

NO 5 May Term, 1914

Petition to Vacate & Repeal
Public Road in Bradley
from Lyon School House
to B. & P. Crossing
Versus
W B 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 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. Macnab farm to Luthersburg at a point where the
Buffalo, Rochester and 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 Twp; thence to extend easterly
to where the road from the Salem intersects said road at 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, H.C. MacInn
and E.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 impartial-
ity 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 dis-
tance, 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 B. 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 1st 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 30th 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. Wagner and J. P. Ellinger, Supervisors of said Township and divers citizens thereof; said view being continued to April 15th, 1915, and said hearing thereon to August 9th, 1915, - at the same respective hour, - parties in interest. That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the 9th day of August A. D. 1915, when the following appearances were noted: E. G. Boose, Esq. representing the Supervisors of said Township, John P. Wagner and Henry F. Kirk, Supervisors, William Wagner, together with divers 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 no occasion for a road as desired by the petitioner, and that the same is not 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 as per description and map filed herewith and made 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 _____ 7 _____

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 _____ 7 _____

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:

Heirs of Philip Swasey,

\$50. =

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

WITNESS our hands and seals this 9th day of August

A. D. 1915.

B. Boyer

W. MacMinn



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 new road and do not believe its construction justifies the expense involved.

Charles B. August 9th 1915.

E. H. Harman

Seal

No. 5 ... Sessions, 19 15

ORDER

To view to supply & vacate
road for public use in the
township of Brady,
Clearfield County

Session, 19 ,
read and confirmed Ni. Si.
Road to be opened 33 feet
wide, except where there is
side hill cutting or embank-
ment and bridging, there to
be 16 feet wide.

Clay Kentz

Filed 19

Fees \$1.25 paid by

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.

	DAYS	MILES	A.M.T.
H. S. MacLennan	14	63	73.15
S. H. Rayman	3	56	17.80
L. L. Boyer	5	56	27.80
Jesse Greenwood	7		14.-
John L. Gray	7		14.-
H. S. Whitmarsh, Living, Dr. Brn, Bk.			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 re-mise, 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. 191 _____



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

- - - - -
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
Atty for Exceptions

State of Pennsylvania)
County of Clearfield) ss.

Before me, a Notary Public duly commissioned
in and for the said County and State, personally appeared John F.
Wingert, 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. Wingert
Henry F. Kirk
John P. Ellinger

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

Francis B. Bore

My Commission Expires May 2, 1917

Now, this 23d day of Sept., 1915, E. G. Boose, 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. Boose

5 May 1915

Reception

To Public Road
in Brady Township

No 5 May Town 1915

Exemption

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

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

In Re

Public Road in } No 5 May Session 1915
Brady Tract }

Now November 16th 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 wish of the petitioner

By the Court

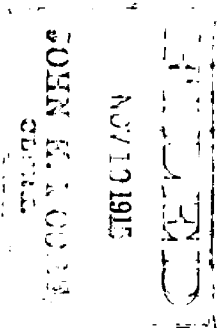
Singleton Bell

P.J.

2.5'
No. 5 May Term 1915

In Re Road vs
Grady wife

Order of Court
~~entertaining~~ Ex parte



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.

Feb. 5, 1915.

W. E. Reitz
Attorney for petitioners.

Served on us Feb. 8, 1915,

Jno. W. Bingerd Pres.

Nov Feb 15 1915

*County Commissioners
accept service on written notice*

*L. L. Morris
Clerk*

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.

Wm. McCreary

[illegible][illegible]

Mo Friday Oct. 1915

Patience to Parents and
Amply Public Read
in Grading Teachers
from Lewis School
Hemel Dr. B. R. T.
Expanding at Madras
Perum

New York Feb 13th 1915. *Publication*
Committee and *Rev. Dr. Boyce* by
 140 West 22nd St 11th floor
 on apartment house to discharge
 its duties great appliances
 according to law,
 My 14th Court
 English 13th day
 17

245

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, May 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. Wachob.

That such a road has been layed 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 layed 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.	John	Sept 27 1915
2.	Harry W. Wagoner	Sept 27 1915
3.	L. W. Smiley	Sept 29 1915
4.	Wm A. Berke	
5.	George Wagoner	Sept 30 1915
6.	Christ S. Wagoner	Sept 30 1915
7.	W. B. Wagoner	Sept 30 1915
8.	W. P. Wagoner	Oct 2 1915
9.		
10.		
11.		
12.		Oct 1 1915
13.		
14.		
15.		
16.	J. H. Wagoner	

Name.

Date

17.	John H. Shaffer		
18.	Wm. Beck		
19.	L. H. Shaffer		
20.	M. E. Shaffer	Oct 8	1915
21.		Oct 8	1915
22.			
23.			
24.	G. H. Horn	Oct 9	1915
25.			
26.		"	"
27.		"	"
28.	J. E. Linder	"	"
29.	J. B. Kirk Sr	Oct 9	1915
30.	C. C. Woods	Oct 11	1915
31.			
32.			
33.			
34.			
35.			
36.			
37.			
38.			
39.			
40.			

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 pursuant to 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.

R. S. Boyer
H. J. MacMinn
E. H. Harman

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.

R. S. Boyer

Sworn and subscribed before me this

28th day of April, 1915.

Singleton Bell
Notary Public.

D E C R E E.

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

By the Court.

Wm. H. Smith
W. H.