Quarter Ses. Court of the Co. Pa

No 3 Sept Dec 1885

The petition of the said J. M. Delorme was presented 15 Sept 1885 and six viewers appointed to view the lands of the petitioner and assess the damages he may have sustained.

It appears from the record that upon petition presented sometime within a year previously - a view was had and road laid out through the land of the said Delorme. This was by three viewers under the Act of Feb'y 24 - 1845. Burdon Dig't Vol 2 - 1519 - and being the road system under which the county is now acting. It would seem that these viewers whose duties are defined by this act to be, respecting damages, either to obtain release for damages or failing to procure the same to assess damages, did not assess damages to said Delorme. If the petitioner was dissatisfied with the report his remedy was under the Act of 1845 to have a review upon his questions of damages, and if he failed to apply for that in time, he could not apply under the Act of 13th June 1836. - It must be borne in mind that the act of 1845 Feb'y 24 is made ap. of acts applying thereto before to only certain counties. This now a com-

plate system of itself. both as to the logging out and
opening roads, and also to the assessment and
payment of damages. Durnelli road & Casey
384, and Charter Sup. 10 Casey 414. This law changes
the viewers from six to three, and it seems clear that the
appointment of the six viewers was irregular. We
are of the opinion the ^{second} exception must be sus-
tained ~~also~~ and we therefore sustain the exception
and set the report of viewers assessing damages
aside.

By the Court

D. Z. Krebs

Attorney General & C. J.

No 3 Sept 1885

Mr. A. A. A. A. A.

2
J. M. A. A. A.

Order of the A. A. A.
to report

Dec 19 1885

21 Jan 1887. Order of the
re-argument of the

Per Cur.

In Re

Amusement Co

Motion for re-argument,

We have heard what the able counsel for the petitioner has had to say in support of his reasons for re-argument and reversal of the decree entered in this case. We are not satisfied that we made an error in deciding that the receivers for assessment of damages ~~may be~~ appointed under the Act of 1825 and not under the Act of 1836. Not only are we sustained as we think by the authorities cited in our former opinion, but numerous decisions of the lower courts confirm our ruling. *Benton Twp Road* 2 Leg Leg Reg 99. *Road in Kingston* 23 Pitts L. J. 88. *Pleasant Street* 5 Leg Leg Reg 221. To the same effect although under a different statute 23 Ape 1857, is the decision of the Supreme Court in *Road in Bensalem Twp.* 38 Pa 368.

It is not necessary to decide at this time the question whether or not, under the 2nd Sect Art 111, Const 1874, the petitioner is yet entitled to present his petition for appointment of receivers and assessment of damages under the provisions of the Act of 1825, or whether he is too late, and we do not intimate any view upon that question.

We therefore overrule the application, now before us.

By the Court

D. L. Krebs P. J.

In Re Petition for
viewers Dues
damages on road
in Sandy Gap.

No 3 Sept T, 1883

now 16 May 1887. A. S. Cole.

Atty for Miles DeLarum moves for a reargument
of this case on the exceptions. for the following
reasons

1st The Supreme Court have expressly construed
the act of assembly under which this petition
was presented and held it applicable and in
force and the remedy to be pursued in a
case where damages are not assessed by the
first viewers.

A. S. Cole

Atty for M. DeLarum.

16 May 1887. Re-argument ordered

By the Court
O. L. Krebs

27

No 3 Sept 28 1885
Wieners Browsers
changes out
in Survey Book

Notice for assignment

Still 16 "may 1885"

Wade

In the Matter of a Public } In the Quarter Sessions
road in Sandy Township } of Clearfield County
Assessment of Damages }
No 3 Sept 9 1885

Al Kramer Attorney for Clearfield County
files exceptions to the confirmation of the
said report as follows.

1st Because the damages are excessive.

2 That the proceedings are irregular and
illegal as said road was viewed and laid
out under act of Assembly of 1845 which
requires the viewers laying out the road to
assess the damages and said report having
been referred back to them for said purpose
and passed upon by them is conclusive
except on an application for review at
the second term.

3 That there was no order ever issued to these
viewers to view and assess said damages. The
order on which they acted was issued to the
viewers first appointed who failed to act where-
upon the names of the present viewers were
substituted on the back of said order which
gave them no power or authority to act.

Al Kramer atty for County

No 3 Dec 18 1855

In the matter of a
Public Road in
Sandy Township
allotment of
Hammels of M
Helfman

Expositions

Hea 7 20 1855

Hansen

720 B Sept 21 1885

Schneiderman

Alonso Deuango

For public ground
purchased through the
land of the Deuango
in San Diego
Tues 18 Sept 1885

And now 18th Sept 1885

John W. Deuango

San Diego

David Deuango

San Diego

Alonso Deuango

For the Deuango

to me and my Deuango

over land with Deuango

San Diego 1885

Alonso Deuango

Alonso

To the Honorable, the Judges of the Court
of Quarter Sessions of Clearyfull County?

The petition of Miles DeLareau of Sandy
Township respectfully represents, That, He
is the owner of a tract of land in said Town-
ship, through which a public road ^{leading from} has been
^{the Gwynn's} opened within the year last past, That by reason
of said road passing through your petitioner's
land he has sustained great damage, by having
to build fences and also for the loss of the land occupied
which is taken out of one of the best fields on his farm
He therefore prays that a view of & if competent
persons be appointed to view and assess said
damages And he will ever pray &c.

J M DeLareau

Clearyfull County ss.

Personally came before me M DeLareau
who being duly sworn doth say that the facts
set forth in the above petition are true and
correct to the best of his knowledge & belief

Sworn and subscribed
before me this 15th day
of Sept 1883

J M DeLareau

James
Clerk