

NO. 9, Sept Term, 1881

View Vacate & Supply
Public Land

versus in
Sandy Township

Contents:

Statement

Decree

In Re. Public road

in Sandy Township.

-y

In the Court of Quarter Sessions of Clearfield Count

No. 19 September Sessions, 1886

Abstract of Cases.

The viewers can not stop short of the terminus mentioned in the petition.

53 Leg. Int. 64

2. W. C. N. 368

A report that locates a road with a different terminus than that mentioned in the petition is bad.

6 Phila. 384

25 Leg. Int. 77.

We respectfully submit, that a county line is not such a terminus as contemplated by the law for a public road, and if there is no public road at that point a petition to view and lay out a road to the county line could not be sustained.

The fact that the viewers did not meet on the day appointed, but came the following Monday must be fatal as the requisite notice of the time of the view was not given, and the persons who were affected by the change of the road had no opportunity to be heard.

no 19 Sept 1986

Public Road
in
Dairy Loop

Exceptions

In the matter of the } No Sept 1, 1860.
receipts of the } in Summe of \$ 5000000.
receipts given to }
execute and supply }
public road in Sandy }
Island.

Having been instructed
by the petitioners in this case not to pro-
ceed further & having sent permission to
withhold from the cause.

J. S. C. C.

12 Feb 1877

No Sept Sept 1886

Public Road

in

Sandy Township

Area 21 Feb 1887

Am Brown
clk

To the Honorable the Court of Quarter of
Clearfield County:

The petition of the undersigned citizens of Sandy
Township in said County respectfully shows,
That a public road laid out and opened
in Sandy Township leading from J. M. DeLancey
to the Reynoldsville road, is in part useless
to the community by reason of the grade being
so steep as to preclude convenient travel.
Your petitioners therefore pray that a road be
appointed to vacate the South East end of
said road from a point at or near John
R. Shaffer to the Reynoldsville Road, and that
they move and lay out an extension of said
road from the point where it is vacated
to the Jefferson County line to intersect a road
in Jefferson County at the line, a distance
will ever pray.

Signed
J. H. Heberling
J. M. Gillethwait
A. S. Weller
A. Heberling
Simon Hoover
Harvey Wells
J. H. Heberling
R. E. Gilligan
John Heberling
J. S. Wall

Sign'd
E. F. Hamel
Sam'l. A. Miller
Simon Glendale
J. M. Gilligan
J. H. Heberling
J. F. Gilligan
J. F. Gilligan
W. B. Ladd
John Heberling

729 Sept 2. 88

Bethboro & result

Supply the public press

in Shady L. P.

Mo 4th Oct 1888. etc within
petition presented and con-
sidered and therefore the
following persons are
appointed to view and
make up the report
to the next term. & consti-
tute a Board, to consist
of. Danl. Davis, Lewis,
Cochr. John Lankford
By Mr. Conk

Filed & certified

Conk

My paper cost
In P. Public Read
in Sandy Townshend

Disposition
for 32 300

Mar 22 Feb 1887
Am. Recov
Am

John R. Shaffer Sworn says, I live on the road in dispute. Have live there about 6 years. That portion of the proposed road from my place to the county line would be of no use to any one. There is no improvement on it after it leaves my place. There are three families accommodated by the portion of the road that is proposed to be vacated. They would have no other means of getting out if that were vacated to the pike completed, and from Mr. Kness' es it is cut out and opened, except a few logs. It would cost but a small sum to grade the road from Kness' es out as it is almost level. I cannot stat the date of the review, but it was for Saturday and the viewers did not come untill the following Monday. I remained at home the day they had appointed to come. They did not notify me of the change. I was not at home the day they viewed the road. A part of the road that was reviewed, vacated and supplied runs through my lands.

J. R. Shaffer

State of Pennsylvania,

County of Clearfield, SS.

I hereby certify that the foregoing witnesses were produced, sworn or affirmed and there depositions taken and subscribed before me at my office in the borough of DuBois, Pa., on the 5th day of February A.D. 1887. between the hours of 8 o'clock A.M. and 8 o'clock P.M. of that day in the presence of W.C. Pentz, Esq., for remonstrators, no one appearing for crossexamination.

Witness my hand and seal this 5th day of Feby, 1887.

Frank J. Jones
Notary Public.

a little cleared land. There is no church or schoolhouse at or near the terminus of the proposed road. It must be about $\frac{1}{2}$ of a mile to the nearest public road. The new road from Shaffer's to the county line would be of no use to any one at the present time at least. I think the road as now located is necessary for the people who live in there.

Simon Hand

John Hoover sworn says I live in Sandy Township, have lived there all my life, I am 42 years old. I live about 90 rods from the road in dispute. I am familiar with this country and know it well. I know where the new proposed road strikes the county line. There is no church, school house, nor any person living near the place where it strikes the county line, and there is no public road there either. The new piece of road would not accommodate any one that I know of. The road where it is now accommodates people that would not have any road if it were vacated. The road accommodates three families now that would be without a road if it were vacated. I think the road where it is now is necessary for these people, and if this road was thrown up they would be without any road touching their lands.

John Hoover

Isaac ^K Ness sworn says, I reside in Sandy Township on the road in controversy, I am 26 years old. I have no other means of getting away from my place than by the road that is proposed to be vacated. The road as it now is has been cut out from my place to Hands and is ready for grading except a few logs that are in it yet. This end of the road can be completed fit for travel for \$15.00. There is about 150 rods of the road that is not opened at all. That part is good dry ground to build a road over. There could be a good road built over the part that is not opened. The Viewers for the review gave notice that they would view on Saturday and they did not view on Monday. I do not remember the date of the view. I remember distinctly that they did not come on that day, but came on Monday following. The part of the road that is to be supplied would be of no use to any one that I know of.

Isaac Kness

In Re. Public Road in

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD CO. Pa.

Sandy Township.

Depositions taken before Truman Ames, a Notary Public in said County, at his office in the borough of DuBois, Pa., on the 5th day of February A.D. 1887, by virtue of the annexed rule and in accordance with the ~~said~~ annexed notice.

^K H. H. Ness affirmed says, I live in Sandy Township on the road now in controversy. I will be 59 years old in June next. I have lived where I do now for six years. I am familiar with the country through which the old road passes, and through which the new one passes. The old road is partly opened, it is opened passable from the Erie pike to JNO. R. Shaffers. The other end from the public road near Simon Hands to the J. H. Ness's is cut out and rolled and needs very little grading to make it a good road. I think there is about a third of a mile between Jno. R. Shaffers and J. H.

Ness's that is not cut out. On the part supplied there would be at least three quarters of a mile, perhaps more to be cut out. The new part goes through a little improved land of Jno. R. Shaffer's the balance is all woods. There is no road located at the county line where this road would strike it. There is no public building ~~near~~ that place. There would be three families deprived of a public road if that road was vacated. They would have no outlet, without going through the lands of other persons. Their lands do not touch any other public road outside of the road that is proposed to be vacated. The part of the road that is unopened is on good ground and could be opened without very much cost. The new road which is proposed would be of no benefit to any one. The Erie pike is about one mile from the terminus of the proposed road at the County line, and the nearest public road is about a mile and a half.

H. H. Ness

~~XXXXX~~ Simon Hand sworn says I live in Sandy Township, within a few rods of the road in dispute. Have lived there for over twelve years. I am familiar with all the country through which this road passes. If the road from Jno. R. Shaffer to the road to Carlile's mill were vacated there would be three families without a public road. If the road was vacated they would have to go through the lands of other people to get to a public road. There is no road near the termination of the new road. The new road passes through Shaffer's land and I think through

Rule to Take Depositions.

Clearfield County, ss:

In Re. Public Road in
Sandy Township

VERSUS

Quarter Sessions
In the Court of Common Pleas of
Clearfield County, Pennsylvania.

No. 19. September Session, 1887.

And Now, to wit, the 28th day of January, in the year of our Lord one thousand eight hundred and eighty-seven the Remonstrants enter a Rule to take the Depositions of ancient, infirm and going witnesses, to be read in evidence on the Argument of this case. Ex parte Rule of Remonstrants on five days' notice.

A. J. Bloos
Prothonotary.

To A. J. Cole, Esq.:

Atty for Road

You will please take notice that, in pursuance of the foregoing Rule, Depositions will be taken before Freeman Ames, or some other person authorized to administer an oath or affirmation in Pennsylvania, in and for the county of Clearfield, at the office of Freeman Ames, in the Borough of Clearfield, in the county of Clearfield and State of Pennsylvania, on the 31st day of February A. D. 1887, between the hours of 8 o'clock, A. M. and 8 o'clock, P. M., when and where you may attend and cross-examine.

M. D.
Clearfield, Pa., Jan 28, 1887} Atty for Remonstrants

CLEARFIELD REPUBLICAN PRINT.

Service accepted 29, Jan 1887
A. J. Cole

In Re. To vacate and
Supply a Public Road
in Sandy Township

In the Court of Quarter Sessions of Clearfield
County

No. 64 Setember Sessions 1883

Now the 21st day of December 1883. John Hess, by his attorney
W. C. Pentz, excepts to the confirmation of the report of viewers in the
above case for the following reasons, to wit:

1st. That the petition for the vacating and supplying of said road is
in the following words, viz: "Your petitioners therefore pray that a view
be appointed to vacate the South East end of said road from a point at
or near John R. Shaffers to the Carlile Road, and that they view and lay
out a an extension of said road from the point where it is vacated to
the Jefferson County Line to intersect a road in Jefferson County, at the
Line": That there is no road in Jefferson County at the point where the
viewers laid out said road to intersect, nor any where near there, Hence
the report of the viewers does not correspond with the facts set forth
in the petition.

2d. That if a road is laid out as described in the viewers report to
vacate and supply a part of this road, the part supplied will be of no
use to any one, as no one lives on that end of the road, or near it,
and it terminates in a dense forest, and will not be of any use to any
person.

3d. That where said road is now laid out it passes three families and
gives them an outlet and if vacated will cut them out off from any pub-
lic road and compels them to go throumh the land of strangers to get a-
way from their homes.

4th. That the said three families have no other road near them, except
the one proposed to be vacated, to get away from their farms and it would
be a great injustige to them to take away the only road they have, and to
deprive them of the means of communication with their neighbors.

5th That both ends of said road are opened for public travel, and there
is only from a quarter to half a mile to open to complete the road for

public use, and if that end of the road is vacated all the work done
will be lost.

6th That the statement ~~th~~ a part of said road is useless on account
of steep grade is untrue, and absurd. That there is no part of said
road that can not be used for travel.

N. C. Dug
atty for claimants

No. 17 September Sessions 1886.

In Re. To vacating and sup-

plying a road in Sandy Twp.

* * * * *

Exceptions to Report of Viewers

July 21 1886

In Re. The Pe-
tition to vacate
and Supply a Road in
Sandy Township.

} In the Court of Quarter Sessions of Clearfield
County

No 10 September Sessions 1886

To the Honorable the Judge of said Court

The undersigned citizens of S

Sandy Township Respectfully Remonstrate against the confirmation of the Report of Viewers in the above case for the following reasons, to wit;

1st. That the petition asking to review and vacate and supply a part of said road requests that that part of said road from a point near John R. Shaffers' to ^{the} Carlile road be vacated and that they shall lay out an extension of said road from a point near John R. Shaffers' to the Jefferson County Line to intersect a road at the County Line.

We remonstrate against this because that part of the road from John R. Shaffers' to the County Line would be of no use to any one, as there is no road at the County Line to intersect or anyx no road near the line that might be intersected, and that part of said road would be an expense to the citizens of the Township to keep up which would benefit no one, and there is no one living on the road beyond John R. Shaffers and that end of the road would go into a dense forest.

2d That where said road is now located it passes through the land of three persons who have no other road to get away from their homes, and if this road is vacated it will compel them to cross the land of strangers to get off of their own land as there is no public road near them except this one.

3d That both ends of said road are now opened, and there is only a short piece to open which can be done more cheaply than the proposed piece can be opened..

112-5222

gymnophyllum

fruits

Nov 19 October 1882

No 19. left. Rs. 188⁷⁰

Mr. Re. Rose an Son
Downsif

Remainder

Three 20th Aug 1882^m

Rust

To the Honorable the judges of the Court of
Quarter Sessions of Clearfield County.

We the undersigned viewers appointed by the annexed order of Court to view and lay out the road therin mentioned and also to vacate a certain portion of a public road respectfully report: —

That having given due and public notice of the time and place of said view by printed handbills as required by the act of Assembly, we met at the time and place appointed, and after being duly sworn or affirmed according to law, and all the viewers being present, we went upon the ground proposed for said view, and having viewed the same we report for Public use the following road, to wit:

Beginning at a post on the Jefferson County line it being the South West corner of John R. Shafer's land Thence on line of lands of John R. Shafer and John Haile South Eighty-seven (87°) degrees East Sixty (60) perches to a post;

Thence through wood lands of John R. Shafer North twenty-nine (29°) degrees East, Eighteen (18) perches to a post; Thence through two corners of improved fields North thirty-eight & a half ($38\frac{1}{2}^\circ$) degrees East Forty (40) perches to a post;

Thence through wood lands of said Shafer North Ten (10°) degrees East, twenty (20) perches to intersect the public road leading South from J. W. DeLarme at a point on the north line of lands of Jno. R. Shafer a draft of plot whereof is hereunto annexed which said road we report as necessary and we further we report no damages to ~~accrued~~

to any one from said road).

Then from the intersection of this new road we vacated the South and South East part of the road as it had been laid out but not yet opened, as it had been laid out down alongside a deep ravine whose sides are nearly precipitous and the grade of the road is from 8 to 10 degrees; when beyond the hollow it runs up a very steep grade towards the Kniss' buildings and passed through between the house and barn in an easterly direction till it struck the public road leading to Carlile siding on lands of Mr. M. Adams (or Prescott). This part of the road we would ask the Hon. Court to vacate; but not for the purpose to deprive said Kniss' from having a road but because we think it had been laid out in the wrong place as it is too expensive to open and if it had been opened it would have had too high a grade to admit of travel.

Nov. 1st 1836

David Reams }
Luis D. Shook }
John Lankard }
Clerks

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 1st day of Oct., A. D. 1886, before Judges of said Court, upon a petition of sundry inhabitants of the township of Sandy, in

said county, setting forth that a public road laid out & opened in Sandy, leading from & M. DeLearnes to the Carlisle Road now is in great useless to the community by reason of the grade being so steep as to preclude convenient travel - Your petitioners therefore pray that a view be appointed to vacate the south east end of said road from a point at or near Dr. R. Shaffers to the Carlisle Road - And that day view and lay out an extension of said road from the point where it is vacated to the Jefferson County line or to intersect a road in Jefferson County at the time David Reems Lands School

and therefore praying the Court to appoint proper persons to view and lay out the same according to law, and report to next term whereupon the Court, upon due consideration had of the premises, do order and appoint

David Reems Lands School, John Lankard 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 .

Refused to release but claim no damage in our presence

ASSESSMENT OF DAMAGES.

ASSESSMENT OF DAMAGES.

We find no damages to accrue to any one from this road
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 *the sum of*

To *the sum of*

To the sum of

Witness our hands this First day of November A. D. 1886.

David Reams }
Lewis Schock } Drexers

NOTE.—In case of a private road, the referee 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 reviewees. 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.

	Days	Amount.
J. Meame	2	
	Miles 1/4	\$1.80
G. Schick	1	
	Miles 6	2.60
Mr. Hankard	1	
	Miles 3	2.30
J. Hank.	1	
	Miles 1	1.60
Mr. Harkard	1	
	Miles 2	1.90
		\$17.00

No. 19 Sept. Sessions, 1886

RECEIVED
TREASURER
TO view and ~~test~~ a Road
for Public use in the township
of Sandy, Clearfield county.

Filed 10 Sept, 1886

Fees \$1²⁵, paid by A. D. Cooley
Paid by John Lyons
and C. C. Cooley

