

No. 9, Sept Term, 1884

View Vacate & Supply  
Public Road

~~VERSUS~~ in  
Sandy Township

Contents:

Set aside

The road

In Re. Public road

in Sandy Township.

In the Court of Quarter Sessions of Clearfield Count

-y

No. 19 September Sessions, 1886

Abstract of Cases.

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

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 1886

Public Road  
in

Daisy Loop

Exceptions

In the matter of the  
replevin & the  
report of views to  
be sent me supply  
public road in Sandy  
Spr.  
2 No Sept 7, 1886.  
in Quant. of Sept 20-

Having been instructed  
by the petitioners in this case not to pro-  
ceed further I hereby with permission to  
withdraw from the case.

J. A. Cole

12 July 1887

N<sup>o</sup> Sept Sep 1886

Public Road

---

in

Sandy Township

Filed 21 Feb'y 1887  
Amberger  
Clk

To the Honorable the Court of Quarter S. of  
Clarke County.

The petition of the undersigned citizens of Sandy  
Township in said County respectfully sheweth;  
That a public road laid out and opened  
in Sandy Township leading from J. M. DeLano's  
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  
appropriated to vacate the South East end of  
said road from a point at or near John  
R. S. Haffers to the Reynoldsville Road, and that  
they may 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, accordingly  
will ever pray.

Signed  
J. H. Heberting  
J. M. Pottlethwaite  
A. S. Wall  
A. Heberting  
Simon Hoover  
Harvey Wells  
J. M. Heberting  
R. E. Gilligan  
John Heberting  
J. E. Wall

Signed  
E. F. Hanel  
Samuel H. Hanel  
Simon Hanel  
Jonathan Hanel  
H. S. Hanel  
J. G. Still  
W. B. Lacy  
James Hanel

720 of Sept 2. '88

(With no success)

supply in the road

in the city to go.

From 4<sup>th</sup> Oct 1888. The within  
petition presented and con-  
sidered and thereupon the  
proceeding persons were  
appointed to view and  
make a report  
to the next term of Court

By David Reams, Secy,  
J. H. Lankford

By Mr. Smith

Filed 4 Oct 1888

Levi

My Dear Sir 1886  
The Public Road  
in Sandy Township

Deportation  
for 300

Dear Sir July 1887  
Sincerely  
Ola



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 other than going over the lands of other people. The road is opened from my place to the pike completed, and from Mr. Kness's it is cut out and opened, except a few logs. It would cost but a small sum to grade the road from Kness's out as it is almost level. I cannot state the date of the review, but it was for Saturday and the viewers did not come until 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 their 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 cross examination.

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

*Thomas Ames*  
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  $\frac{3}{4}$  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 Stand*

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<sup>K</sup> 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 Ness*

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.

H. H.<sup>K</sup> 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 Hand to the J. H. Nesses 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*

~~XXXX XXXX~~ 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 Carliles 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  
In the Court of Quarter Sessions  
Common Pleas of  
Clearfield County, Pennsylvania.  
No. 19. September Session Term, 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.

W. H. Bloom  
Prothonotary.

To A. F. Cole, Esq.:

Atty for Road

You will please take notice that, in pursuance of the foregoing Rule, Depositions will be taken before Truman 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 Truman Ames in the Borough of Lewisburg, in the county of Clearfield and State of Pennsylvania, on the 5th 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.

Clearfield, Pa., Jan 28, 1887  
W. H. Bloom  
Atty for Remonstrants

CLEARFIELD REPUBLICAN PRINT.

Service accepted 29 Jan 1887  
A. F. Cole

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

In the Court of Quarter Sessions of Clearfield  
County

No. 14 September 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 extensions 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 out let and if vacated will cut them off from any pub-  
lic road and compels them to go through 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 injustice 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 that 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. Ruiz*  
*att'y for Exemptors*

No. 17 September Sessions 1886

In Re. To vacating and sup-  
plying a road in Sandy Twp.

\* \* \* \* \*

Exceptions to Report of Viewers

*Filed 21 Dec 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 13 September Sessions 1883

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 <sup>the</sup> Carlile road be vacated and 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 ~~any~~ 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  
add to 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.



John Hunt  
and  
J. K. Kamen

David Walker  
G. H. ...  
S. ...  
J. W. ...

Simon Steover  
C. ...  
H. ...  
S. ...  
H. ...

W. ...  
H. ...  
H. ...  
H. ...

S. ...  
J. ...

H. ...  
H. ...  
H. ...  
H. ...

...  
J. B. ...

...  
P. B. ...

...  
A. ...

J. A. ...  
H. A. ...

Calvin ...  
H. ...

R. E. ...  
L. ...

W. ...  
G. ...

J. W. ...

...  
...

...  
...

John, R. Steel  
Victor, Shuman  
—

Nov 9 Sept 1886

No 17. Sept. 1887

In Re. Road in Son.

Downside



Remonstrance

Filed 28 June 1887

Aug

To the Honorable the Judges of the Court of  
Quarter Sessions of Clearfield County.  
We the undersigned viewers appointed by the annex-  
ed 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 Hand South Eighty-seven ( $87^{\circ}$ )  
degrees East Sixty (60) perches to a post;

Thence through wood lands of John R. Shafer  
North twenty-nine ( $29^{\circ}$ ) 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 ( $10^{\circ}$ ) degrees East, twenty (20) perches to intersect  
the public road leading south from J. M. DeGarmo  
at a point on the north line of lands of John R. Shafer  
a draft of plot whereof is herewith annexed  
which said road we report as Necessary and  
we further we report no damages to accrue

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 Kness' buildings and passed through between the house and barn in an easterly direction till it struck the public road leading to Carlie 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 Kness' 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  
Ezra D. Shock  
John Lankard

Quinners

## CLEARFIELD COUNTY, SS:3

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 Tp, leading from J M DeLarues to the Carlisle road now is in fact 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 Mrs E Shaffers to the Carlisle road - And that they view and lay out an extension of said road from the point where it is vacated to the Jefferson County line on to intersect a road in Jefferson County at the true ~~David Reams Lewis 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 Reams Lewis School, John Laukait 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 enseatling 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* +++++  
[L. S.]  
+++++  
[L. S.]  
+++++  
[L. S.]  
+++++  
[L. S.]  
+++++  
[L. S.]  
+++++

**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. 188*6*

*David Reams* } *viewers*  
*Lewis Schock* }

NOTE—In case of a Private Road, the review 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.

D. Neuma	Days 2	Amount.
	Miles 4	8.80
H. Schuch	Days 1	
	Miles 6	2.60
Geo. Oakland	Days 1	
	Miles 3	2.30
J. Stunk	Days 1	
	Miles 1	1.60
Geo. McKeelney	Days 1	
	Miles 2	1.70
		<u>\$17.00.</u>

No. 19 Sept Sessions, 1886

ORDER  
To view and ~~lay out~~ a Road  
To view and ~~lay out~~ a Road

For Public use in the township  
of Sandy Clearfield county.

Filed 10 ~~th~~ th, 1886

Fees \$1.25 paid by C. D. Coale  
Paid by John Lyons  
affsalo



Section 20-10-11

