

No. 22 Sessions.

Public Road in

COMMONWEALTH

versus

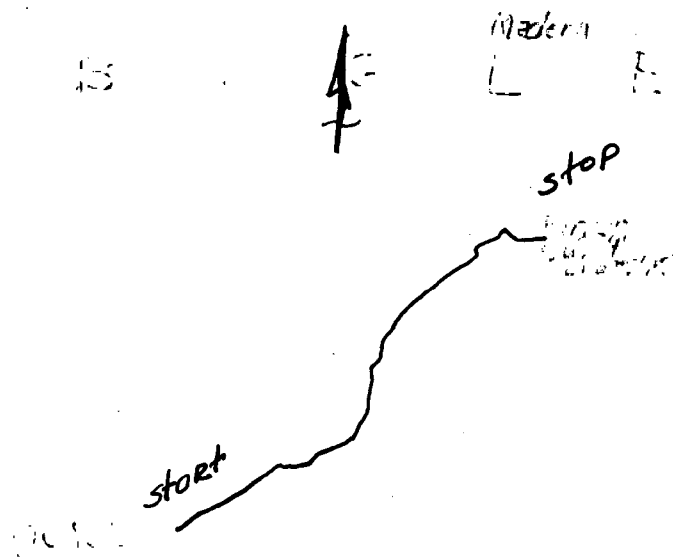
Bigler Township

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Vacated





Bigler Twp.
Conf. Abs. Feb. 8, 1897
33'-16'

Beginning in public road
near Chesterfield Hotel -
to Twp. Road from Madera
to Smoke Run (Village of
Bannion).

To the Honorable Cyrus Gordon, President Judge of the Court of Quarter Sessions of Clearfield County: -

The petition of the undersigned residents of the Township of Bigler, Clearfield County, Pennsylvania, respectfully represents:

That at February ^{Seamus} ~~1890~~ of your honorable Court the report of Viewers appointed by the Court to view and lay out a public road beginning at a stake at Samuel Bodle's restaurant at Chesterfield in the Township aforesaid and leading to a point near Meyer & Kirk's saw mill on public road leading from Madera to Smoke Run, was confirmed absolutely by your honorable Court, and an opening order therefor was placed in the hands of the Supervisors of Bigler Township;

That the petition, notice of view, and meeting of Viewers, was known to a very small portion of the inhabitants of Bigler Township;

That the road as reported will be very expensive to build and will necessitate an outlay estimated at about four thousand (\$4000.00) dollars;

That said road as laid out crosses Muddy Run and Banian Run, thereby making it necessary to construct two expensive bridges in the opening of said road; It will also be necessary in order to open said road to build at least nine culverts, and the road as laid out is of the length of about two and five-sixths miles, and the route is located in such a manner as to render it unnecessarily expensive and burdensome to taxpayers;

That there are no funds in the hands of the Treasurer of Bigler Township to build said road; and that if a public road is necessary for the accommodation of the public passing to and from Chesterfield, a much cheaper and fully as convenient an outlet can be obtained by a public road leading from Bodle's restaurant at Chesterfield to Smoke Run.

Your petitioners further represent that the proceedings in this case are fatally defective and must be set aside, for the reason that although the report of the

Viewers as set forth in the draft attached to said report shows that the road crosses the tracks of the Pennsylvania Railroad Company, notice was not given to the said Railroad Company in the manner and form required by the Act of Assembly.

Your petitioners further represent that said proceedings are defective for the reason that the termini of the said road are not definitely set forth in the petition or in the report of the Viewers.

Your petitioners therefore pray your Honorable Court that the Decree of the Court confirming said proceedings absolutely may be set aside, and they will ever pray.

*Permissive R.R. Co.
by Murray & Smith
Solicitors*

*James N. Alexander
Supervisor of
Byler Twp
by H. J. Shaw
Att'y*

Names	Residence
1 James H. Alexander	Madra Pa Supr
2 John P. Croyl	Smoke Run "
3 C. C. Ball	Smoke Run
4 Thor Blyth	Madra Pa
5 Denton Burness	" "
6 H. M. Richards, Supt. BMCUG.	
7 W. B. Langford	Houtboldt
8 J. R. Jopling	Madra Pa
9 A. C. Shoff	" "
10 G. B. Curry	" "
11 D. W. Deenan	" "
12 James Bywater	" "
13 Elias, G. Silo	" "
14 J. O. Carson	" "
15 A. C. Stouffer	
16 Saml. Whitte	" "
17 J. F. Corneby	" "

18	Names	Residence
19	James Cornely	Modena Pa
20	J. J. Cornely	" "
21	David Blythe	" "
22	H. S. Blythe	" "
23	Frank W. Van Cuyre	" "
24	John O. Householder	" "
25	E. R. Miles	" "
26	Sam Griffith	" "
27	Wm. Shay	" "
28	J. W. Shoff	" "
29	John Hines	" "
30	J. G. Higgins	" "
31	Bessie Alexander	" "
32	Maurice Waring	" "
33	John Ruffner	" "
34	John Griffith	" "
35	Harry Shay	" "
36	G. B. Keshart	" "
37	Edward Bryan	" "
38	B. H. Buckwalter	" "
39	C. W. Lumborn	" "
40	Chas. Anderson	" "

41		
42	Chas. Spicer	Madera
43	James Lamm	Madera
44	J. W. Gill	" "
45	Amos Hensel	" "
46	D. B. Hensel	" "
47	Alber. Hoff	Madera
48	W. P. Corneley	" "
49	Ed. Pouch	" "
50	Braz. Abondio	" "
51	G. L. Corneley	" "
52	David Hegarty	" "
53	Esty. Miller	" "
54	Reuben Hegarty	Madera.
55	Jersey Hegarty	" "
56	J. T. Wilson	" "
57	J. J. Mills	" "
58	Joe Wagner	" "
59	John Whiteside	" "
60	Wm. Mc Tavis	" "

	Names	Residence
61	O. E. Bocher	Madera
62	S. V. Hensel	Madera
63	George W. Smith	Amesville
64	Leet Johnson	Madera
65	John McCamblly	" "
66	Boaz Alexander Jr.	" "
67	Ross Dunlap	Belsara
68	A. D. Shoff	Madera
69	J. P. Larson	" "
70	W. B. Shuff	" "
71	Henry H. Miles	" "
72	for Denny	" "
73	Bernard Gratten	" "
74	George H. Stett	Amesville
75	Chas Wilson	" "
76	B. Bosworth	" "
78	John Fritzner	" "
79	J. H. Packer	" "
80	A. D. Shoff	" "

81	John Lloyd	Annville
82	Edward Cowan	"
83	John Gustafson	"
84	Frank J. Johnson	"
85	Hans Beck	"
86	E. A. Shoff	"
87	E. A. Fower	"
88	J. A. Shoff	"
89	Robert Adam	"
90	Frank Muller	"
91	Ed. Sward	"
92	Carley Sward	"
93	Andrew Dahlin	"
94	Albert Sward	"
95	Jacob Feshitsch	"
96	J. E. Miller	Madera Pa
97	J. A. Stitt	"
98	Nicholas Bry	Banion
99	Mathias Shig	Madera
100	Charles Fager	"
101	Chas Ruel	"
102	James S. Stitt	"
103	J. P. Lennon	"

104	Robert Alexander	Maclera		
105	Ben Bynum	"	"	"
106	J. E. Johnson	"	"	"
107	West Johnson	"	"	"
108	B. M. Shoff	"	"	"
109	James Leasty	Smoke Run, Pa.		
110	Abraham Wynn	Smoke Run, Pa.		
111	H. C. Stodart	"	"	"
112	C. E. Rosebury	"	"	"
113	James Linn	"	"	"
114	Christ Schmidt	"	"	"
115	A. B. Deunert	"	"	"
116	H. Zimmerman	"	"	"
117	Henry Dore	"	"	"
118	John Peden	"	"	"
119	Joseph Dore	Smoke Run		
120	Joseph Maxwell	"	"	"
121	W. H. Leaper	"	"	"
122	Frank Ball	"	"	"
123	D. A. Warren	"	"	"
124	Joseph Banks	"	"	"
125	B. J. T. T. T.	"	"	"
126	John Cook	"	"	"
127	Edward J. Lloyd	"	"	"
128	O. W. Shoff	"	"	"
129	Abraham	"	"	"
130	Douglas Evans	"	"	"
131	W. C. Lewis	"	"	"
132	Henry B. Barab	"	"	"
133	John Peden Jr	"	"	"

	Names	Residence
134	Ben Ferrin	Smoke Run
135	W. S. Suggs	" " "
136	Reese & Roberts	" "
137	Samuel L. Smith	" "
138	Daniel Jones	" "
139	David Richards	" "
140	John Martin	" "
141	John W. Evans	" "
142	W. A. Davis	Marion Pa.
143	Wm Griffith	Smoke Run
144	John Smith	Smoke Run
+ 145	W. R. Cameron	Houtzdale Pa.
146	A. Platt	Smoke Run
147	Wm. H. H. H.	" "
* 148	R. A. Leonard	Houtzdale Pa.
149	Am. E. Miller	Smoke Run Co.
150	Ever Johnson	Smoke Run
151	Charly Smith	" "
152	James Maher	" "
153	Bernard Ward	" "

	Names	Residence
154	S. James	Smoke Run
155	M. Williams	" "
156	Chas. & Sturgenberg	" "
157	James McGuire	"
158	Wm Walters	Banion
159	Yeraz goony Jr	Smoke Run
160	James Hines	Banion
161	William W. W.	Banion
162	Charles Walters	" "
163	Chas. J. Johnson	Amesville
164	Leidas Seabolt	Ban Vulkan
165	Jonathan Bryan	Hardra
166	G. G. Davis	Wadsworth
167	George A. Lee	Hardra
168	Samuel Edmiston	" "
169	Matthie McClellan	" "
170	Phillips E. Tubbs	Bigler Township
171	Chas. C. Wilson	" "
172	Walker Tubbs	" "
173	George Taylor	" "
174	Sarah Bruce	" "

175	W. E. Davis	Bigler Township
176	H. H. Davis	" "
177	Wm. Perry	" "
178	Richard Pike	" "
179	Geo. W. Dotts	Bigler Twp
180	A. H. Gustafson	Emmonsville
181	W. P. Hartman	Belsena Hills
182	E. G. Miles	Modero
183	John Gardar	Modero
184	John Anderson	Madison
185	H. B. Garner	Mad Belsena
186	J. A. Stoy	Belsena
187	Boaz White	Madison
188	E. G. Gardar	" "
189	Chas H Straw	Belsena
190	Wm Kelly	" "
191	H. A. Kelly	" "
192	Jos Morgan	" "
193	G. J. Cuppres	" "
194	E. S. Walker	" "
195	Thomas Adam	Emmonsville
196	A. Fotheringham	" "
197	B. F. Stitt	" "
198	E. C. Huff	" "
200	Charles E. Lovel	Madison

201	Alf. W. Holburg	Amesville
202	A. A. Packer	Amesville
203	Isaac "	"
204	John Cross	Amesville
205	John Moor	"
206	John H. Wolf	Madera Pa
207	Samuel Higley	Vulcan Rolling
208	Peter Bloom	Madera
+ 209	Edw. Bidgum	Hartsville
+ 210	Honore Miller	"
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State of Pennsylvania
County of Clearfield, SS.

Before me the subscriber, a Notary Public in and for
said County, personally appeared James Alexander, Supervis-
or for the Township of Bigler, who being duly sworn accord-
ing to law, doth depose and say, that the facts set forth
in the foregoing petition are true and correct to the best
of his knowledge and belief.

James M. Alexander

Sworn and subscribed before me this fifth day of
May, A. D. 1897.

Adam Thaw

Notary Public.

No 2 Ser. S.S. 1876

Shue
Public Road

in
Bigler Township

Petition to set aside
order of confirmation
of road by voters

May 24th 1877

Whereas the voters of
Bigler Township have
set aside a road in
accordance with
order of said township
and the voters of said
road have set aside a
road in accordance
with the order of said
township.

By Shue
Attorney
HOUTS, PA.

HENRY WALL, PRINTER, INDIANA, PA.

FILED

1877

Now May 24th 1877. Whereas the voters of this rule and order.
of the voters of Bigler Township.
Shue, Bigler Township
Bigler Township

To the Honorable the Judge of the Court of Quarter Sessions
in and for the County of Clearfield.

The petition of the undersigned, inhabitants of the county of Clearfield, respectfully sheweth:

That youe petitioners labor under great inconvenience for want of a public road or highway, in the Township of Bigler, to begin at a point on the public road at or near the building known as the Chesterfield hotel or resraurant, in the village of Chesterfield, in the township of Bigler, and extending thus to a point intersecting the public road running from Smokerun to Madera at or near the village of Banian, in the township of Bigler.

Your petitioners therefore pray the court to appoint proper persons to view and lay out the same, according to law; and they will ever pray &c.

A. R. Richards Supt
Benjamin White Coal Mining Co.
J. R. Davis
S. Markley
Hugh Roberts
A. Williams
Lewis Hethers
Samuel Wadk
Wm Rayden
T W Galehouse
Albert Bond

A. Steckman

L J Davis
J H S Davis
W. F. Evans
John F. Williams
Thos McGlynn
Mr Brady
Ed. H. Morris

W. Langford
Horton Blum
Jos. S. Smith
J. Stuckman
Anthony Sheddack

S. J. Miller M.A.
Joseph Palcisko
John Mallon
Harry Elliott.

Richard Tillott
Thomas Botton
S. E. Livers

Daniel Letters
Charles Higley

Harry A. Brady
John Matter
J. James
J. J. Goon
John Quist
A. Carrell

John B. Price
John O'Brien
Ed Derby

B. Miller
Abel Tillott
D. J. Siford

JAMES GATEHOUSE,

MINER AND SHIPPER OF

BITUMINOUS COAL....

AND DEALER IN

General Merchandise.

SHIPPING ADDRESS: MADERA, PA.

Ventland, Clearfield Co., Pa.,

189

Joseph Krappner

Samuel Kirk

Wm Whiteside

Andrew Vessers

NO. *21* December SS., 1896.

PETITION FOR PUBLIC ROAD
IN BIGLER TOWNSHIP.

And now September *21st*, 1896,

the within petition presented
considered and *John C. Clark*
James Muller + first class
viewer are appointed viewers to view
said proposed road and make report
to the court according
to law.

By the Court
Cyrus Storer
FILED SEP 22 1896.

W. C. MILLER,
Attorney at Law,
CLEARFIELD, PA.

John C. Clark & Sons, 320 Dock Street, Philadelphia.

and 23 mnd - 0716

In Re.) In the Court of Quarter Sessions
Public Road in Bigler) of Clearfield County.
Township.) No. 2 December SS. 1896.

Rule to Strike Off Confirmation Absolute of Road.

OPINION and DECREE.

The confirmation absolute is sought to be set aside for irregularities appearing upon the face of the proceedings, the principal one being that the termini are not fixed. The law requires that they be fixed with such degree of certainty that a Supervisor armed with an opening order may, with accuracy, locate and open the road upon the ground selected by the Viewers. This must be judged of by an inspection of the Viewers Report, including the draft attached which is considered a part of it. It must show some fixed monument - natural, constructed or adopted - upon the ground, at at least one of the termini or some intermediate point, from which by running the line by its courses and distances the route can with accuracy and certainty be located. Judged by this rule the Report in question is deficient. There is nothing in Report or draft showing the location of either terminus or a single fixed point upon the entire route. There isn't even a post or stake called for at any point. The place of beginning is "a point on the public road at or near the Chesterfield Hotel or restaurant in Bigler Township". (a) The name of the public road is not

(2)

given. (b) It is not even marked or indicated upon the draft. (c) There is nothing to indicate how far or what direction the point is from the Chesterfield Hotel. (d) No marks are indicated as made upon the ground showing the location of the starting point, and no Supervisor could possibly tell from the Report where it is. The last course and ending of the road are "thence by street in the village of Bannion North 74 degrees East 8.6 rods to the Township road leading from Madera to Smoke Run in Bigler Township."

(a) The point in the road is not given. (b) No improvements are indicated. (c) The "street in the village of Bannion" is not shown upon the draft and there is nothing to indicate where it is struck or how much of it is appropriated for the new road. (d) There is nothing on the face of the Report and draft to indicate to the Court that it is possible for a Supervisor to locate it. Neither, as before intimated, are any of the intermediate points fixed. Being of opinion this objection is fatal to the proceeding, it is unnecessary to pass upon the other alleged irregularities to which exception was taken.

To the objection that the Court has no jurisdiction to grant the relief prayed for, because the term of Court at which the decree of confirmation was made had terminated before the petition was presented, we hold it is not well taken because the irregularities complained of are fatal and are apparent on the face of the proceedings. And as to the allegation of alterations in the petition for Rule being

(3)

made after it was signed and sworn to and before presentation to Court, if reliance was to be placed thereon, the facts should have been established by testimony. There is nothing on the face of the petition sufficient to cast such suspicion upon it as to call for explanation from the petitioners in the first instance.

It is therefore ordered, adjudged and decreed, this 24th July 1897, that the Rule be made absolute, the confirmation absolute of 8th February 1897 stricken off and the exceptions to the Report of Viewers sustained. Bill sealed to petitioners for road.

By the Court,

Cyrus Gordon

P. J.

RECORDED

No. 3 December SS. 1896.

In Re.

Public Road in Bigler Township.

Rule to Strike Off Confirmation

Absolute of Road.

OPINION and DECREE.

FILED. 26 JUL 1897

W. H. Lingens

Miller vs. Re Public Road
Shaw vs. Bigler Trp. - No 2 sec 35/896
Rule to strike off
Confirmation of
Road should not
be taken off -
argued 14 July 97

Mr Shaw

No notice given R R Co -
Termine not fixed.

Mr Miller -

Bugler Trip
Round Case

Aug 15
July 1897

Viewed the 19. 20 & 21 of Feb.
1896
by Jno. W. Nightingale -
James Miller
Ralph B. Spencer.

Length of Road in Rows

247
10
10
12
57
14
20
13
26
8
16
25
11
10
10
50
35
7-6
50
15
36
57
15
15
59

whole length. prod = $9\pi^2 \frac{6}{Ado}$

To the Honorable Cyrus Gordon, President Judge of the Court of Quarter Sessions of the County of Clearfield, Pa.

We, the viewers named in the annexed order for the purposes therein stated, respectfully report, That having given personal notice to the owners of the land over which the route of the proposed road would go, and having ^{given} due and legal notice by hand bills as required by law and the Rules of Court, and having given notice to the Commissioners of the County of Clearfield, of the time and place of meeting of said viewers for the purposes of said appointment, said viewers did meet at the time and place mentioned in said notices, and all of said viewers, to wit, J. L. Lightner, James Mullin and Jacob Copenhaver, being present, and first being severally sworn according to law, viewed the ground for the proposed road, and all of said viewers concurring, did lay out and now return the same for a public road, the same being described as follows, to wit, beginning at a point on the public road at or near the Chesterfield hotel or restaurant in Bigler township, Clearfield County, Pa., thence by land of Clearfield Creek Coal Company north 61° east 116 rods to land of J. Byer (wild unimproved land) north 61° east 131 rods, thence south 83° east 13.8 rods, thence north 84° and 1/2 east 23.4 rods, thence north 71° east 10 rods, thence north 54° and 1/2 east 22 rods, thence north 69° east 57.6 rods, thence north 55° east 10.3 rods, thence north 39° and 1/2 east 14 rods, thence north 26° east 20 rods, thence north 19° east 13.2 rods, thence north 14° and 1/2 east 26 rods, thence north 19° east 8 rods, thence north 16° west 16 rods, thence north 56° east 25.6 rods, thence north 23° and 1/2 east 11 rods, thence north 15° and 1/2 east 10.4, thence by wild unimproved land of William Kramer north 27° east 19 rods, thence north 40° east 50 rods, thence north 56° east 35.7 rods, thence north 50° east 46.9 rods, thence north 60° east 30.3 rods, thence north 65° east 15.3 rods, thence north 59° and 1/2 east 22 rods, thence by land of Robert Whiteside Estate (unimproved)

north 14.5 rods, thence north 67° east 52 rods, thence north 47° east 15 rods, thence south 46° east 18.7 rods, thence due east by land of John Beyer (partly improved) 53.7 rods, thence by street in the village of Banian north 74° east 8.6 rods to the township road leading from Madera to Smoke Run in Bigler township, Clearfield County, Pa. The total length of said road being 911 rods and at an average water grade for the entire length, and said road being necessary for public use. And the viewers would further report that an effort was made to have the owners of the land over which the route of said road runs to release their damages which would result to them by reason of the opening of said road, and upon the refusal of said persons to release their damages the viewers, after considering the advantages and disadvantages of said owners by reason of the opening of said road have, after notice to said owners of time and place of said meeting, assessed the damages to said owners as hereinbefore set forth.

Witness our hands and seals the 21st day of October,
A.D. 1896.

John D. Reigister (Seal)
Jacob Lopenbarer (Seal)
Gasb Mullins (Seal)
 VIEWERS:

ref.

No. 2 Dec Sessions, 1896

ORDER

To view and lay out a road for
Public use in the township of
Bigler, Clearfield Co.
Bigler Sessions 1896,
last public 1896
read and confirmed N. S.
Road to be opened 33 feet
wide, except where there is
side hill cutting or embank-
ment and bridging, there to
be 16 feet wide.

By the Court
Cyrus Gordon

FILED NOV 28 1896
Filed

Fees \$1, paid by By miles

Miller

NOTE:—In case of a private road, the release must be secured in favor of the petitioner for said road.
Also—Viewers will carefully examine the location of a proposed road, and if they find it to be a public road, they will report to that effect.
Rec. assess 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 location of the road, and the advantages of the road, they will report to that effect.

John E. Lightner	Days 4 1/2 = 18	Amount
Miles 16	# 179.60	
James Mulligan	Days 3 = 6	
Miles 1	# 6.20	
Joel Cunningham	Days 2 = 11	
Miles 4	# 4.40	
J. H. Cunningham	Days 3 = 4	
Miles 8	# 5.30	
Al. Cunningham	Days 2 1/2 = 4 3/4	
Miles 30	# 4.68	

Nov 8 July 1897
Cunningham ab
Sullivan & Co. to
be paid by the
Cunningham
By the Court
Cyrus Gordon

RELEASE OF DAMAGES.

5

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. 189 .

Seal

Seal

Seal

Seal

ASSESTMENT 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	John Beyor	the sum of	One Dollar
To	Krauer	the sum of	One Dollar
To	William Whitehead	the sum of	One Dollar
To	Robert Whitehead	the sum of	One Dollar
To	Robert Whitehead	the sum of	One Dollar
To	Robert Whitehead	the sum of	One Dollar

Witness our hands this _____

day of _____ A. D. 1896

viewers

James D. Doughton
Jas. Mullin
Jacob Lopenhaver

field 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 22^d day of September, A. D. 1896, before Judge of said Court, upon a petition of sundry inhabitants of the township of Bigler

_____ in said County, setting forth that they labor under great inconvenience for want of a public road or highway in the Township of Bigler to begin at a point on the public road at or near the building known as the Chesterfield Hotel or restaurant in the village of Chesterfield in the Township of Bigler and extending thence to a point intersecting the public road running from Smoke Run to Madera at or near the village of Barriaw in the Township of Bigler

and therefore praying the Court to appoint proper persons to view and lay out the same according to law, and report to Dec Term 1896

whereupon the Court upon due consideration had of the premises, do order and appoint John Lightner, James Mullen & Jacob Copenhagen 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 the 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 land 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 land 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.

D. J. Ginery

CLERK.