

14. Sept 5 term, 190

Vacate parts of Public
Roads Lawrence Twp.

Versus

Roads

X

In Re. View to Vacate Road) In the Court of Quarter Sessions
for Public use in Lawrence) of Clearfield County.
Township.)
) No. 14 September Sessions 1909.

Sur Exceptions filed by Mrs. Florence Spencer.

OPINION.

The exceptions filed by Mrs. Florence Spencer relate
particularly to that portion of the vacation ^{marked 3rd piece in map} directly affecting
her property, which extends on both sides of both the
public road and the railroad. The general public we believe
are interested in the vacation of the diagonal railroad cross-
ing directly in front of Mrs. Florence Spencer's house, and the
Railroad Company are of course very much interested in said
vacation. With the opening of the new road the general public
will be well served and also protected ~~xxxxxx~~ because of the
location away from the railroad. As no one except Mrs. Florence
Spencer seems to be directly interested against the vacation
other than that portion in front of her property, we are of
opinion that this report should be confirmed, except as to an
outlet for the said Mrs. Spencer. By vacating only that por-
tion of the third piece vacated by the Viewers, beginning at
A and ending at B, on the south or southwest or river side of
the railroad opposite Mrs. Spencer's house, the Railroad Com-
pany and the general public will have accomplished all that
they most desire, leaving that portion of the said road so
vacated by the Viewers from B to C remain open as a public
road. With this exception the Report of the Viewers will be
confirmed absolutely, conditioned however, first, That the
Railroad Company will file a stipulation with Mrs. Florence
Spencer to the effect that they will give her a private cross-
ing in lieu of the public crossing so vacated, so as to allow
her private crossing facilities to the public road between B

and C on the map enclosed; second, on condition that the said vacation shall be dependent and not to go into effect until the new road located by the Viewers to No. 5 May Sessions, 1909, be actually opened and in use on the ground.

For the above reasons and on the conditions aforesaid, the proceedings for vacation herein are confirmed absolutely. *costs
in excess of the ground by 20.
By the Court,*

Allison J. Smith
P. J.

July 15th, 1910.

To the Honorable Allison O. Smith, President Judge of the Court of Quarter Sessions:-

Being appointed one of the viewers to vacate a certain piece of road in Lawrence Township, near the Steel Plant, and having met therewith the Messrs Kirk and Ginter and viewed ~~the~~ parts of the road set forth in the petition to be vacated, I do hereby refuse to sign the report as laid down by the other two viewers for the following reasons:

1st. To vacate that piece of road from the River at the Smith farm passing over what is called McPherson Ave. to the intersection to the new or proposed road, would, in my judgment be a great disadvantage to many people who want to come down to the River for sand, and would also do away with the crossing and shut up and forever abandon a piece of road long since established and of much use now and may be badly needed in the future, both for the benefit of the steel plant and the travelling public.

2nd. To vacate that piece of road up the river from the Smith farm to at or near the Centre School House would be a great inconvenience to children wanting to get to school and would take a public road from the property of Frank Smith and Schnarrs, and practically put their property in a position where they could not get in or out without the ~~aid~~ of a balloon or an ~~air~~ plane.

3rd. To vacate from the Bailey settlement road to the intersection of the proposed new road would do much damage to the property of Mrs. Spencer as the railroad crosses the public road directly in front of her dwelling house, and to vacate this piece of road would be to separate her land and put her to a great inconvenience, as well as destroy the value of her property. It may be argued that this is a dangerous crossing, which is true, but the proposed new road would take most of the travel from this point, and would leave this road for

the local travel and would answer the purpose of a private road.

For these reasons I refuse to concur in the report made by Messrs. Kirk and Ginter, and would recommend to the Court that he refuse to vacate this road.

Respectfully submitted,

John G. Barclay

Clearfield, Pa.
September, 7, 1909.

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 7th

day of July, A. D. 1909, before the Judge of said Court, upon a petition of sundry inhabitants of the township of Lawrence

, in said county, setting forth that

There has been a report by viewers to no. 5, may Term 1909 for a public road commencing at the Bridge across the Susquehanna River known as the Boggs Ford Bridge ending at a point about 1000 ft. westerly of a crossing of the public road by the B.R.P.Ry. near me & B. P. F. property. That when the proposed road is confirmed by the Court it will involve a grade crossing of the B.R.P.Ry. at a point opposite the bridge aforesaid, and because of the location of the said proposed road the following pieces of road, two of them involving a grade crossing over the said railroad, will have become unnecessary and burdensome and also dangerous to public travel, to wit: A part of the road leading from the old river road near the Smith House to its intersection with the proposed new road also that portion of the old Clearfield road leading from the Smith House aforesaid to at or near the School house known as the Centre School House, also that portion of the old Clearfield road leading from its intersection by the ~~old~~ to Bailey Settlement to its intersection with the proposed new road hereinbefore referred to,

and therefore praying the Court to appoint proper persons to view & vacate

the same according to law,

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

appoint G. L. Stirk, H. E. Ginter and John L. Barclay, 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 ^{no} occasion for such road, they shall proceed to vacate

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.

Roll B. 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 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. 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:

To the sum of

To the sum of

To the sum of

Witness our hands this day of A. D. 190

To the Honorable, the Judge within named:
We the undersigned, appointed by the annexed order
do report, That in pursuance thereof, after having
been severally duly sworn according to law,
all the viewers appointed by said order viewed the
ground proposed for the location of the within
mentioned pieces of road, and the undersigned,
a majority of said viewers do agree that there is
occasion to vacate said pieces of road, as desir-
ed by the petitioners, and we have vacated in
such manner as shall, in our opinion, do the
least injury to private property, and as far as
practicable agreeably to the desire of the petitioners,
and we do vacate the following described three
pieces of public road, to wit: The first thereof,
beginning at a point in the old River road near
the Smith house, thence $N.70\frac{1}{4}^{\circ} W.$ 539 ft. to a point
on the B. R. & P. Ry., crossing, thence $N.45^{\circ} W.$ 107 ft. to a
point. thence $N.43\frac{1}{4}^{\circ} W.$ 28 ft. to a point in the propos-
ed New road, returned to No. 5, May 5, 1909.

The Second piece thereof, beginning at a point
in the old Clearfield road (River road) near the
Smith house, thence $S.42\frac{3}{4}^{\circ} W.$ 665 ft. to a point, thence
 $S.37\frac{1}{4}^{\circ} W.$ 176 ft to a point on the North side of a private
road, near the Center School House. The Third
piece thereof, beginning at a point in the old
Clearfield road, at the intersection of the public
road leading to the Bogley Settlement, thence $S.38\frac{1}{4}^{\circ} W.$
1040 ft. to a point at the intersection of the proposed new
road, returned to No. 5, May 5, 1909, all of which by rea-
son of the laying out of the proposed new road, will
have become unnecessary, useless, and burdensome,
and thereby eliminating two railway crossings, for
public use. We recommend that Mrs. Florence Eddy, be
granted a private crossing twelve feet wide.

That before said view, public notice of the time and
place of the meeting of the viewers was given by
advertisements put up at three of the most public
places in the vicinity. That there was no claim
for damages presented to the viewers, by reason
of the location of said pieces of road. And we
annex a plot or draft of said pieces of road vacated, res-
pectively, stating the courses and distances, and not-
ing briefly the improvements through which the
same passes.

Witness our hands this 18th day of Augt. A.D. 1909.

Geo. G. Kirk } P.
H. E. Ginter, } C.
P. C. Ginter, } C.

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.
Viewers cannot interfere with damages assessed by the original viewers, except so far as the location may be changed 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 road, they will report to that effect.

No. 14. Septm Sessions, 1909

ORDER

To view & excavate a road for public use in the township of Lawrence, Clearfield County.

Sept Sessions, 1909.
read and confirmed Ni. 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 said
Allison Smith

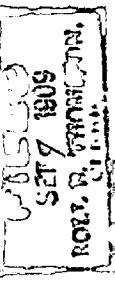
AMOUNT
Days 2 10.00
Miles 19 1.90

AMOUNT
Days 1 3.00
Miles 26 2.60

AMOUNT
Days 1 1/2 4.50
Miles 3 3.00

AMOUNT
Days 1 1.50
Miles 22 3.00

Filed 190
Fees \$1.25 paid by W. H. W.



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

The petition of the undersigned citizens of Lawrence
Township and vicinity respectfully represent:

That there has been a report by viewers to No.
547 York Term 1809, for a public road commencing at the Bridge
across the Susquehanna River known as the Boggs Ford Bridge,
and ending at a point about 1,000 feet westerly of a crossing
of the old public road by the B.P. & P.Ry. near Mrs. F. P. Spen-
cer's property.

That when the proposed road is confirmed by the Court
it will involve a grade crossing of the B.P. & P.Ry. at a point
opposite the bridge aforesaid; and because of the location
of the said proposed road the following pieces of road, two
of them involving a grade crossing over the said railroad,
will have become unnecessary and burdensome, and also dangerous
to public travel, to wit:

A part of the road leading from the old river road
near the Smith House to its intersection with the proposed
new road; also that portion of the old Clearfield road leading
from the Smith House, aforesaid, to at or near the school
house known as the Centre School House; also that portion of
the old Clearfield road leading from its intersection by the
said to Bailey Station to its intersection with the proposed
new road hereinbefore mentioned.

They, therefore, pray the Court that viewers may be
appointed to inquire into the propriety of vacating the said
proposed road, if they will ever pray etc.

Glen R. Schumacher
Mrs Lawrence
George W. Schumacher
John Hallerton

Paul J. Schumacher
Ed Lawrence
Ernest Lawrence

147th Inf. Reg.

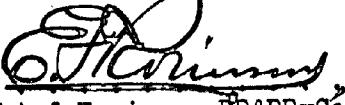
At 10:00 a.m.
George C. Smith
H. E. Smith & John C. O'Conor

By the Comt'd
Allison G. Smith

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNA.

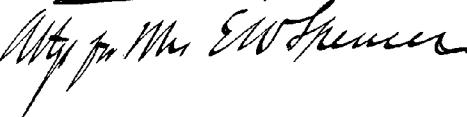
In re vacation of public roads }
in Lawrence Township } No. 14 Sept. Sess. 1909.

Now this $\frac{8}{4}$ day of September the Buffalo, Rochester & Pittsburgh Railway Company by its Chief Engineer hereby agrees to furnish to Mrs. Florence Spencer the private crossing in the place of the public grade crossing in accordance and in compliance with the order of the Court filed July 15th, 1910.


E. Morrison
Chief Engineer BR&PRyCo.

Same dictated
Sept 10, 1910


W. Hartwick


Atty for Mrs. E. W. Spencer

No. 14. Sept 32, 1909

In matter of vacation
of roads in Lawrence
Co. Pa.

Agreement for roads
crossing

10

Mr. G. W.

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

IN RE PETITION) No. 14 Sept. SS, 1909.
TO VACATE ROADS)
IN LAWRENCE TOWNSHIP.)

Mrs Florence Spencer, by her Attorneys, Bell & Hartwick, except to the majority report of the viewers, as follows:

First:- The proposed vacation of the third piece of road entirely cuts off an access to her land lying east of the B. R. & P. R. R; which lot of land cannot then be reached except by a round about route and securing a road across private property, and which lot of land at the time the same became vested in exceptant and for many years prior thereto was reached by a public road.

Second:- The vacation is coupled with the following statement "We recommend that Mrs Florence Espy be granted a private crossing twelve feet wide", which is neither in the power of the viewers nor of the Court.

Third:- The said vacation takes from the exceptant a public road leading to her dwelling house and puts the only public road by which the property lying west of the railroad can be reached, along the rear of the property.

Fourth:- The report undertakes the vacation of disconnected parts of a single long existing public road and is a piece meal blotch.

Fifth:- The vacation of the first and second pieces cuts off the Smith and Schnarrs properties so as to deprive them of access to any public road.

Sixth:- The view was held without any proper notice to the exceptant who learned of the intended view late the preceding day from J. C. Barclay, one of the viewers, and the majority of the viewers were proceeding without notice to the exceptant, who was an owner of improved property affected by said proceeding.

Seventh:- The proposed vacations destroy the ancient user by the public of the river front, and is designed to add to the private ownership of the Steel Plant at the public expense and the injury of other individuals.

Eighth:- The proposed vacation affecting directly the property of exceptant is for the advantage of the B. R. & P. Railroad Company and to relieve them from the maintenance of a railroad crossing and not intended for the public good.

Ninth:- That the statement in the viewers report "there was no claim for damages presented to the viewers", is misleading and probably so intended, as your exceptant was present at the view and personally protested to the viewers against the vacation as an injury to her property.

Tenth:- That the viewers did not pass on this vacation on its merits, but H. E. Ginter stated at the time that the road laid out to No. 5 May Ss, 1909 would not be secured without the vacation of this piece of road.

Eleventh:- The distances as stated in the report and the accompanying draft, do not agree.

Twelfth:- The property of the exceptant and of other persons is affected and injured by this proceeding and the value of the

same lessened without any compensation nor any pretence on the part of the viewers to pass upon the subject of compensation.

Thirteenth:- The cutting off of access to the property of exceptant is a taking of her property without compensation and without any finding by the viewers that she is not entitled to damages.

Mrs Florence Spencer,
by her Attorneys,

Bell & Hartswick.

Clearfield County ss

Florence Spesser being sworn
according to law, doth depose and say
The facts stated in the foregoing exceptions
are true as she verily believes,

I am subscriber to me }
this 8th November AD 1919 } Florence E. Spesser,
Pittsburgh, Pa. }
R

No 14 Sept 21 189

Road in
Lawrence Park

Scaphium.

Beetle Ranch

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNSYLVANIA
IN RE PETITION
TO VACATE ROADS
IN LAWRENCE TOWNSHIP. NO. 14 SEPT. SS, 1909.

Mrs. Florence Spencer, by her attorneys, Bell & Hartswick, except to the majority report of the viewers, as follows:

First: - The proposed vacation of the third piece of road entirely cuts off an access to her land lying east of the BR&PRR; which lot of land cannot then be reached except by a round about route and securing a road across private property, and which lot of land at the time the same became vested in exceptant and for many years prior thereto was reached by a public road.

Second: - The vacation is coupled with the following statement: "We recommend that Mrs. Florence Espy be granted a private crossing twelve feet wide", which is neither in the power of the viewers nor of the Court.

Third: - The said vacation takes from the exceptant a public road leading to her dwelling house and puts the only public road by which the property lying west of the railroad can be reached, along the rear of the property.

Fourth: - The report undertakes the vacation of disconnected parts of a single long existing public road and is a piece meal blotch.

Fifth: - The vacation of the first and second pieces cuts off the Smith and Schnarrs properties so as to deprive them of access to any public road.

Sixth: - The view was held without any proper notice to the exceptant who learned of the intended view late the preceding day from J.C.Barclay, one of the viewers, and the majority of the viewers were proceeding without notice to the exceptant, who was an owner of the improved property affected by said proceeding.

Seventh: - The proposed vacations destroy the ancient user by the public of the river front, and is designed to add to the private ownership of the Steel Plant at the public expense and the injury of other individuals.

Eighth: - The proposed vacation affecting directly the property of exceptant is for the advantage of the BR&PRRCo and to relieve them from the maintenance of a railroad crossing and not intended for the public good.

Ninth: - That the statement in the viewers report "there was no claim for damages presented to the viewers", is misleading and probably so intended, as your exceptant was present at the view and personally protested to the viewers against the vacation as an injury to her property.

Tenth: - That the viewers did not pass on this vacation on its merits, but H.E.Ginter stated at the time that the road land out to No. 5 May SS, 1909 would not be secured without the vacation of this piece of road.

Eleventh:- The distance as stated in the report and the accompanying draft, do not agree.

Twelfth:- The property of the exceptant and of other persons is affected and injured by this proceeding and the value of the same lessened without any compensation nor any pretense on the part of the viewers to pass upon the subject of compensation.

Thirteenth: - The cutting off of access to the property of exceptant is a taking of her property without compensation and without any finding by the viewers that she is not entitled to damages.

Mrs. Florence Spencer,
By her Attorneys.

Bell & Hartswick.