

810 Post Office Box 6  
W. Va. Man, 1951

Explanatory

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

IN RE PUBLIC ROAD : IN THE COURT OF QUARTER SESSIONS  
IN BRADY TOWNSHIP : OF CLEARFIELD COUNTY,  
: NO. 6, MAY SESSIONS, 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 both as to the road proposed to be layed out, and the road sought to be vacated, does not show a definite point of beginning by giving exact distance from intersecting road, street, or railroad already opened, as provided by Act of Assembly of April 23, 1909, P. L. 142.

~~SECOND, Because the petition upon which the proceedings were had,~~ is fatally defective in that the last named terminus both as to the road proposed to be layed out, and the road sought to be vacated, does not show a definite point of ending by giving exact distance from intersecting road, street, or railroad already opened, as provided by Act of Assembly of April 23, 1909, P. L. 142.

THIRD., Because the petition upon which the proceedings were had is defective for the reason that it fails to state how the public road, a portion of which is sought to be vacated, by this proceeding, became a public road, and the Court is therefore without jurisdiction to decree the vacation of any part thereof.

FOURTH., Because it is not made to appear, either in the petition, or the report of the viewers, that the portion of the public road vacated by this proceeding, had become useless, burdensome, or inconvenient at or before the time of the inception of this proceeding, and for that reason the Court has no jurisdiction or authority to decree the vacation of any part thereof.

FIFTH., Because the petition upon which the proceedings were had is defective in that it prays for the vacation of the " road leading from Luthersburg to Andy Liddle's farm in Sandy Township", but the termini named in the said petition and those named in the report of the viewers indicate an entirely different road.

SIXTH., Because the first named terminus of the road sought to be vacated, is " a point on the Zortman place " a point too vague and indefinite.

SEVENTH., Because E. H. Harman, one of the viewers, appears of record as one of the petitioners in this proceeding, and is therefore a party in interest, and in consequence disqualified to act as a viewer in this case.

EIGHTH., Because of fatal variations between the order to view and the report of the viewers.

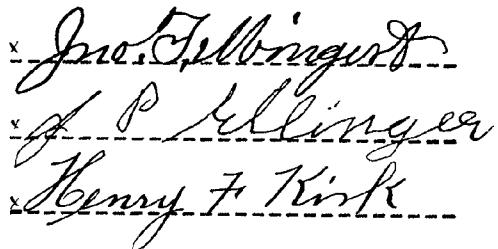
NINTH., Because the viewers have reported in favor of the vacation of only a part of the public road which crosses the proposed road, therefore making two roads practically parallel and distant from each other but a few rods throughout their extent.

TENTH., Because the viewers have failed to comply with the Act of Assembly which requires, *inter alia*, that, " if they shall agree that there is occasion for the road, they shall proceed to lay out the same, having respect for the shortest distance and the best ground for the road", in that the proposed road is layed out for a long distance on the brink of a deep ravine and across not less than seven spring runs tributary to the stream in the ravine, thus making necessary an elaborate system of filling and bridging at a very great cost to Brady Township.

ELEVENTH., Because the construction of the proposed road would involve probably several thousand dollars without accomodating not more than one family with better road facilities than they now enjoy.



Atty. for Exceptants.



State of Pennsylvania      |  
                                  |  
                                  |ss  
County of Clearfield      |

Before me, a Notary Public, duly commissioned in and for  
the said County and State, John F. Wingert, Henry F. Kirk, and John  
P. Ellinger, the within named exceptants, who by me being duly sworn  
according to law, doth depose and say that the within named exceptions  
are not filed for the purpose of delay, and that the same are true  
and correct, so far as the questions of fact are concerned, according  
to the best of their knowledge and belief.

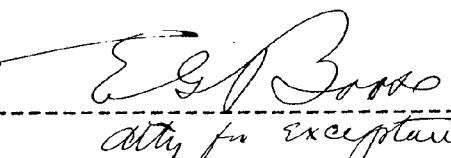
Sworn and subscribed before me  
this 11 th day of September, 1915.

Jno. F. Wingert  
J. P. Ellinger  
Henry F. Kirk

Charles Rose  
Notary Public.

My Commission Expires May 2, 1919

Now, this 11th day of September, 1915, E. G. Boose, Attorney for John F. Wingert, Henry F. Kirk and John P. Ellinger, the within named exceptants does hereby certify that in his opinion and judgment the order of the Court laying out and vacating the roads within named, should not be confirmed absolutely for good and sufficient reasons herein recited.

  
E.G. Boose  
Atty for exceptants