

No. 10

Sessions, 190

COMMONWEALTH

versus

Public Road

in
Sandy Township.

R. S. # 4 - Page 416

Charge

Party

WILLIAM I. SWCOPE,
Distr + Attorney.

In re Public Road in Sandy Township, Clearfield County,
Pennsylvania.

To the Honorable Allison O. Smith, Judge of the

Court of Quarter Sessions of Clearfield County:-

Your petitioner, M.I. McCreight, respectfully represents:

1st. That there was a petition presented to No. 5 September Quarter Sessions of the Peace of Clearfield County for the laying out of a public road in Sandy Township, Clearfield County, Pennsylvania.

2nd. That under said petition viewers were appointed and an order of Court granted to view and lay out said road.

That the viewers proceeded under said order to view and lay out said road and reported the same to said Court, finding that the same is necessary for the public convenience. That the report of said viewers was confirmed absolutely on the 12th day of December, 1903.

That the report of said viewers is filed to No. 5, September Quarter Sessions of the Peace of Clearfield County, 1903. That a copy of the report of said viewers is annexed to this petition and made a part hereof and marked "Exhibit A". That a draft of the land through which this proposed public road was to pass is annexed to the report of the viewers in this case and is on file among the original papers in the Prothonotary's office of Clearfield County.

That according to the report of the viewers, and according to the draft, the said proposed public road will pass through the lands of your petitioner. That your petitioner owns this land jointly with Frank Hahne and J. Weil.

That the original petition presented to the Court for the opening of said public road is signed by a number of persons who are in no wise interested or connected with the use of said road. That many of said signers to said petition signed the same without considering the necessity of said public road.

That your petitioner, or Frank Hahne or J. Weil, was not consult-

ed in reference to the necessity of said road, nor did they sign the petition for the laying out of said road.

That no personal notice of said view was served by the viewers or by any one acting in authority for them, on your petitioner or Frank Hahne or J. Weil. That no public notice of the same was posted on the land through which said proposed public road was to pass.

That your petitioner, or Frank Hahne or J. Weil, joint owners of the land through which the said proposed public road will pass had no knowledge of the view by notice or otherwise directly or indirectly; that it is only within a very short time that the knowledge of the building of the road came to the knowledge of your petitioner, and then it came to the knowledge of your petitioner by reason of the Supervisor of Sandy Township, Clearfield County, Pennsylvania, entering on the land of your petitioner and Frank Hahne and J. Weil, and cutting trees and grading the road and doing other irreparable damages to the land of your petitioner and Frank Hahne and J. Weil. That your petitioner was informed at that time of the laying out of said public road, but had no previous knowledge of it.

That your petitioner, or Frank Hahne, or J. Weil had no opportunity for a hearing in this case. That your petitioner, or Frank Hahne or J. Weil has never released any damages for the construction of said proposed public road.

Your petitioner further sheweth that the road is not laid out or is not being laid out in accordance with the report of the viewers. That the Supervisors of Sandy Township have encroached upon the lands of your petitioner and Frank Hahne and J. Weil not included in the survey of said public road, and have cut the trees and committed other irreparable damages to the land of your petitioner as aforesaid.

Your petitioner avers that there is no necessity for said public road. That said public road is only built for the use and convenience of one individual, and said individual has another road by which he can have access to his land.

Your petitioner prays that the decree of confirmation entered in the above matter to No. 5, September Sessions, 1903, in the Court of Quarter Sessions of the Peace of Clearfield County, and confirmed absolutely by the Court on the 13th day of December, 1903, be opened, and that your petitioner may be heard in his behalf and on behalf of Frank Halme and J. Weil, and in the meantime all proceedings to be stayed, and the Supervisors of Sandy Township to be enjoined from any further proceedings in the opening and laying out of said road by themselves, or agents, servants or employees until said matter is fully settled and determined.

STAT OF PENNSYLVANIA,)
COUNTY OF CLEARFIELD.) SS:
)

H. I. McCreight

H. I. McCreight being duly sworn according to law deposes and says that the facts set forth in the foregoing petition are true and correct to the best of his knowledge and belief.

Sworn and subscribed before me
this 17th day of November, A.D. 1905.

S. M. J. Barclay
COMMISSIONER Justice of the Peace
NOV 18 1905 CLEARFIELD
PA

H. I. McCreight

Read

#5 Sept 2000 1905

*The re Public Road
in Sunday Strip*

Petition

h 200 Nov 13, 1905. The within
petition having been read and
considered by the Court, a rule
is granted to show cause why
the confirmation should not
be opened and the petition
allowed to defend, & the means
time all proceeding & in the
laying out of said road to
be stayed. Rule returnable
to 10th Monday 7 Dec. 1905.

By the Court
COLE & HUNT
ATTORNEYS
DETROIT, PA.
J. H. & Co., makers, Phila., Pa.

ROLL & COLE

OPENING ORDER

CLEARFIELD COUNTY, SS:

At a Court of Quarter Sessions of the Peace of the county of Clearfield, at Clearfield town, in and for said county on first day of September A. D. 19 03, before the Judges of said Court, Geo. B. Campbell, Thos. Keen,
and John H. Bailey
the persons appointed by an order of Quarter Sessions, last past, to view and lay out a road from A. Pentz Estate to the cross road School House, at the line of William Hire's in Sandy Township said county, and to end in a public road leading from Overdorf's to J. L. Shaffer's farm at a point opposite the house of William Salada in said Township

Do Report that in pursuance of the said order, they have viewed and laid out, and do return for public use, the following road, to wit: Beginning at a point in the Public road leading from A. Pentz Estate to the Cross Roads School House, said Point being in the center of Public Road when the dividing line between lands of W. M. Hyner and lands of M. I. McCreight crosses the same. Thence along said dividing line between lands of W. M. Hyner and lands of M. I. McCreight north three degrees and thirty minutes east Four hundred and thirty feet to the dividing line between lands of W. M. Hyner and lands of F. M. Shaffer, thence by same course along the dividing line between lands of F. M. Shaffer and lands of M. I. McCreight six hundred and seventy feet to the dividing line between lands of F. M. Shaffer and lands of W. A. Solada. Thence by same course along said dividing line between lands of W. A. Solada and lands of M. I. McCreight Forty-four feet to the dividing line between lands of M. I. McCreight and lands of the Buffalo and Susquehanna Rail Road. Thence by the same course along the dividing line between lands of the Buffalo and Susquehanna Rail Road and lands of W. A. Solada fifty-six feet to the dividing line between lands of W. A. Solada and lands of Andy Maloney. Thence by same course along the dividing line

between lands of the Buffalo and Susquehanna R. R. and lands of Andy Maloney, Four Hundred feet. Thence to the left through lands of the said Buffalo and Susquehanna R. R. north sixty-three degrees and thirty-eight minutes west two hundred and fifty-two and one-half feet to lands of the Buffalo Rochester and Pittsburgh Ry. crossing the Buffalo and Susquehanna R.R. at station 72.43 of center line. Thence to the right through lands of the Buffalo Rochester and Pittsburgh Ry. north 15 degrees and twenty-two minutes along the right of way of the Buffalo and Susquehanna R. R. three hundred and sixty-six and one-half feet. Thence to the left through lands of the B. R. and P. Ry. North fifteen degrees and forty-three minutes west three hundred and eighty-one feet to a point in the center line of Public Road leading from Overdorf's to I. L. Shaffer's farm near the house of William Solada a total distance of twenty-six hundred feet.

a plot or draft whereof is to the said Report annexed, which report being read the first time at September Sessions, 19 03, and the second time on the twelfth day of December 19 03, the Court approves of and confirms the said road for public use, and orders and directs that it be entered of record, and opened and cleared off the breadth of _____ feet, except where digging or bridging is necessary, and there to be _____ feet, agreeable to the courses and distances aforesaid, of which the Supervisors of the highways of the townships through which the said road runs are to take notice.

By order of the Court.

W. R. Gallagher
Clerk of Quarter Sessions

No. 5 Sept. Sessions, 19 03

ORDER

To view and lay out a
road for Public use in the
township of Sandy
Clearfield County

Sept. 23, Sessions, 1903,
read and confirmed Ni. Si. Road to be
opened 33 feet wide, except where there is
side hill cutting or embankment and bridg-
ing, there to be 16 feet wide.

Dec. 12, 1903, Confirmed
Absolutely.

By the Court,

Grant R. Thompson,
Clerk

Filed _____ 19 ____

Fees, \$1.25, paid by _____

W. C. Pentz, Attorney

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 reviewers, 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 _____	_____

To the Honorable the Judges of the Court of Quartersessions of
Clearfield County Pa.

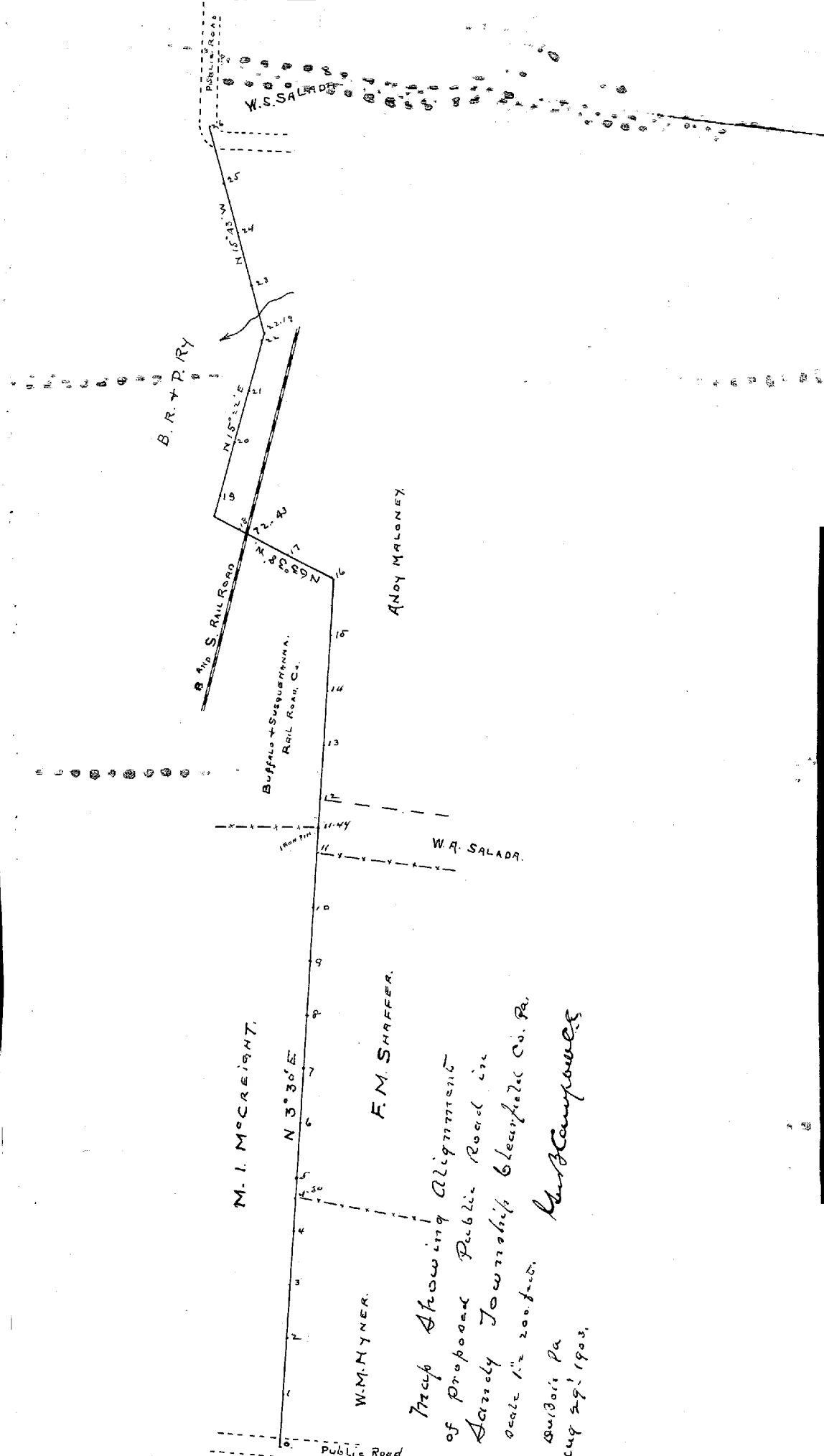
We the undersigned, appointed by the annexed order, do report, that in pursuance thereof after having been severally duly sworn or affirmed, all the viewers appointed by said order viewed the ground proposed for the within mentioned road. And we the undersigned, do agree that there is occasion for a road, as described by the petition, and that the same is necessary for a public road. And having had respect for the shortest distance and the best ground for such road, we have laid out in such manner as shall do the least injury to private property, and as far as practicable agreeable to the desire of the petitioners, and do return for public use the following described road to wit.

Beginning at a Point in the Public road leading from A. Pentz Estate to the Cross Roads school house, said Point being in the center of Public Road when the dividing line between lands of W.M. Hyner and lands of M.I. McCreight crosses the same, Thence along said dividing line between lands of W.M. Hyner and lands of M.I. McCreight north three degrees and thirty minutes east (N 3 30 E) Four hundred and thirty feet to the dividing line between lands of W.M. Hyner and lands of F.M. Shaffer, Thence by same course along the dividing line between lands of F.M. Shaffer and lands of M.I. McCreight six hundred and seventy feet to the dividing line between lands of F.M. Shaffer and lands of W.A. Solada, Thence by same course along said dividing line between lands of W.A. Solada and lands of M.I. McCreight Forty four feet (44) to the dividing line between lands of M.I. McCreight and lands of the Buffalo and Susquehanna Rail Road, Thence by the same course along the dividing line between lands of the Buffalo and Susquehanna Rail Road and lands of W.A. Solada fifty six feet (56) to the dividing line between lands of W.A. Solada and lands of Andy Maloney, Thence by same course along the dividing line between lands of the Buffalo and Susquehanna R.R. and lands of Andy Maloney, Four hundred feet (400). Thence to the left through lands of the said Buffalo and Susquehanna R.R. north sixty three degrees and thirty eight minutes west (N 63 38 W) two hundred and fifty two and one half feet (252.5) to lands of the Buffalo Rochester and Pittsburgh Ry. crossing the Buffalo and Susquehanna R.R. at station 72.43 of center line, Thence to the right through lands of the Buffalo Rochester and Pittsburgh Ry. north fifteen degrees and twenty two minutes east (N 15 22 E) along the right of way of the Buffalo and Susquehanna R.R. three hundred and sixty six and one half feet (366.5) Thence to the ~~right~~ ^{left} through lands of the B.R. and P. Ry. North fifteen degrees and forty three minutes west (N 15 43 W) three hundred and eighty one feet (381) to a point in the center line of Public Road leading from Overderfs to I.L. Shaffers farm near the house of William Solada a total distance of twenty six hundred feet. We further report that before the said view Public notice of the time and place of meeting of the Viewers was given by advertisement put up at the beginning and terminous of view, ten days before said meeting printed notice were given to D. L. W. S. S. supervisor of Sandy Township and one of the County Commissioners ten days before said meeting. We hereto annex a plot or draft of said road as laid out stating the courses and distance. There are Improvements on this line.

Witness our Hands this *first* day

of September. 1903.

Geo. B. Campbell
Thomas E. Keen
J. H. Bailey



Map showing Alignment
 of Proposed Public Road in
 Larned Township Clearfield Co. Pa.
 Scale 1" = 200 feet.
 Buffalo Pa
 Aug 29, 1903.

W. J. Campbell

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 8 day of May, A. D. 1903 before the Judge of said Court, upon a petition of sundry inhabitants of the township of Sandy, in said county, setting forth that

they labor under great inconvenience for want of a Public Road to begin in Road leading from A. Penz Estate to the Cross Road School House, at the line of William Nize's in Sandy Township said County, and to end in a public road leading from Oberdierf's to J. L. Shoffer's farm at a point opposite the house of William Salada in said Township.

and therefore praying the Court to appoint proper persons to view and lay out the same according to law, Report to next term whereupon the Court, upon due consideration had of the premises, do order and appoint Leo B. Campbell, Thos. Keen, and John H. Bailey 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 View and 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.

Grant H. Thompson
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, 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. 190.....

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:

Public notice of time and place of view. all the
To parties owning land along said line of view being
To present except M. J. McCright the sum of
To Rail Road & the Buffalo Rockwell & Pillsbury Railway Co. the sum of
Witness our hands this First day of September A. D. 1905.
No claim for damages was made.

Thomas E. Keon
J. H. Bailey

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.

No. 5 Sept. Sessions, 1903

ORDER

To view and lay out a road for Public use in the township of Sandy, Clearfield County

23 Sept Sessions, 1903

read and confirmed N. Si.
 Road to be opened 33 feet wide, except where there is side hill cutting or embankment and bridging, there to be 16 feet wide.

By the Court

12 Dec. 1903 Confirmed Absolutely by the Court

Grant H. Thompson
 Clerk

FILED
 Dec 18 1903
 Grant H. Thompson
 Filed P. O. H. Thompson
 Fees \$1.25 paid by

L. B. Cunningham		Days 3	12.00
Miles 11.66			
H. W. Ken		Days 2	4.00
Miles 10.60			
J. H. Bailey		Days 2	4.00
Miles			
W. M. High		Days 1	2.00
Miles			
Henry Salas		Days 1	2.00
Miles			
H. S. Swannum		Days 1	2.00
Miles			
			26.00

W. C. Perry

To the Honorable, the Judge of the Court of Quarter Sessions of
Clearfield County:

The petition of the undersigned, respectfully represents:

That they labor under inconvenience for want of a public road ^{to begin in road} leading
from A. Pentz Estate to the Cross Road School House, at the line of
William Hire's in Sandy Township, Said County, and to end in a public road
leading from Overderf's to I.L. Shaffer's Farm at a point opposite the
house of William Salada in said Township.

Your petitioners therefore pray the Court to appoint three persons
qualified according to law to view the ground proposed for such road and if
they see occasion to lay out the same, etc., and make report of their pro-
ceedings to next term of this Court, and they will ever pray, etc.,

April 15, 1903.

C. Macdonald
W. A. Salada
W. S. Salada
S. H. Salada

Herman & Galtner
W. J. Kessler
A. C. Kessler

J. J. Peters
M. A. Kessler
J. J. Bailey
Henry Salada
Wm. Conrad
O. H. Lyons
Geo. G. Gmelin
J. W. Wright
P. M. Shaffer
John A. Shaffer
Wm. Salada
Wm. Salada

Mod Sept. 20 1903
No 5 ~~May 28 1902~~

Ms C. 112. 55. 1905

Return for
Public road
in Shasta County
Calif.

4 May 1903 / stations

Hele and Wrentham
Mass. Can. Ball.

11 2 8
No 100 and 1000

St. Anthony

care afforded Dr. Ainsworth

Not to be
used

But this David
Came from

W. C. PENTZ,
Attorney at Law

MAY 8 1968

Grant H. Thompson,
Prothonotary.

In the Court of Quarter Sessions of Clearfield County, Pennsylvania
In Re. Public Road in Sandy) No. 5 September Sessions, 1903.
Township.) Rule to vacate order staying pro-
ceedings.

An examination of the records in this case shows that the order staying proceedings was issued several years ago. There is not sufficient facts before the Court to justify the Court in vacating that Rule. However, there is nothing to prevent the applicant from presenting a petition asking for a view in this matter where all the facts which might have bearing upon the question of vacation or not could be brought before the Viewers. Due to the facts herein the Court will make the following order.

Now, October 13th, 1926, Rule to vacate order staying proceedings is refused. Exception noted and bill sealed.

By the Court,

A handwritten signature in cursive script, appearing to read "A. R. Chase".

P. J.

No. 5 September Term, 1903.

In Re. Public Road in Sandy
Township.

ORDINANCE

1903
OCT 13
GEO. W. BALDWIN
CLERK

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY

RE; Public Road in Sandy Twp. : Petition for Vacation of
Of September Sessions, 1903 : Rule.
No. 5. :

To Honorable A. R. Chase, President Judge of said Court
of Quarter Sessions;-

Your undersigned petitioner, a resident of Sandy Township
would respectfully represent;

That upon petition signed by a number of persons praying
appointment of viewers to view and lay out for public use, a
certain public road in Sandy Township, the Court appointed view-
ers and the viewers viewed and layed out for public use a public
road in Sandy Township, fully described in the records of said
case, indexed in the record of this court as No. 5 of Sept.
sessions, 1903;

That no exception was filed thereto and no petition for
review was presented to the court, and that of date of Decr.
12th, 1903, the report was confirmed Absolutely and an opening
order issued to the Supervisors of Sandy Township.

That some time subsequent thereto, the Supervisors of said
township proceeded to open for public travel the said road, and
that thereupon, a petition was filed praying that the court
restrain the Supervisors from opening said road for divers rea-
sons therein set forth, and that of date of Nov. 13, 1905 the
Court made order granting rule to show cause why the confirma-
tion should not be opened and petitioners allowed to defend and
in the meantime staying all proceedings in the laying out of
the road; the said rule being made returnable to the first
Monday of December, 1905;

That your petitioner is informed and believes that the
Record discloses that the matter was no further proceeded in
and no final order ever made;

That your petitioner suffers great inconvenience thereby
and prays that the said Rule now be vacated so that the Super-
visors of Sandy Township may now lawfully proceed to finish the
opening of said public road, for public use. And he will ever
pray.

W. C. Salada

Clearfield County :
 : SS
Pennsylvania. :

On the 31st day of March, 1926, before me an Alderman
duly commissioned for the second ward of the City of LuBois, in
said county and residing therein, personally came W. S. SALADA,
the subscriber to the foregoing petition, and being by me duly
sworn according to law, doth depose and say that the matters
therein set forth are true and correct.

W. S. Salada

Sworn and subscribed before
me this 31st day of March 1926.

Ernest Boone
My Commission
Expires May 2-1927

COURT OF PROBATE
 of
 CLAREMONT COUNTY
 Of Sept. Sessions, 1903, No. 5

In Re: Public Road in Sandy
 Parish.

Petition to Vacate rule and
 Order Setting proceedings

APR 12 1904
 GEO. W. BALSTON
 CLERK

From April 12th 1904,
 rule to show cause
 why the rule issued
 to show cause why
 order should stand
 not be vacated granted
 Not argued and to
 notice of this rule to
 be served upon the
 parties to the cause
 of which this is
 a part.

MAY 10 1904
 EARLE G. BOOSE
 P.

These were the 1906
 records of the probate
 court of Claremont
 County

Henry Wilson
 Secretary

IN THE COURT OF QUARTER SESSIONS OF
CLEARFIELD COUNTY, PENNSYLVANIA.

To Honorable W. Wallace Smith, President Judge of the said Court-

Your undersigned petitioners, Supervisors of Sandy Township, would respectfully represent-

That in the year 1903, divers citizens of Sandy Township, presented to the Court a petition praying that ascertain Public Road in said Township, be layed out for public use, which in due course was layed out according to law, and by the Court finally Confirmed, and an Order to Open was issued to the then Supervisors of Sandy Township. The same was indexed to No. 5, Sept. Sessions, 1903, in this Court.

That subsequently, and before said road had been physically opened for public use, certain of the landowners affected, presented to the Court a petition to have the Confirmation of the proceedings opened to allow them to be heard, and that pending such hearing and disposition of the petition, that all proceeding to open the said road be stayed.

That accordingly, the Court made Rule of date of November 13, 1905, directing cause to be shown why the Confirmation should not be opened and the petitioners allowed to defend, and at the same time made an order staying all proceedings in the laying out of the said road.

That no further proceeding were had in the matter and the road was never physically opened, and that upon a subsequent petition filed in this Court, on April 12, 1926, praying that a Rule should be granted to show cause why the aforesaid Order of Court should not be vacated, such Rule was granted, but afterward, Oct., 13, 1926, the Court after due consideration, refused to make absolute the said Rule.

Recently an Opening Order, or a copy of the original Order, was taken out, as is shown by the Record contained in Road Docket #4, at page 416, by a citizen of Sandy Township, who has demanded that your petitioners now proceed to open the said road so layed out.

Your petitioners believe that such Opening Order is improvidently taken out, and that the same should be vacated for the following reasons, to wit-

FIRST, Because that the Order of Court made November 13, 1905 granting a Rule to show cause why the Confirmation of the proceedings, laying out this road, should not be opened, and the petitioners for the Rule be allowed to defend, has never been disposed of by the Court and is still in effect.

SECOND, Because by virtue of the Act of Assembly Approved the first day of April, A. D. 1925, No. 70, P. L. 100, the said road at time of the approval of this act, had been layed out for more than twenty-two years, without having been physically opened, the whole proceeding were thereby made void and of none effect and title to the land so taken for said public road had reverted to the original owners.

WHEREFORE, your petitioners pray that the Court may make such order in the premises as is proper under the facts contained in the Record, and the law. And they will ever pray.

Jerry Brown
Joshua Hoover
T. L. Waugh

Supervisors.

COUNTY OF CLEARFIELD,)
STATE OF PENNSYLVANIA.) SS

Before me, a Notary Public commissioned in and for said County and State, personally, came Jerry Brown, who being duly sworn according to law, deposes and says that the matters of fact set out in the foregoing petition are true and correct; the said deponent being one of the Supervisors of Sandy Township, and Secretary of the Board, and having personal knowledge of the facts--as therein set out.

Jerry Brown

Sworn and subscribed before
me the twelfth day of April,
1939.

Ernest J. Loe
Notary Public

My Commission Expires April 12, 1939.

Now April 20, 1939. Rule granted on the Superior
 of Sandy Township and on Dr. S. Salata to show cause why
 the opening of the hwy should not be vacated or such
 other order made as the circumstances require; returnable
 to Argument Court. Proceedings to stay of the judgment.
 A. Haller for it.

now April 20, 1939. Decree accepted for the Superior
 of Sandy Township and vacated of Rule waived as to the
 same.

IN THE COURT OF QUARTER SES- SIONS OF CLEARFIELD COUNTY, IN RE; No. 5, Sept. Sessions 1905.	Public Road in Sandy Township.	petition and Order relating to Opening of said public Road.	<div style="text-align: center;"> <p>APR 20 1939</p> <p>CLERK</p> <p>Earle G. Runge Attorney-at-Law Notary Buffalo, Pa.</p> </div> <div style="text-align: right;"> <p>Brown's Office Supplies, Johnstown, Pa.</p> </div>
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IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNA.

Public Road :
: No. 5 September SS 1903.
in Sandy Township :

OPINION

In this proceeding originally begun May 8, 1903, the report of the Road Viewers laying out a road was confirmed absolutely December 12, 1903. Although an opening order was issued January 25, 1904, it apparently was not acted upon, and on November 13, 1905, a petition was filed for a rule on the Supervisors to strike off confirmation or open for defense, upon which the Court granted a rule and order staying all proceedings in the meantime. After the return day of the latter rule it was made absolute on July 2, 1906. The record so remained until April 12, 1926, when a rule was granted to vacate this previous order. On October 13, 1926 this attempt to re-open the matter was disposed of by order of Court refusing to vacate the previous order staying proceedings.

The instant petition was presented April 20, 1939, reciting the proceedings and further that a citizen of Sandy Township had recently taken out an opening order and demanded of the Supervisors that the road be opened. This petition was answered by W.S. Salada who, assuming to speak for other residents along the proposed route, answers and sets up the necessity for the proposed road. This answer by necessary implication admits that the road has not actually been laid out upon the ground.

The original order authorizing the road can no longer, by

any possibility, be deemed valid. The staying of proceedings under it in 1905 with the long lapse of time thereafter, and the further express adjudication of this matter in 1926 when the Court refused to re-open it, definitely brought the proceedings to open this road to an end. Furthermore, the Act of 1925, P.L. 1001, re-enacted in the Second Class Township Code of 1933, P.L. 103, Section 1111, definitely governs the case. Under this last mentioned legislation the failure to open the road within five years after the entry of the final decree/^{of} confirmation rendered void and of no effect any further proceedings upon the decree.

The opening order recently issued amounts to nothing more than a certificate of a previous order in the case which has long since been superseded and to which no one need pay any attention.

ORDER.

NOW July 3, 1939, in accordance with opinion herewith, it is hereby declared that the proceedings for the laying out of a road in this case are void and of no effect.

By the Court,

A handwritten signature in cursive script, appearing to read "J. H. Haller, Jr.", is written over the printed name of the President Judge.

President Judge.

No. 1 Registration of 1907

IN THE COURT OF COMMONS
ST. JOHN OF CLARENDON COUNTY
PENNSYLVANIA.

Public Road in
Sandy Township

OPINION

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