

No.

20, May

Term, 1889

View of Vacated

Public Road

versus

Woodward & Briggs
Townships

Contents:

And now 2^d Dec. 1889 the following exceptions are filed and made to the confirmation of the Report of T. S. Wells, N. P. Wilson and W. H. Shirey viewers vacating "a public road in Boggs Township from the Burnt School House in Woodward Township leading down Sautorn Run to a point on Clearfield Creek near Samuel Lamberts in Boggs Twp." as follows. -

First. The petition upon which the order was made appointing said viewers is insufficient and defective and does not confer jurisdiction to the Court of Quarter Sessions for the following reasons, inter alia, to wit, -

(1) The petition does not state that the road it is sought to vacate was laid out by authority of law.

(2) The petition does not state whether the road sought to be vacated was a public or private road.

(3) The petition does not set forth in a clear and distinct manner the situation and other circumstances of such road or highway or the part thereof which the applicants desire to ^{have} vacated as required by law.

(4) The petition does not state whether or not the road, the petitioners desire to have vacated, was laid out by authority of law and confirmed or whether the same was opened or not opened. If laid out and confirmed

by authority of law, but not opened, the Court would have no jurisdiction, The petition not showing affirmatively to be, and it is not in fact, signed by a majority of the original petitioners for the road, as required by law.

Second, - The order to view does not conform to the petition or the order of the court appointing said viewers, in the following respects, inter alia, to wit:-

(1) The petition asks for the vacation of "a road starting from the Burnt School House" in Woodward township down Sauborn run to the creek,"

The order to view states "that a road has long since been laid out from the Burnt School House in Woodward township down Sauborn run to a point on Clearfield creek near Samuel Lamberts in Boggs township" &c.

The order to view describes a road crossing Clearfield creek at mouth of Sauborn run and continuing down the opposite side of said creek for upwards of two miles beyond the point named in the petition.

(2) The petitioners ask for viewers to vacate, the order of Court made on that petition is "
And now Sep. 1889 petition read and there-

upon J. L. Wells, A. P. Wilson & W. H. Shirey are appointed to view & report to the next term". The viewers were appointed to view and vacate. The order issued is in form an order to lay out a new road.

Third The report of the viewers does not show that personal notice was given to the owners or occupants of seated lands through which said road passes of the time and place of view.

Fourth The viewers do not accompany their report with a plot or draft of the road vacated nor does their report contain the courses and distances thereof, and does not set forth in a clear and distinct manner the situation and other circumstances of such road or highway or the part thereof which the viewers vacate as required by law.

Fifth The road vacated is the terminous of another public road, and the viewers have no power to vacate the same.

Sixth - The said road, which the viewers vacate, should not be vacated,
(1) Because it is the most direct, best

and shortest route from that section of the county to the county seat.

(2) Because the vacation of said road will tend to destroy the natural and general plan or system of public roads for that section of the county and leading to the county seat.

(3) Because said road is necessary for the accommodation of the general public.

Seventh. The viewers exceeded their powers under said order to view, in the following particulars, in ter alia, to wit:—

(1) The order to view is to lay out a road, the viewers vacate a road.

Eighth. We certify that in our opinion there are legal reasons why said report should not be confirmed; that the order to view should be revoked and the petition dismissed.

Ovis & Snyder.

Atty's for O. J. Kline
J. H. A.

No 20 "May Seed" 1889

In the road leading from

Burnt Ash House to point
on Glenfield Creek near
Sawie. Lambert.

Exceptions to Ripens
of Viewers.

Filed Dec 1 1889
Margalony

OTS

your Petitioners pray the Court
to admit Complainants persons
to view and vacate said Road as
it will be a public burden to
said Petitioners and we will

J E Gearhart -
A S Anninerman
Jno McCarty
W K Smeal
David Meas
D S Smeal
David Ylles

no longer in use

P. lit-eum

To West Vacate and
leading off from Runt
School House in Woodward
Township down Saxon
Run to Spring on
Clearford Creek near
Samuel Sailer's in
Boys's Township—

The names of the persons killed
and the persons of the Mills
The Philson & Co. & others
are appointed to the next
report to the next day
By the Court

Dear friends
I am
yours truly
Wm

Free of duty 1878

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 ensembling and delivery hereof, have remised, released and forever quit-claimed, and do hereby remise, release 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 .



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 _____ the sum of _____
To _____ the sum of _____
To _____ the sum of _____

Witness our hands this _____ day of _____, A. D. 188 .

Clearfield County, ss:)

At a Court of Quarter Sessions of the Peace of the
county of Clearfield, Pennsylvania, held at Clearfield,
in and for said county, on the 18th day of
July, A. D. 1889, before Judges
of said Court, upon a petition of sundry inhabitants of
the township of Argos, in
said county, setting forth that a road has

been dug from Lewisburg to the County
Seat House in Clearfield and deep down towards
Argos to a drain in Clearfield and down towards
the mouth of Argos Township that said
road has been dug without permission of the
inhabitants of said township

and therefore praying the Court to appoint proper persons to view and lay out the
same according to law, and make report to the Court,
whereupon the Court, upon due consideration had of the premises, do order and
appoint Geo. W. Miller, Jr., William and Wm. Shively
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 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 14th Rule of Court.

BY THE COURT.

CLERK

Wm. Miller

No 20 May Sessions, 1889

ORDER

To view ~~and~~ ^{locate} a road for
Public use in the township of
Daggs, Clearfield Co.

Sept 21 1889 Confirmed
to the L. By the Court

Now 21 Dec 1889
filed & return papers

Filed 31 Aug 1889
Fees \$1.25 paid by ^{viewers} ~~viewers~~
W. C. M.

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 engaged and see the amount put in the foot of their return. If the petitioners desire to change the location of the road, 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 the road, they will report no advantages as well as the disadvantages of the road, they will report to the effect.

<u>Viewers</u>	<u>Days</u>	<u>Amount</u>
<u>Cent # 640</u>	<u>Miles 30</u>	<u>7.00</u>
<u>Robert A. Slattery</u>	<u>Days 1</u>	
<u>Cent 641</u>	<u>Miles 26</u>	<u>4.60</u>
<u>A. J. Johnson</u>	<u>Days 1</u>	
<u>Cent 674</u>	<u>Miles 21</u>	<u>4.80</u>
	<u>Days</u>	
	<u>Miles</u>	
	<u>Days</u>	
	<u>Miles</u>	

To the Honourable Judge of the Court
of Quarter Sessions of Charfield County.
We the undersigned persons,
appointed by your Honourable Court
to the 20 May Sessions 1889 to view
the public road in Boggs Township,
from the Burnt School house in
Woodward Twp leading down
Sanborn Run to a point on
Charfield Creek near Samuel
Lamberts in Boggs Twp, would
respectfully report that having
given due public notice of the
time and place of meeting, they
met at the Burnt School house
on Tuesday the 27th day of Aug. A.D.
1889 at half past ten o'clock A.M.,
where all the viewers being present
and all having been sworn or
affirmed to perform the duties
of their appointment with
impartiality and fidelity, they
proceeded to view the said public
road, and after careful examination
do report that said road has
become useless and burdensome
to the inhabitants of said
Township and ought therefore

To be vacated as a public road.
Witness our hands this 30th day of
August A.D. 1889

J. L. Welles }
W. H. Lacey } Viewers
M. B. Wilson }