

No. 7, Sept. Sessions, 1901

COMMONWEALTH

versus

Public Bridge

in
Bell Twp across
Susquehanna River

Charge

X

WILLIAM I. SWOOP,
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 being 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 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.

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 proceedings at next term of court,

And they will ever pray, &c.

F. R. Wetzel

Foster Beatty

W. D. McAdams

P. J. Bam

W. W. McGehee

H. H. McGehee

J. W. McGehee

J. H. Davidson

Daniel Kennedy

P. J. Dr. G. Gel

Edgar Wolf

L. J. Jones

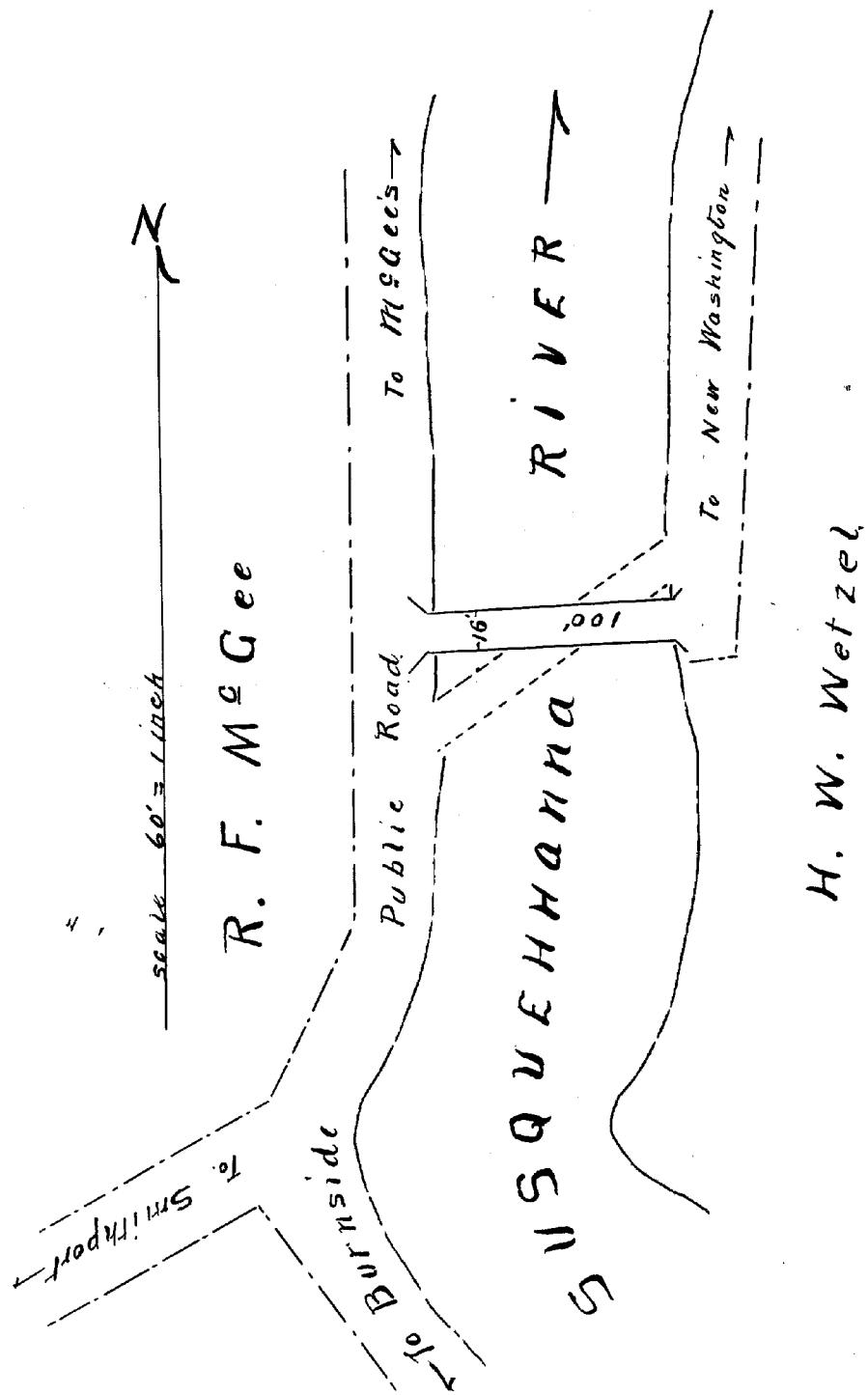
E. D. McAdams

G. R. Allen

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.

1. J. DeLovelace	Burnside Alpd Pa
2. J. Stouffer	" " "
3. H. D. M. Fairish	" " "
4. L. Weaver,	" " "
5. James H. Weaver	" " "
6. M. Weaver	New Washington
7. G. C. Berry.	Burnside Alpd Pa
8. J. H. Karet.	= = =
9. John Stouffer	" " "
10. G. F. Piquell	" " "
11. Inn Spring	" " "
12. John B. Dennis	" " "
13. Burnsideville	" " "
14. A. B. Mandell	" " "
15. Harry Anderson	" " "
16. John H. Patchin	" " "
17. Carl B. Patchin	Patchinville Pa
18. A. H. Long	Burnside
19. J. W. Prior	Mahaffey
20. Elmer Main	Mahaffey
21. J. W. Main	" " "
22. J. A. Bolowin	Mahaffey Pa
23. James H. Bolowin	Mahaffey Pa
24. Joseph Hartman	New Washington
25. H. P. Togar	Togar

Samuel Hale	Warrington Pa.
Kerry Rice	Warrington Pa.
C. L. Stetzel	Mahaffey, Pa.
Wm M. Lunn	" " "
J. F. Bunting	" "
J. E. Johnson	Mahaffey Pa.
C. A. Johnson	" "
Dr. Ash W. Bennett	" "
Geot Elling	" "
H. C. Mahaffey	" "
J. B. Neely	" "
Jas. H. Mahaffey	" "
J. W. Fout	" "
Jas. W. Davidson	" "
J. B. Mosser	" "
E. Colarey	do do
Miss Moyer	" "
Tom Moyer	" "
H. W. Middowson	" "
J. P. Thomas	" "
H. J. Buckingham Jr. D.	" "
W. H. Stephenson	" "
William Dumber	" "
W. H. Neisamer	" "
H. A. Cooker	" "
J. F. Guy	" "
J. B. Seich	" "
H. C. Bindley	Brownside
J. S. Keehan	Mahaffey
Frank G. Haney	" "
A. C. Cleary	Frankfort Pa.



Bridge Viewers' Notice.

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 me this 29th
day of June 1904 S.R. Hamilton

Now, duly 7, 1904, notice as to the
substitution of the name of Ed S. Shirley
for that of Jno. A. Stock, is hereby
waived.

Co Commissioners

By A. T. Stansell

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John W. Stephenson.

W. J. Hoffey.

John A. Stock.

Viewers.

Mahaffey, Pa., June 28, 190⁴.

We hereby accept service of within
Notice this 2nd day of July 1904

A. J. Goss
G. W. Borch
S. J. B. Miller

Supervisor of

Bell
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.

1804, before Judge of said Court, upon a petition of sundry inhab-

itants 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.

John W. Stephenson
CLERK

In the Court of Quarter sessions of Clearfield Co. Pa.
To the Honorable W. C. Smith, President Judge of
the Court of Quarter sessions of said County
We the undersigned viewers by the within order
of Court to view, and lay out the Bridge herein 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 notice 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 Clearfield should
erect the abutments and stone work of said Bridge
a plan or draft of said Bridge is hereto annexed,
and we have obtained a release from damages
of H.W. Wetzel and R.F. Mc Gee, for property
adjoining the river at point of proposed
bridge.

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

J. W. Stephenson
Viewers } W. J. Bogger
E. A. Stirey

NOTE.—Viewers will carefully note the number of days employed, and set the amount out at the foot of their return. Each viewer is remunerated with damages assessed by the original viewer, so far as the location may be charged by the viewers.

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.

AMOUNT.
Days 2 Miles 4 \$8.40
Days 2 Miles 37 720
Days 2 Miles 37 720
Days 2 Miles 37 720

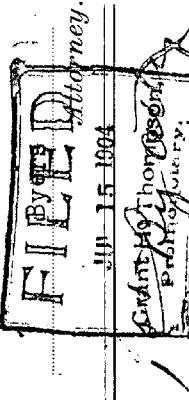
1904
No 7 September Sess 189-
Public Bridge
in
Bell Township

ORDER TO VIEW.

July 7 1904. E K Sherry is appointed in
the room and stead of Mrs A Stock my
attor
W H Thompson

E K Sherry
not approved
Filed. By the court
William J. Smith

Filed 189
Fees \$1.25, paid by



July 7 1904
E K Sherry is appointed in
the room and stead of Mrs A Stock my
attor
W H Thompson
not approved
Filed. By the court
William J. Smith

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,

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, as since the September Sessions, we concluded that 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 outlet 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, ^{side} of the river between McGees and Burnside, and runs from thence in an eastward direction about a mile to a point near H. L. McGees, where it joins a public road running from New Washington, 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

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

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 ^{County} said points, where ~~the~~ bridges are more frequent than at other ^{except Burnside} points in the County, 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 ^{the discretion of} the Court in such matters.

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

By the Court,

Clemfield Pa.

December 28th 1904.

Alison D. Smith

P. J.

No. 7 September Sessions 1904.

In Re.

Public Bridge in Bell Town-
ship.

OPINION.