

No 5 May 1911

Petition to Vacate & Supply

Public Road in Brody  
from Lyon School House

**Versus**

to P. I. & P. Crossing

GB Nachol Jr

# Clearfield County, ss:

At a Court of Quarter Sessions of the Peace of the County of Clearfield, held at Clearfield, Pa., in and for said County, on the 15 day of February in the year of our Lord one thousand nine hundred fifteen.

Judge of the same Court: Upon the petition of sundry inhabitants of the Township of Brady

in said County, setting forth that they labor under great inconvenience for want of a public road to be in it a public road leading from Lyons saw mill in Brady Township to Andrew Little's farm, at a point in said road at the Lyon School House property, in the Township of Brady, Clearfield County, Pennsylvania; thence to extend to a public road leading from the S.B. Wachob farm to Lutherburg at a point where the Buffalo, Rochester and Pittsburgh railroad crosses said public road, in the Township of Brady, aforesaid, and to vacate a public road beginning in a public road leading from the Lyon Saw mill to Andrew Little's farm at a point at the Lyon School House in Brady Twp; thence to extend Easterly to where the road leading from the same intersects said road from the Lyon Saw mill in said Twp. which by reason of the laying of said proposed road will become useless and burdensome, and therefore, praying the Court to appoint proper persons to view and lay out the road between the points mentioned, whereupon the Court upon due consideration had of the premises, do order and appoint from and among the County Board of Viewers L.F. Boyer, J.C. McInn and R.H. Harman

who have been duly appointed by the Court and filed their oaths of office and are duly qualified to perform the duties of their appointment with impartiality and according to the best of their judgment, are to view the ground proposed for the said road, and if they view the same, and a majority of the actual viewers agree that there is occasion for such road, they shall proceed to lay out the same, as agreeable to the desire of the petitioner as may be, having respect to the best ground for a road and the shortest distance, in such a manner as to do the least injury to private property; and shall make report thereof, stating particularly whether they judge the same necessary for a public or private road, together with a plot or draft thereof, and the courses and distances and references to the improvements through which the same may pass; (and wherever practicable, the viewers shall lay out the said road at an elevation not exceeding five degrees, except at the crossing of ravines and streams, when by moderate filling and bridging the declination of the road may be preserved within that limit,) to the next Court of Quarter Sessions to be held for the said County.

And if the viewers aforesaid shall decide in favor of locating a public road, they shall obtain from the persons through whose lands the said road shall pass, releases from any damages that may arise to them on opening the same; but if the owner or owners of such land refuse to release their claim to damages, the said viewers shall assess the same, taking into view the advantages as well as disadvantages arising from said location, and make report of such assessments; which report they shall in like manner transmit to the next Court of Quarter Sessions, with the draft or plot aforesaid. In which said reports they shall state that they have been sworn or affirmed according to law, and that due and legal notice was given of the time when, and place where, they should meet, to view and lay out said road, and the time and place of hearing.

By order of the Court.

*John W. Moore*, Clerk.

# RETURN OF VIEWERS.

To the Honorable the Judge of the Court of Quarter Sessions of the Peace for the County of Clearfield:

We, the undersigned viewers, duly appointed by your Honorable Court by the foregoing order, from and among the County Board of Viewers who have been duly appointed by your Honorable Court and have filed their oaths of office in the Court of Common Pleas of Clearfield County, beg leave to report as follows:

That notice of the time of view and of the hearing day was duly served according to law upon the Commissioners of Clearfield County and the Board of Supervisors of the Township of Brady and that 3 notices thereof were posted along the route of the proposed road, that the said view would be held on the 1<sup>st</sup> day of April, A. D. 1915, and the hearing to be held in the Arbitration room, at the Court House, in Clearfield, Pa., on the 30<sup>th</sup> day of April, 1915, at 9 o'clock A.M. That

all viewers appointed by the said order viewed the ground proposed for the above mentioned road, and that there were present at the view Henry F. Kirk, John P. Wright and J.P. Ellenger, Supervisors of said Township and diverse citizens thereof: Said view being continued to April 15, 1915, and said hearing therein to August 9, 1915, at the same respective hours, parties in interest. That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the 9<sup>th</sup> day of August, A. D. 1915, when the following appearances were noted: E.G. Boose, Esq., representing The Supervisors of said Township, John P. Wright and Henry F. Kirk, Supervisor, William Clegg, to gather with diverse other citizens of said Township and Clearfield County.

After the view and hearing above mentioned, the undersigned, the majority of the said viewers, do agree that there is — occasion for a road as desired by the petitioner, and that the same is — necessary for a public road: And having had respect to 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 agreeably to the desire of the petitioner, and do return for public use the following described road, to-wit: Beginning at the descriptions and map filed herein and make a part of this record; the time for filing this proceeding having been extended by order of court to the first Monday of September, 1915.

and that a plan or draft of said road showing courses and distances and the properties affected is hereto attached and made a part hereof, said road being at an elevation not exceeding five degrees, excepting \_\_\_\_\_

when it was not practicable to preserve it within that limit.

The undersigned further report that they endeavored to procure from all the owners of the land over which the said road passes releases in writing of all claims to damages that may arise from opening the same, and that they procured such releases from \_\_\_\_\_

the following persons having refused to release the damages to which they respectfully may be entitled by the reason of the location and opening of the said road, we, the undersigned viewers, after having considered the advantages to be derived to them, do assess them damages and make report thereof as follows:

Hans of Philip Swaape,

\*50. =

and we herewith return releases obtained and copy of the notices.

WITNESS our hands and seals this 9<sup>th</sup> day of August  
A. D. 1915.

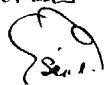
  
F. B. Boyce  
  
G. S. MacMein, Seu



I do not concur in the foregoing report for the reason that while I approve of the proposed route, I am not convinced of the necessity for said road and do not believe its construction justifies the expense involved.

Clearfield B. August 9<sup>th</sup> 1915.

  
G. H. Harriman



No. 5111 Y Sessions, 19 15

**ORDER**

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 the 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.

To view to supply & vacc<sup>t</sup>d road for public use in the township of Erxley, Clearfield County

	Days.	Miles	Am't.
H. S. MacLennan	14	63	73.15
S. H. Fairman	3	56	17.80
L. S. Boys	5	56	27.80
Jesse Broadbent	7	14	14
John L. Gray	7	14	14
H. S. Whittemore	1	32	32

**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

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. 1911.

SEAL  
SEAL  
SEAL  
SEAL

Filed 19  
Fees \$1.25 paid by \_\_\_\_\_

City Petty

IN RE PUBLIC ROAD : IN THE COURT OF QUARTER SESSIONS  
: OF CLEARFIELD COUNTY.  
IN BRADY TOWNSHIP. : NO. 5, MAY TERM, 1915.

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EXCEPTIONS.

John F. Wingert, Henry F. Kirk, and John P. Ellinger, Supervisors of the Road District of Brady Township, by E. G. Boose, their Attorney, come into Court and take exceptions to the absolute confirmation of the report of the viewers in the above cited case for the following reasons;

FIRST., Because the petition upon which the proceedings were had is fatally defective in that the first named terminus of the proposed public road does not show a definite point of beginning by giving exact distance from intersecting road, street, or railroad, already opened as is provided for and required by the Act of Assembly of April 23, 1909, P. L. 142.

SECOND., Because the petition and Order to View fix as a terminus of the proposed road, a point in the public road at the Lyons School House property, while the report of the viewers show that the viewers adopted another and different terminal twenty rods South of the terminal fixed by the petition and Order to View, which variation is fatal to the proceeding.

THIRD., Because the viewers have failed to vacate that portion of the public road between the Lyons School House property and the Jesse Lyons Saw Mill, as prayed for in the petition, and as the road layed out by this proceeding connects those same two points, there is in consequence two public roads, practically parallel for the entire distance between these two points.

FOURTH., Because the road as layed out, is throughout its extent over numerous streams, ravines, swamps and rocks and its construction would in consequence, entail the cost of many thousands of dollars and would be burdensome to the tax payers of Brady Township.

FIFTH., Because the road as layed out, is throughout its extent in a wild, uncultivated, and uninhabited section of the township and it is absolutely unnecessary for the convenience of public travel.

SIXTH., Because E. H. Harman, one of the viewers, also appears of Record as one of the petitioners, and is, therefor, a party in interest and disqualified to act as a viewer in this proceeding.

SEVENTH., Because the petitioners have not filed a bond together with their petition to secure the costs of the view, as provided by the Act of Assembly of April 4th, 1907. P. L. 44.

*E. G. Boose  
att'y for exceptions*

State of Pennsylvania |  
County of Clearfield |<sup>ss.</sup>

Before me, a Notary Public duly commissioned  
in and for the said County and State, personally appeared John F.  
Wihgert, Henry F. Kirk, and John P. Ellinger, to me personally  
known, and who by me being duly sworn according to law doth depose  
and say that they are the Supervisors of Brady Township, and the  
exceptants above named, and that their within exceptions are not  
filed for the purpose of delay, and that the same are true and cor-  
rect, so far as questions of fact are concerned, according to the  
best of their knowledge and belief.

John F. Ellinger  
Henry F. Kirk  
John P. Ellinger

Sworn and subscribed before  
me this 23d. day of Sept., 1915.

James R. Boro  
My Commission Expires May 3, 1892

Now, this 23d day of Sept., 1915, E. G. Booze, Attorney for John F. Wingert, Henry F. Kirk and John P. Ellinger, Supervisors of the Road District of Brady Township, and the within named exceptants, certify that in their opinion and judgment no order of Court for the laying out of the said public Road should be issued or any of the proceedings confirmed, for good and sufficient legal reasons herein recited.

E. G. Booze

5 May, 1915

Exceptions Recd

To  
Public Road  
in  
Brady Township

No 5 May Term 1915

Exceptions

E. G. BOOSE  
ATTORNEY AT LAW AND  
NOTARY PUBLIC  
DUBOIS, PA.

In the Court of Quarter Sessions of the County  
of Clearfield Pennsylvania.

See Re

— Public Road in { No 5 May sessions 1915  
Brady Bwpf {

Now November 16<sup>th</sup> 1915, it being stated at bar  
by attorney for petitioner, that the Sixth Exception  
is well founded and is fatal, the other exceptions  
need not be considered, and the Sixth Exception  
is sustained and proceedings set aside at  
the cost of the petitioner

By the Court

Singleton Bell

P.J.

2.5.  
No. 5 May term 1815

In Re Road over

Brady's property

Order of Council  
Granting a right of way

1815

John R. & Co. v. A. C. T.

Supervisors of Brady Township;

You are hereby notified that a petition will be presented to the Court of Quarter Sessions of Clearfield County, on Monday the 15th day of February, 1915, at 10 o'clock in the forenoon for the laying out of a public road to lead from Lyon's School House in Brady Township, to a point near G. B. Wachob's farm at the Buffalo, Rochester & Pittsburg crossing, and you can appear at that time, if you so desire.

W. E. Petty

Feb. 5, 1915.

Attorney for petitioners.

Served on us Feb. 8, 1915,

Inst. Allingert Pres.

and Feb. 15, 1915

County Commissioners  
accept service on written notice

L. L. Morris  
Blease

TO THE HONORABLE, THE JUDGE OF THE COURT OF  
QUARTER SESSIONS OF CLEARFIELD COUNTY:

The petition of the undersigned citizens and residents of the Township of Brady respectfully represents:-

That they labor under great inconvenience for want of a public road to begin in a public road leading from Lyons saw mill in Brady Township to Andrew Little's farm, at a point in said road at the Lyon School House property, in the Township of Brady, Clearfield County, Pennsylvania; thence to extend to a public road leading from the G. B. Wachob farm to Luthersburg at a point where the Buffalo, Rochester & Pittsburg Railroad crosses said public road, in the Township of Brady, aforesaid, and to vacate a public road beginning in a public road leading from the Lyon saw mill to Andrew Little's farm, at a point at the Lyon School house in Brady Township; thence to extend Easterly to where the road from New Salem intersects said road at the Lyon Saw Mill in said Township, which by reason of the laying off said proposed road will become useless and burdensome.

Your petitioners, therefore, pray your Honorable Court to appoint proper viewers to lay out said road as herein indicated and to vacate said road as herein set forth.

And they will ever pray, etc.

W. C. Clegg

W. D. Wanda	Horrie Ellingson
George Ellingson	J. B. Ellingson
Jack Ellingson	J. O. Ellingson
Jack Ellingson	H. E. Ellingson
Baron Ellingson	3. Marske
Fred Ellingson	D. J. Ellingson
J. J. Ellingson	J. R. Ellingson
W. D. Ellingson	J. C. Ellingson
Elmer Ellingson	John Ellingson
Elmer Ellingson	P. Berkley
S. M. Ellingson	W. B. Ellingson
Fred Ellingson	Robert Ellingson
Marion Ellingson	W. E. Ellingson
J. H. Ellingson	W. L. Ellingson
Elmer Ellingson	W. L. Ellingson
Gray Beck	George Beck
C. C. Beck	G. B. Beck
C. M. Beck	G. C. Beck
L. O. Beckley	J. K. Beckley
Ch. Beckley	David Beckley
George Beckley	J. B. Beckley
W. C. Beckley	J. C. Beckley
W. C. Beckley	J. C. Beckley
A. H. Beckley	J. C. Beckley
A. H. Beckley	J. C. Beckley
A. H. Beckley	J. C. Beckley
A. E. Beckley	J. C. Beckley
George Beckley	J. C. Beckley

No Sixty 84. 1915

Letter to Prentiss and  
Supply Public Recd  
in Brady Tannery  
from John Schuyler  
Home to A. P. M.  
Crossing at Mackin  
River

Mar 15<sup>th</sup> 1915. Letter  
announcing said to Prentiss and  
H. & W. Macmillan & Lt. Harriman  
an agreement between the two  
to allow great extension  
according to law.

At the time  
engaged

H. C. M.

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY.

The undersigned petitioners respectfully represent to Hon. Singleton Bell, Judge of the said Court, the following statement of facts;

That they were signers to a petition presented to this Court, known to the Records thereof as No. 6, Lay Sessions, 1915, praying for the appointment of Viewers whose duties inter alia were to lay out and return as a Public Road, a road in Brady Township, which road was to begin at the Lyon School House property and to end at the place where the Buffalo, Rochester & Pittsburgh Railroad crosses a Public Road near the farm of George B. Jacob.

That such a road has been laid out and returned to the Court, but your petitioners pray that the whole proceeding be set aside for the reason that the new road connecting the two points named in the original petition is nearly twice as long as the present road connecting those points, and thereby defeats the desires of the petitioners.

They further set out that the proposed road has been laid out over the worst ground that could have been selected, in as much as it is through a swamp for a large part of its course and over numerous small streams, making necessary a system of bridges and fills which would cost a large sum of money, and not be of any benefit to anyone.

	Name.	Date.
1.		Sept 27 1915
2.	George W. Livingston	Sept 27 1915
3.	L. W. Smiley	Sept 29 1915
4.	Wm A. Gerke	
5.	George Mariner	Sept 30 <sup>th</sup> 1915
6.	Christ Steiner	Sept 30 <sup>th</sup> 1915
7.	W. G. L. Mariner	Sept 30 <sup>th</sup> 1915
8.	W. P. G. L. Mariner	Sept 30 <sup>th</sup> 1915
9.		
10.		
11.		
12.		Sept 30 1915
13.		
14.		
15.	D. G. L. Mariner	Sept 30 1915
16.	J. H. Dingler	

	Name.	Date
17.	John H. Shaeffer	
18.	Aug Beck	
19.	G. J. Shaffer	
20.	W. C. Mabber	Oct 8 1915
21.		Oct 8 1915
22.		
23.		
24.	G. C. Horn	Oct 9 1915
25.		
26.		
27.		
28.	J. E. Ladd	
29.	J. B. Kirk Jr	Oct 9 1915
30.	C. C. Woods	Oct 11 1915
31.		
32.		
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IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNSYLVANIA.

IN RE ROAD IN BRADY TOWNSHIP) No. 5 May Sessions, 1915.  
)

TO THE HONORABLE SINGLETON BELL JUDGE OF SAID COURT:

The petition of the undersigned viewers appointed by your Honorable Court under proceedings pending in said Court to No. 5 May Sessions 1915, respectfully represents: that on account of various road views now pending and in which your petitioners are concerned and on account of the large amount of work etc., involved in the same and the difficulties encountered in selecting a location pursuance of the order of your Honorable Court as well as on account of various other reasons, your viewers are not able to make a return or file a report in said view to the first Monday of May, 1915;

Wherefore, your petitioners pray that the time for filing the same may be enlarged so that they may file the same to the first Monday of September, 1915.

And they will ever pray, etc.

L. E. Boyer

H. D. MacPherson

E. H. Hanna

COUNTY OF CLEARFIELD. SS.

L. E. Boyer being duly sworn according to law says that the facts set forth in the foregoing petition are true and correct.

L. E. Boyer

Sworn and subscribed before me this  
28th day of April, 1915.

Singleton Bell  
Notary Public.  
R. J.

D E C R E E.

And now May 3<sup>rd</sup> 1915, the within petition  
placed, read and considered and it is hereby ordered that the time  
for filing said report of viewers by enlarged and extended so that  
the same may be filed to the first Monday of September, 1915.

By the Court,

*George A. Bell*  
W.Y.