

No. 7

Sept

Sessions, 1904

COMMONWEALTH

VERSUS

Public Bridge

in

Bell Twp across  
Susquehanna River

Charge

X

WILLIAM I. SWOOPÉ,  
DISTRICT ATTORNEY.

To the Honorable A.O. Smith, President Judge of the Court of Quarter Sessions of Clearfield County:

The petition of the undersigned inhabitants of the Township of Bell in said county of Clearfield and State of Pennsylvania,

respectfully sheweth; that a bridge is much wanted over the West Branch of the Susquehanna River, near the Joseph Campbell hill,

where the main road leading from New Washington to the river road

from Mahaffey to Burnside crosses said river, the ford there be-

ing very deep and frequently rendered impassable by reason of ice

and high water;

That the school district for that part of Bell township lies

on both sides of said river at the point aforesaid, making it im-

possible for children living south of said river to attend the pub-

lic school which is on the north side, except when the river is

frozen over solid or is passable by boat.

That the expense of erecting said bridge would be burdensome

upon the inhabitants of said Township and more than is reasonable

they should bear.

Your petitioners therefore pray the Court to appoint proper

persons to view the place proposed for said bridge and inquire

whether such bridge is necessary and would be too expensive for

the said Township of Bell to bear, and make report of their pro-

ceedings at next term of court,

And they will ever pray, &c.

T. R. Wetzel

Foster Beatty

W. D. Meadows

P. J. Campbell

W. W. McGeary

H. H. McGee

J. N. McGee

J. B. Davidson

Daniel Kennedy

W. J. McGeary

P. J. McGee

W. J. McGee

L. J. Jones

E. B. Nicodemus

G. H. Miller

|                      |                  |
|----------------------|------------------|
| W. Campbell          | S. D. Sawyer     |
| J. H. Smith          | W. H. Smith      |
| E. L. Myles          | W. H. Smith      |
| J. H. Fairbank       | Jacob Geyer      |
| A. L. Fairbank       | J. H. Kelly      |
| J. B. Baird          | Bern G. G.       |
| G. B. Sunderland     | J. M. Lee        |
| D. E. Baird          | J. H. Baker      |
| Rud. Sunderland      | J. M. Lee        |
| V. G. Mork           | J. T. Kauffman   |
| Robert F. Lee        | J. T. Kauffman   |
| Charles Sherman      | James Meeley     |
| W. J. Campbell       | Thomas Kauffman  |
| J. Russell Geyer     | James R. Lee     |
| J. H. Kinsley        | B. Hallinan      |
| J. G. Lutter, Mott   | W. G. Pennington |
| G. J. Montgomery     | W. G. Pennington |
| H. B. M. Lee         | L. H. H. H.      |
| Charles Miller       | R. H. H. H.      |
| George W. Livingston | James Patrick    |
| James                | J. S. Mahaffey   |
| J. R. Meece          | H. W. Meece      |
| J. G. Byers          | W. G. Shesley    |
| Paul Campbell        | S. G. Meece      |
| H. J. Meece          | A. Campbell      |
| J. B. Booth          | J. M. Davidson   |
| Oliver Hummerman     | J. A. Campbell   |
| Jeremiah Johnson     | W. L. Webster    |
| S. J. H. H.          | J. H. Nicodemus  |
| W. B. H. H.          | J. L. Rodkey     |
|                      | J. R. P. H.      |

Handwritten note: *Handwritten note*



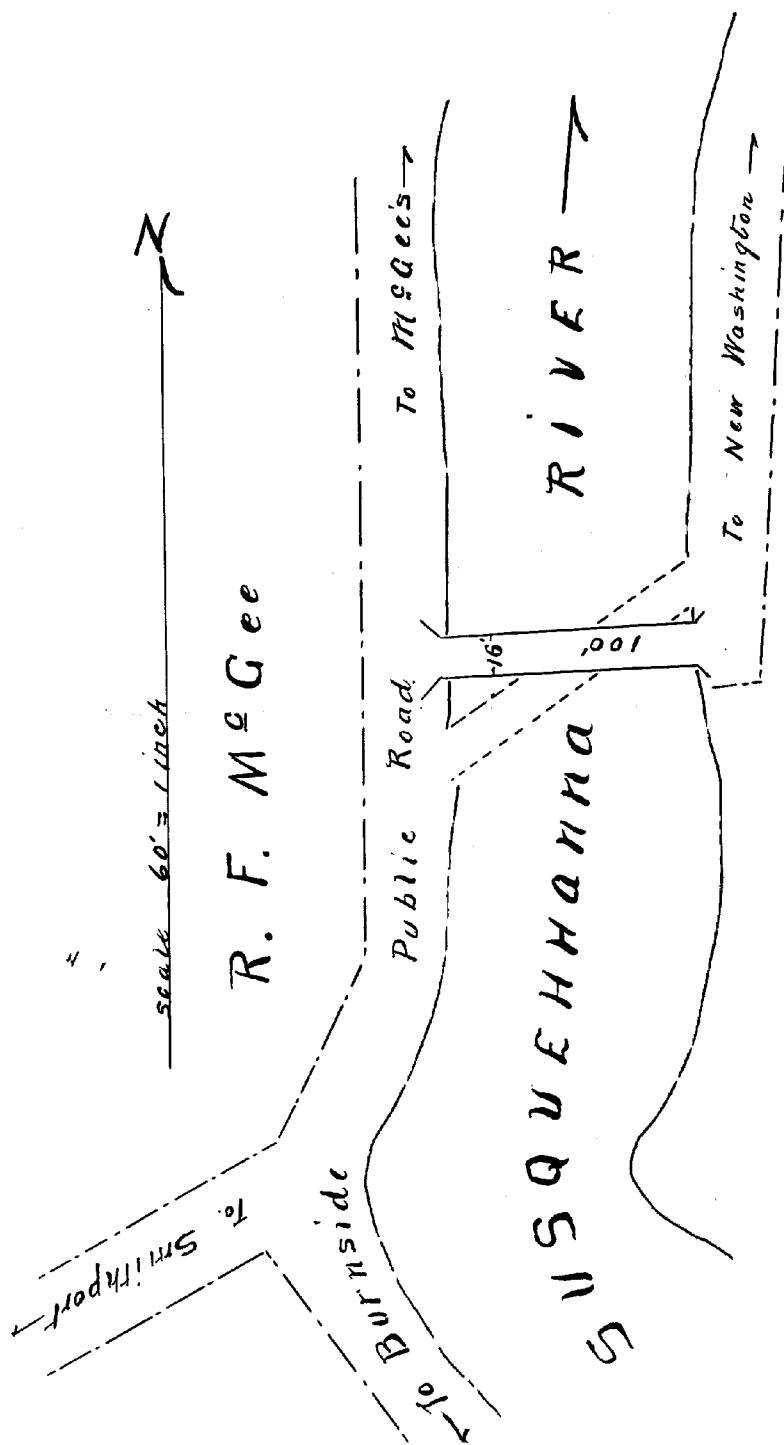
Additional petition in favor of a County Bridge across Susquehanna River at point within named.

The petition of the undersigned residents of Clearfield County respectfully represents: That a bridge is badly needed at the point aforesaid and that the erection thereof would cost more than it is reasonable the tax-payers of the Township of Bell should bear.

|                  |                 |
|------------------|-----------------|
| J. L. Lovelace   | Burnside Cld Pa |
| A. J. Stouffer   | " " "           |
| H. D. M. Jarvis  | " " "           |
| L. Weaver        | " " "           |
| James H. Weaver  | " " "           |
| J. M. Weaver     | New Washington  |
| J. C. Itzert     | Burnside Cld Pa |
| A. W. Hart       | " " "           |
| John Stouffer    | " " "           |
| Dr. S. D. Howell | " " "           |
| John B. Conner   | " " "           |
| ourmittell       | " " "           |
| M. B. McDowell   | " " "           |
| Harry Anderson   | " " "           |
| John H. Patchin  | " " "           |
| Carl B. Patchin  | Patchinville Pa |
| A. K. Long       | Burnside        |
| B. W. Wright     | Inahaffers      |
| Emory Maier      | Maier's Pa      |
| B. W. Wright     | " " "           |
| J. A. Bolvin     | Inahaffers Pa   |
| James H. P. born | Maier's Pa      |
| Joseph H. Hutton | Maier's Pa      |
| A. P. Tozer      | Tozer           |

|                        |               |     |
|------------------------|---------------|-----|
| Samuel Hall            | Mahaffey Pa.  |     |
| Henry Ross             | Mahaffey Pa.  |     |
| C. L. H. H. H.         | Mahaffey, Pa. |     |
| Wm M Loom              | " "           |     |
| J. F. Loom             | " "           |     |
| J. E. Johnson          | Mahaffey Pa.  |     |
| A. Johnson             | " "           |     |
| Dr Ash D. Bennett      | " "           |     |
| Geest Elling           | " "           |     |
| A. B. Mahaffey         | " "           |     |
| J. B. Mahaffey         | " "           |     |
| Jas. H. Mahaffey       | " "           |     |
| J. W. Foust            | " "           |     |
| Jas. W. Davidson       | " "           |     |
| A. B. Mosser           | " "           |     |
| E. Eldarey             | do            | do  |
| Miss Highley           | " "           | " " |
| Mr. Myer               | " "           | " " |
| H. N. Hiddowson        | " "           | " " |
| J. P. Thomas           | " "           | " " |
| H. B. Buckingham M. D. | " "           | " " |
| W. Stephenson          |               |     |
| William Dumber         |               |     |
| W. H. Amies            |               |     |
| H. A. Cook             |               |     |
| J. F. Fry              |               |     |
| C. B. Lerch            |               |     |
| H. A. Lindley          | Burnside      |     |
| J. E. McLean           | Mahaffey      |     |
| George Harrey          |               |     |
| A. C. Cleary           | Grampian Pa.  |     |





H. W. Wetzel,



# Bridge Viewers' Notice.

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**NOTICE IS HEREBY GIVEN** that the undersigned Viewers, appointed by the Court of Quarter Sessions of Clearfield county, Pennsylvania, to view a Bridge at point near the Joseph Campbell hill where the main road from New Washington to the River road from Mahaffey to Burnside crosses said River.

in Bell Township, in the county aforesaid, will meet at said place on Friday, the Eighth day of July, A. D. 1904, at 9 o'clock A. M., to attend to the duty assigned them, of which time and place aforesaid all parties interested will please take notice.

John W. Stephenson.

W. J. Hoffer.

John A. Stock

Viewers.

Mahaffey, Pa., June 28, 1904.

Served on us this 29th  
day of June 1904 S.R. Hamilton

Now July 7, 1904, notice as to the  
substitution of the name of Ed Shirey  
for that of Geo A Stock is hereby  
waived.

Co Commissioners

By W. Storer *ad*

# Bridge Viewers' Notice.

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John W. Stephenson.

W. J. Hoffer.

John A. Stock.

Viewers.

Mahaffey, Pa., June 28, 1904.

We hereby accept service of within  
Notice this 2<sup>nd</sup> day of July 1904  
A. J. Grogg } supervisors of  
G. W. Bouch } Bell  
J. B. Miller } Township

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

2 day of May, A. D.

1904, before Judge of said Court, upon a petition of sundry inhabitants of the township of Bell in said

County, setting forth that a bridge is much wanted over

the West Branch of the Susquehanna River, near the Joseph Campbell hill where the main road leading from New Washington to the river road from Mahaffey to Burnside crosses said river, the ford there being very deep and frequently rendered impassible by reason of ice and high water; that the school district for that part of Bell Twp. lies on both sides of the river at the point aforesaid, making it impossible for children living south of said river to attend the public school which is on the north side, except when the river is frozen over solid or is passable by boat, that the expense of erecting said bridge would be burdensome upon the inhabitants of said Township and more than is reasonable they should bear.

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

whereupon the Court upon due consideration had of the premises, do order and appoint

J. W. Stephenson, W. J. Hoffer, and John A. Stock,

who after being respectively sworn or affirmed to perform their duties impartially and to the best of their judgment, are to view the place proposed for the said bridge, and if they or any two of them, view the same, and any two of the actual viewers agree that there is occasion for such a bridge, and that the erecting of the said bridge would require more expense than it would be reasonable the said townships should bear, they are to make report accordingly;

and a map or plot thereof to be made, which shall accompany said report; the report aforesaid to be made to the next term of the Court of Quarter Sessions to be held for the said county of Clearfield.

BY THE COURT.

*Thos. Thompson*  
CLERK.

## RELEASE OF DAMAGES.

Know All Men by These Presents, That we, the undersigned owners of lands upon which the bridge is 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 Said Viewers 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 County all damages that may arise to us respectively by reason of the location or building of said bridge, 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 or building of said bridge.

Witness our hands and seals this 5<sup>th</sup> day of July  
A. D. 1894.

H. B. Puffer Seal

R. F. M. Lee Seal

Seal

Seal

## ASSESSMENT OF DAMAGES.

No damages allowed.

The following persons, having refused to release the damages to which they respectively may be entitled by reason of the location and building of said bridge 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. 189\_\_\_\_\_.

In the Court of Quarter sessions of Clayfield Co. Va.  
To the Honorable W. C. Smith, President Judge of  
the Court of Quarter sessions of said County.

We the undersigned members of the within order  
of Court to view, and lay out the Bridge therein mentioned,  
do respectfully report That in Pursuance thereof, after  
having given good and lawful notice as required by  
law and rules of Court, to the County Commissioners of  
said County, and to land owners at said point on  
River, of the time and place of said view and as to the  
Assessment of damages to Land owners, and after having  
given due and lawful notice of the time and place of  
said view, by posting notices as required by law, in  
the vicinity of said proposed Bridge, and after being  
severally sworn or affirmed, we met at the time  
and place of said notices mentioned, and having  
viewed the ground, have agreed that there  
is need of a public Bridge across said river  
as set forth by the petitioners, and do return  
for public use the following described Bridge  
Span to be one hundred feet long, and sixteen  
feet wide, and super structure of stone and  
we believe the County of Clayfield should  
erect the abutments and stone work of said Bridge  
a plat or draft of said Bridge is herunto annexed,  
and we have obtained a release from damages  
of H. W. Metzger and R. F. M. Lee, for property  
adjoining the river at point of proposed  
Bridge.

In witness where of we have here  
unto set our hands and seals  
this eight day of July 1904

Viewers } J. W. Stephenson  
W. P. Doffer  
E. A. Shirey

afforded me much delay September 28  
 1904, and we the ground jury find that the bridge  
 same necessary and that the expense of building of  
 said bridge is greater than the Township of  
 Bell should bear, County of Clarkfield to  
 build the bridge 11 of Road from

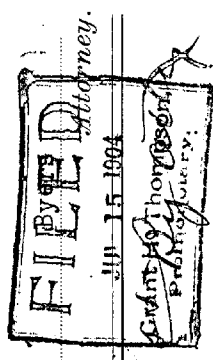
July 7 1904, E K Shury is appointed in  
 the room and stead of J. A. Shaw  
 By the Court.  
*W. H. Humphrey*

No. 7 September Sess 189-  
 1904  
 Public Bridge  
 in  
 Bell Township

ORDER TO VIEW.

Dec. 28, 1904.  
 Not approved - see opinion  
 filed. By the Court.  
 Adam R. Smith

Filed 189  
 Fees \$1.25, paid by



NOTE.—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 assessors 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 bridge, they will report to  
 that effect.

|                       |          |               |
|-----------------------|----------|---------------|
| <i>W. H. Humphrey</i> | Days 2   | Amount \$2.50 |
| <i>W. H. Humphrey</i> | Miles 4  |               |
| <i>W. H. Humphrey</i> | Days 2   |               |
| <i>W. H. Humphrey</i> | Miles 37 | \$7.70        |
| <i>E. K. Shury</i>    | Days 2   |               |
| <i>E. K. Shury</i>    | Miles 37 | \$7.70        |
|                       | Days     |               |
|                       | Miles    |               |
|                       | Days     |               |
|                       | Miles    |               |



In Re. ) In the Court of Quarter Sessions of  
Public Bridge in ) Clearfield County.  
Bell Township. ) No. 7 September Sessions, 1904.

OPINION.

The proceedings in this case bring up the subject of the regularity of the practice respecting bridge views, and we therefore take this occasion to define our views respecting the same. The order to view in this case was made returnable to September Sessions, and the Clerk of the Court of Quarter Sessions should in all such cases confirm the same Ni Si at the sessions of Court to which the same is returnable. The matter should then lie over until the succeeding sessions of the Court, at which time it should be presented to the Court on or before the first day of that term, so that the Court can present the matter to the Grand Jury together with such oral or written instructions as he may deem proper under the circumstances. At the hearing before the Grand Jury notice should be given to the County Commissioners and other persons interested, so that the Grand Jury may have all the light on the question at issue, which is: First, the public necessity of the bridge; and second, the reasonableness of the expenditure by the County. Without some light thrown on the question of the expense of such bridge, we do not understand how any Grand Jury can intelligently pass upon the real question at issue. The Grand Jury are also entitled to instructions from the Court as to what is involved in the matter to be considered by them.

In this case the return day was to September Sessions. The report is not confirmed Ni Si, and was seemingly presented to the Grand Jury and their approval obtained without notice either to the Court or any person else interested. We, however,

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have not seen fit to overrule this bridge on that account, but when presented to us for consideration and concurrence in the Report of the Viewers and Grand Jury in favor of the bridge, since the September Sessions, we concluded that <sup>as</sup> it was our duty to pass upon the necessity of the bridge and the reasonableness of the expense, we should have a public hearing and fixed the 22nd of December 1904 for that purpose. At this time considerable testimony was taken in favor of this bridge. Most of this testimony was by reputable citizens and residents of the vicinity of the proposed bridge, who claim that it is a public necessity because of the convenient out let between two parts of the Township of Bell. When all the facts, however, respecting this proposed bridge are considered, we decline to concur in the recommendation of the Viewers and Grand Jury.

We are not convinced, first, that there is such public necessity for a bridge at this point as is contemplated by the Act of Assembly, as we understand the public policy which should govern public officials in the expenditure of County money. The location of this proposed bridge is at what we will call Wetzel's Fording, at which point a public road joins the main public road running on the North or West <sup>side</sup> of the river between McGees and Burnside, and runs from thence in an easterly direction about a mile to a point near H. L. McGees, where it joins a public road running from New Washington <sup>or Ostend</sup> or Bethlehem to McGees Mills, which point is about one mile from McGees Mills. At McGees Mills, where this main road from Ostend joins with the main public road running up the river, there is a public County bridge, and from that County bridge west or southwest on the main public road to Burnside to the proposed bridge is only one mile. The public necessity claimed for the proposed bridge is, that it would be more convenient for the people living in and

(3)

around Ostend in going to a point West of the river in Bell Township or Indiana County, to travel by way of the Wetzel road to the present fording or proposed bridge, than to go down to McGees and then up the river by the main public road. But it was admitted by all of the witnesses, on cross-examination, that it made simply a difference of one mile and avoided a hill between McGees and Wetzel's. The country immediately south of the proposed location is very sparsely settled, having in fact at the present time only two residents, who of course would be greatly benefited by the proposed bridge, especially in the matter of convenience and distance to school and church. The present necessities of travel are met by a fording at this point, which is used by persons driving when the river is at the proper depth. Cross-examination by the Court failed to disclose just what portion of the year the river is fordable at this point, and such cross-examination also failed to disclose or give to the Court any definite idea as to the number of people who actually did use this fording when fordable or who would likely use it in case a bridge was constructed. So also, the probable cost of the bridge structure was not very definitely presented to the Court. We, however, from our knowledge of such bridges, believe that it would cost not less than \$5000.

In our opinion, therefore, and from our knowledge of the country, the location of this bridge and the public necessities, as well as from the admission of the witnesses in favor of the bridge on cross-examination, we are fully convinced that Clearfield County cannot afford at this time to commence the construction of County bridges where no greater public necessity is shown than has been shown in this case. The West Branch of the Susquehanna River, from Cherrytree to Karthaus, travels through Clearfield County a distance of perhaps seventy miles, and there are about twenty-two County bridges already constructed

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between said points. Except at Burnside and Clearfield, no County bridges have been erected closer than three miles or more from another County bridge. At and near Burnside there are of course three County bridges within a distance of perhaps two miles or less, but no one would dispute the necessity of those structures, because they are on the main line of public travel and were certainly not for the mere convenience of the local people. So also at Curwensville and Clearfield, and between said points, where <sup>County</sup> ~~the~~ bridges are more frequent than at other points in the County, <sup>except Burnside</sup> no one can dispute the general public necessity of the same, because of the fact that they are on main lines of travel. In other words, the necessity which seems to have governed the action of the officials heretofore, in controlling them in the erection of public bridges at County expense, has been that necessity which is shown by the need of the general travelling public and because the crossings were on main lines of public travel.

Now, as to the location in question, it is of course at a public road crossing the river, but the inconvenience complained of is that it would shorten the distance between certain points to the extent of one mile, but when one considers the limited number of people who are actually benefited by such shortening of distance we are thoroughly convinced that Clearfield County cannot at this time at least enter upon any such a career of expenditure. If this particular bridge can be said to be necessary as a public structure and reasonable for the County to build, then, from our knowledge of Clearfield County and of the river from Cherrytree to Karthaus, there could with equal propriety and with just as much reason be at least six or more such bridges built at public expense, costing upwards of \$100,000. The burdens of taxation are already sufficiently heavy upon our people, and, as we look at it, the officials of the County all

(5)

along the line should carefully guard against improvident expenditures at this time. In these days of our prosperity and riches in coal and mineral developments, we should also endeavor to wipe out our public indebtedness. A recent Grand Jury, furthermore, recommended the erection of an insane ward to the County Home, and also recommended the expenditure of public funds in repairing the Court House. Whether these things shall be done or not, will of course be considered hereafter by the Court. We only mention them in this connection to show that there is already before the Court matters of public expenditure by the County which are of unquestioned public necessity, if true; and we are therefore perhaps the more apt to draw comparisons as to the requirements of public necessity than we otherwise would be. When we do draw such comparison, with our knowledge of the location of this bridge in mind, we are very clear as to our duty in the premises. It is unpleasant for us to run counter to the sentiment of a large number of good citizens of any community, men whom we know well and whose opinions we respect, but it seems to us that they do not take and it is perhaps not their duty to take the broad general view which must govern <sup>the discretion of</sup> the Court in such matters.

For the reasons given, therefore, we disapprove of this location as a County bridge.

By the Court,

*Cleanfield Pa.*

*December 28th 1904.*

*Allison J. Smith*

P. J.

No. 7 September Sessions 1904.

In Re.

Public Bridge in Bell Town-  
ship.

OPINION.

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