

No. 9 December Term, 1897

Private Book

Versus

Laurence Samuels

Contents:

X

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 20

day of Sept, A. D. 1897, before Judge of said Court, upon a petition of sundry inhabitants of the township of Laurance

\_\_\_\_\_ , in said county, setting forth that they labor under an inconvenience from want of a private Road to extend from their land in said Twp (as described in petition) to a point on Public Road which leads from a point at or near the barn of said John W. Tate to a point on public road at or near the residence of William Owens

and therefore praying the Court to appoint proper persons to view and lay out the same according to law, ~~and refer to next session~~ whereupon the Court, upon due consideration had of the premises, do order and appoint Alex Livingston, Mitchell, Hope <sup>and</sup> Harry Briers 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.

J. J. J.

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, 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

## 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 Mc Goey Hinz the sum of ten dollars  
To Jno. W. Tate the sum of ten dollars  
To \_\_\_\_\_ the sum of \_\_\_\_\_

Witness our hands this 15th day of October, A. D. 1897.

..... Mitchell Shope  
..... Abt Livingston

now Oct 2" 1897 I served the within notice  
 on Mrs Annie Berry Mrs Kate Kerr John W. Gate  
 Mrs Mary McGary Ellen McGary Frank McGary &  
 Joseph McGary by making known contents  
 and leaving copy of the same at their place

of Residence  
 Given as subscribed to  
 before me this 4th day of  
 9th September 1897

cost 7 servers 3.50

and mess 6 miles direct 72

4.22

Harry Ross const

# ROAD VIEWERS' NOTICE.

NOTICE IS HEREBY GIVEN that the undersigned Viewers, appointed by the Court of Quarter Sessions of Clearfield County, Pennsylvania, to view *private* Road leading from *land of A C & William Graham across land of John W Tate and McGary heirs.*

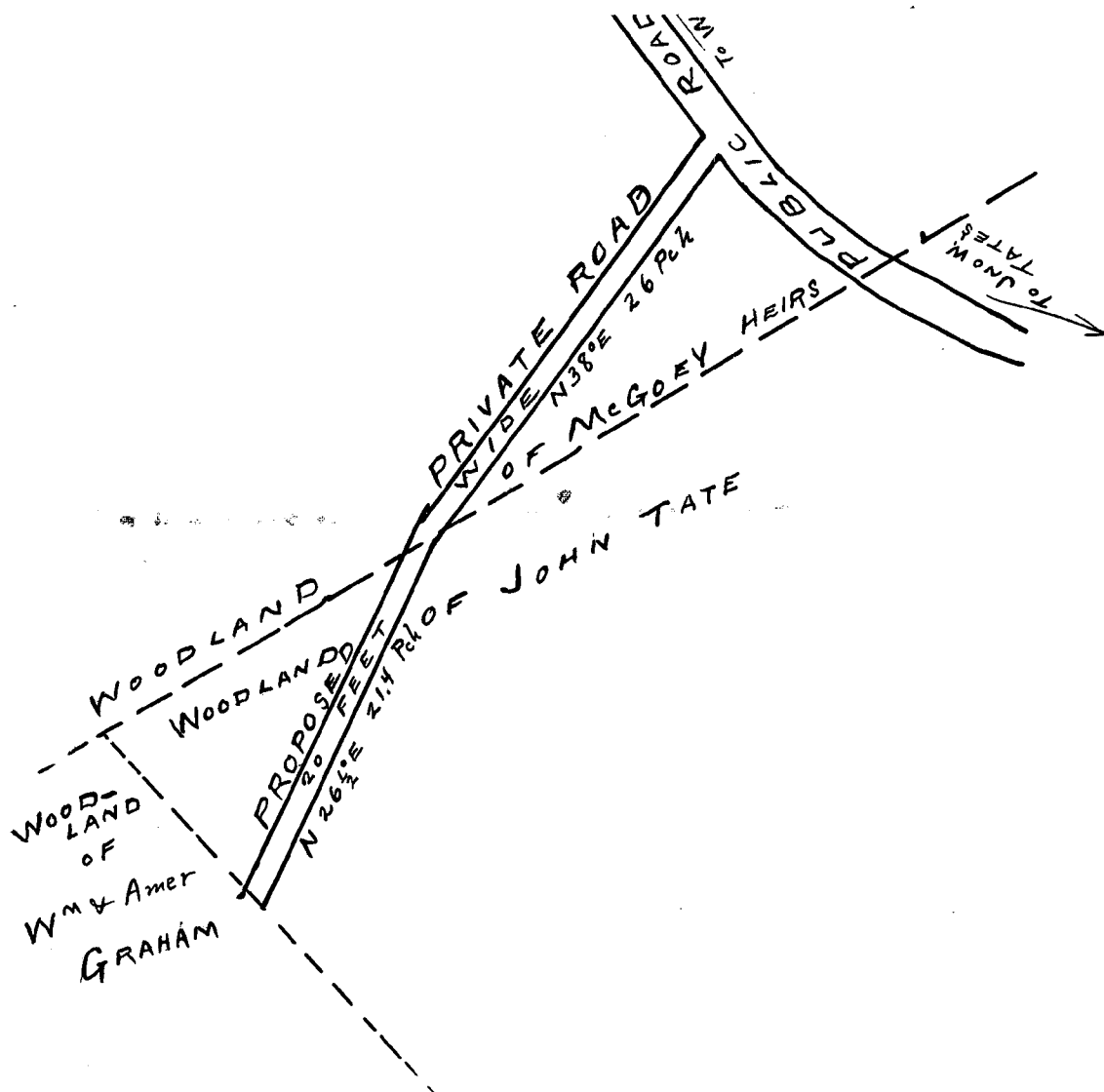
in *Lawrence* Township, to *point on public road leading from a point at or near the barn of John W. Tate to point at or near the residence of William Owens*

in *Lawrence* Township, in the county aforesaid, will meet at the ~~house of~~ *land of A C & Wm Graham* in *Lawrence* Township, on *Friday*, the *15<sup>th</sup>* day of *October*, A. D.

1897, at *12* o'clock *P* M., to attend to the duty assigned them, of which time and place aforesaid all parties interested will please take notice.

*Alex. Livingston*  
*Mitchell Shope*  
*Harry Byers*  
VIEWERS.

*Clearfield Pa Oct 2, 1897.*



To The Honorable Cyrus Gordon, President  
Judge of the Court of Quarter sessions of  
Clearfield County, we the undersigned jurors  
appointed by the within order of Court to view  
and lay out the road therein mentioned re-  
spectfully report, that we gave lawful notice  
of said road view by posting notices as required by law  
and by personal service of notice attached hereto on  
parties through whose land the road passes, and  
met agreeable to the said notices, and having  
been severally sworn or affirmed we have viewed  
and laid out and do return for private use the  
following road to wit, beginning at a post on  
land of Wm. Arner Graham (see petition) at line of land of  
John W. Tate Thence through unimproved woodland of  
said Tate North twenty-six and one half degrees East  
twenty-one and four tenth perches to post on line between  
lands of said J. W. Tate and Mc Geyhairs Thence through  
unimproved woodland of said Mc Geyhairs North  
thirty eight degrees East twenty-six perches to  
post on road leading from point at or near barn  
of said J. W. Tate to point at or near residence  
of William Owens, a plot or draft of which road  
as aforesaid laid out is herunto annexed, showing  
courses, distances, owner's land etc, which road as laid  
out aforesaid is necessary, in our opinion for a private  
road. Damages assessed elsewhere in this report are as follows  
to Mc Geyhairs \$ 10.00 to J. W. Tate \$ 10.00 Witness our  
hands this fifteenth day of October A D 1897

Mitell Shope  
Al. Livingston

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

AMOUNT.

	} Days.....	
	} Miles.....	
	} Days.....	
	} Miles.....	
	} Days.....	
	} Miles.....	
	} Days.....	
	} Miles.....	
	} Days.....	
	} Miles.....	

No. *94* *Dec* Sessions, 189*7*

ORDER

To view and lay out a road for  
*private* use in the township of  
*Carroll*, Clearfield Co.  
*Dec* Sessions, 189*7*,  
*from 20 Dec 1897*,  
read and confirmed *Ni. Si.*  
~~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. *House and to  
occupy 30 feet in width.*  
*By the Court*  
*Cyrus Goran*~~

Filed *12/14*, 189*7*  
Fees \$1.<sup>*25*</sup>, paid by *B. J. Magrath*

*Hagitt*



Harry Tate being produced sworn and examined on the part of the exceptants, deposes and says;

My name is Harry Tate. I am thirty years of age, and I live in Lawrence Township, Clearfield County, Pa. I was present at the view of a private road in Lawrence Township in October 1897. I was there a little while before the viewers came, and remained while the view was being made. The ground was not viewed other than where they laid out the road. The small brush and other stuff was cleaned out before the road was viewed so that you could see ahead where the road was. This was on the line where they made the road, and was done before the viewers came there. Harry Byers did the surveying on that view, and he was one of the viewers. There was nothing said as I heard about damages to property over which the road was laid out. I did not hear the viewers say the amount of damages they had fixed. No witnesses were called to fix damages before the viewers. As they crossed the dividing line between the Tate and McGosy properties the dividing line was pointed out, by Mr. Graham. After the view Graham took the viewers down along the line where a dispute existed between Grahams and Tate which was afterwards arbitrated. The other two viewers were Mitchell Shope and Alexander Livingston. They afterwards appeared as witnesses in the arbitration. That litigation was pending before the

view. They appeared as witnesses for Graham, I mean the witnesses, appeared for Graham. I don't know who wrote the report of the viewers. Shope and Livingston held a consultation by themselves and Byers did some writing, and then brought it to them. They were all working together in the view, Byers, Shope and Livingston.

Cross Examined by Mr. Hagerty.

I was present all the time the view was being held close to the parties.

John Tate sworn and examined on the part of the exceptants. My name is John Tate. I am seventy two years of age, and live in Lawrence Township. I am the owner of part of the land over which this private road is laid out, and I am one of the parties who filed exceptions to the report of view. A notice of the time of view was served on me by Harry Ross a few days before the view.

Notice in papers shown witness. That is the notice so far as I can recollect. No notice was served on me in regard to the damages. Nothing was said to me by the viewers that day in regard to damages.

Testimony in regard to the notice objected to by attorney for road for the reason that the exceptions were filed to the question of damages by the exceptants for the reason that the report of the viewers is

The foregoing testimony of witness in relation to damages objected to as incompetent, irrelevant and immaterial, for the reason that no exception was filed by John W. Tate to the report of the viewers relating to the question of damages.

There was no attempt to get me to release damages. The viewers did not leave me any notice of the amount of damages allowed me.

Q. Considering the direction of the road through the land as a permanent road and the way it leaves your land, was the damage allowed by the viewers sufficient compensation?

Same objection is made to the foregoing question as is assigned to above the foregoing testimony.

A. No sir.

William Graham and Amer Graham never made any offer to me for right of way over my land. The first notice I had was from the constable as to their wanting right of way. That was the notice of the day of view. They had made the view and come out to the township road and were sitting there when I went up. The viewers were Harry Byers, Alex Livingston and Mitchell Shope. Harry Byers is an attorney residing here in Clearfield, I had a lawsuit, an action of trespass, against Amer and William Graham at that time. The same men who were petitioners for this private road. Mr. Harry Byers appeared before the arbitration as a witness. He was there to show the line. Alex Livingston and Mitchell Shope appeared before the arbitration as witnesses against me. The arbitration was some time after the view and before the <sup>December</sup> ~~September~~ term of Court. The same parties were involved in the arbitration that were involved in this private road. Grahams were on one side and I was on the other.

Exceptant by his attorney offers the papers in evidence in the case of John W. Tate vs William and Amer. Graham No. 589 Sept. term 1896 for the purpose of showing that Harry Byers was an attorney of record for defendants prior to , at the time of and subsequent to this view, and for any other purpose for which they may be legally competent.

Cross Examination by Mr. Hagerty.

The land through which this road goes is level and not much stony. This road as laid out cuts off about two to two and one half acres of my land up on the flat. I did not offer any evidence to the viewers as to the value of this land for damage done. This land is not cleared.

To the Honorable the Judge  
of the Court of Quorum & Sessions of Chester  
County, Penna.

The petitioners A. C. Graham  
and William Graham respectfully represent  
that they are the owners of a piece or  
parcel of land situated in Township 2nd  
in Chester County of Pennsylvania bounded  
by land of Robert Nagley, John W. Tate  
and M. G. Goy heirs - That your petitioners have  
no means of access to said land except by  
crossing the land of other named parties.

Your petitioners therefore stating that they  
have under great incumbrance for want  
of a private road to extend from said  
land to a point on public road, which  
leads from a point at or near the town of  
said John W. Tate to a point on a  
public road at or near the residence of  
William Brown -

They therefore pray your Honorable  
Court to appoint commissioners to view and lay out  
a public road from said land to a point  
on public road, above mentioned - and assess  
damages done & to be done by reason of crossing  
said road - and make up the same to next  
Term of Court.

And they will so pray.

A. C. Graham

Wm Graham

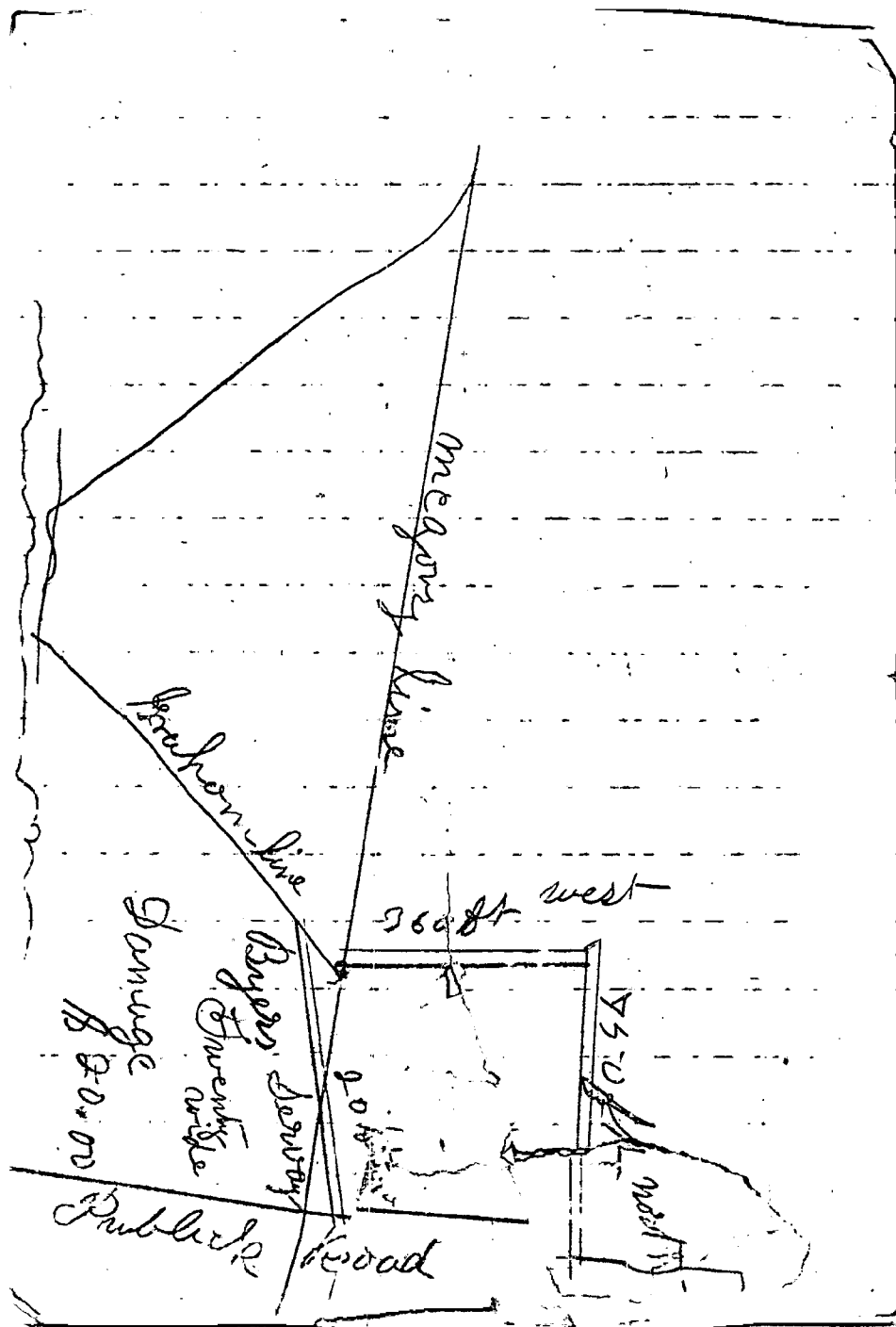
#9 December 9. 1897

Nov. 20 1879

Wm. F. Allen  
and the family  
Methuen Mass

Strong Progeny  
as I apprehend  
our house and  
my children, and  
Nabors. - Methuen  
Mass

By the Court  
Cyrus Benson



In the Court of Quarter Sessions of the Peace of Clearfield  
County, Pa.

In re private road in : Number 9 December Sessions, 1897.  
Lawrence Township. :

John W. Tate by his attorneys, Singleton Bell and B. F. Chase, and Mrs. Mary McGoe, Mrs. Annie Berry, Mrs. Kate Ketr, Ellen McGoe, Frank McGoe and Joseph McGoe by their attorney A. M. Liveright file exceptions to the proceedings in the above case for the following reasons:-

1. That the report of viewers does not designate the township in which the proposed road is situated.
2. That there is not such necessity for said road to be laid out over private property as is required by law.
3. That there is no authority under the laws of Pennsylvania to take private property for private use as is proposed to be done in this case.
4. That the petition does not set out that the private road asked for is from the dwelling-house or plantation of the petitioners.
5. That the description of the location of the road is too indefinite.
6. That the termini of said road in the petition and the report are uncertain and indefinite.
7. That the viewers did not view the ground before they proceeded to lay out the road.
8. That the road as adopted by the viewers was actually laid out by the petitioners and by them designated to the viewers on the day of view, and no effort was made by the viewers to ascertain whether a suitable road could be laid out elsewhere with less damage to private property.

9. That Harry Byers, one of the viewers, who actually took part in said view and prepared the report of the viewers was at the time an attorney of record for the petitioners.

10. That the other viewers on said road were not impartial and unbiased in their judgment as to the necessity of said road: that on the day on which said view was held, at the instance of the petitioners, they examined certain property concerning which litigation was then pending between petitioners and John W. Tate, one of the parties affected by the proposed road, and in which litigation Harry Byers, the other viewer, was attorney for petitioners herein, for the purpose of enabling them to testify in favor of the petitioners herein and against John W. Tate, and that they actually appeared as such witnesses.

*Singletree Bell*  
*Benjamin F. Chase.*  
*attys for John W. Tate*  
*A. M. Liveright.*  
*Atty. for Wegway heirs.*

Now, December 19<sup>th</sup>, 1897, we the undersigned certify that we believe the above to be legal exceptions to the proceedings in the above case.

*Singletree Bell*  
*Benjamin F. Chase.*  
*attys for John W. Tate.*  
*A. M. Liveright.*  
*Atty. for Wegway heirs.*

Now, February 1898, J. F. Wegway, one of the exceptants above named being duly sworn according to law deposes and says that the facts set forth in the above exceptions are true and correct to the best of his knowledge and belief.

Sworn and subscribed  
before me the 1st day of  
February, 1898.

*J. F. Wegway*  
*Pro*

*J. F. M. Goe*



In the Court of Charles  
Leavitt & his Place, Charles Co.  
No 9 Dec. 28, 1897.

In Re Private  
Road in Lawrence Co.

Exemption.

FILED DEC 28 1897

S. Ball & Co.  
and  
A. M. S. S. S. S.  
attys.