

No. 4 May Sessions, 1917

COMMONWEALTH

VERSUS

I Vacate Public  
Road in Goshen

CHARGE

X

Walter Welch,  
District Attorney

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

To the Honorable Singleton Bell,  
President Judge of the said Court:

We, the undersigned citizens of Goshen Township, respectfully represent:-

That a road has long since been laid out in our Township from a point near Goshen Church on the road leading from Goshen Church to Shawsville, known as the road to Mapes' Mill, and that a part of said road at a point near the barn on the Shirey Place to the terminal of said road, which terminal is not known definitely, but is about a mile from the Shirey Place, is now become useless, inconvenient and burdensome, and is abandoned for public use, and they, therefore, pray the Court that the said road may be vacated agreeable to the Act of Assembly in such case made and provided.

And they will ever pray.

<u>H. E. Smith</u>	<u>Joseph Morris</u>
<u>H. A. Taylor.</u>	<u>E. E. Murray</u>
<u>Tyrone.</u>	<u>J. P. Diddle</u>
<u>G. S. Smith</u>	<u>John Brown</u>
<u>Isaac Amon</u>	<u>J. D. Legal</u>
<u>Ira J. Barnes</u>	<u>Elies Sutherland</u>
<u>Jas. Murray</u>	<u>Peter Shan</u>
<u>Joseph Smith</u>	<u>David McElroy</u>
<u>C. T. Reed</u>	<u>Samson Brown</u>
<u>G. B. Singlet</u>	<u>C. P. K. O. B. Jr.</u>
<u>J. W. Nelson.</u>	<u>J. H. Sipe</u>
<u>M. C. Lellan Taylor</u>	<u>Seymour Gansler</u>
<u>H. E. Taylor</u>	<u>Augustus Legal</u>
<u>W. C. Condon</u>	<u>Wade H. Gowler</u>
<u>G. E. Taylor.</u>	<u>Orris Sankay</u>
<u>Isaac T. Ivie</u>	<u>W. R. Shirey</u>
<u>W. E. Roger</u>	<u>P. R. Read</u>
<u>Thomas Taylor</u>	<u>H. F. Coon</u>
	<u>D. C. Coon</u>
	<u>Frank Sankay</u>
	<u>E. O. Graham</u>
	<u>P. C. Smith</u>
	<u>W. H. Smith</u>

IN THE COURT OF QUARTER  
SESSIONS OF CLEARFIELD CO.

Petition by citizens of  
Goshen Township to  
vacate road in Goshen  
Township, Clearfield  
County, Pennsylvania.

Nov 26th 1917

The aforesaid petition  
being read and considered  
the same is granted.

As J. S. Michaels

Witness to whom Vacate  
and report to the Court

At the Court  
M. Murphy

MURRAY & OLAUGHLIN  
LAWYERS

CLEARFIELD, - PENNA.

# 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 12 day of February in the year of our Lord one thousand nine hundred seventeen,

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

in said County, setting forth that a road has long

since been laid out in said Township from a point near Goshen Church on the road leading from Goshen Church to Shawville known as the road to Mapes Mill, and that a part of said road at a point near the barn on the Shirey Place to the terminal of said road, which terminal is not known definitely, but is about a mile from the Shirey place, is now become useless, inconvenient and burdensome, and is abandoned for public use, and they, therefore, pray the Court that the said road may be vacated agreeable to the Act of Assembly in such case made and provided, 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 A. G. Kramer Esq., E. D. Billotte and J. S. Michaels

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~~ and ~~place~~ 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 ~~vacate~~ 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 ~~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 declivity 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 still 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 the manner required to the next Court or 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 H. 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 Goshen and that three notices thereof were posted along the route of the proposed road, that the said view would be held on the third day of April A. D. 1917, and the hearing to be held in the ~~Arbitrator's room~~ at the Court House, in Clearfield, Pa., on the 2d day of April 1917, at 9 o'clock A. M. That the said viewers appointed by the said order viewed the ~~road proposed for the above mentioned~~ ~~road~~ ~~vacated~~ and that there were present at the view W. R. Shirey, Thomas Taylor Ira Tate two of the Supervisors of said Township;

parties in interest. That the hearing was held in the ~~Court~~ Room, in the Court House, at Clearfield, Pa., on the 5th day of April 1917, when the following appearances were noted: John Sipe, Otis Knepp, and Frank Gilliland, with others who were not called as witnesses with their Attorney J. J. Pentz, opposed to vacating the road and Thomas Taylor and Ira Tate two of the Supervisors of said Township with their Attorney Hazzard, A. Murray Esq. in favor of vacating said road

After the view and hearing above mentioned, the undersigned, ~~the majority of the said~~ viewers, do agree that there is ~~no~~ occasion for ~~said~~ road ~~vacated~~ by the petitioner, and that the same is ~~no longer~~ necessary for a public road; And having had respect to the ~~above~~ ~~and the best ground for such road we have had in our manner no shall do the~~ ~~injury to private property, and~~ ~~the best~~ agreeably to the desire of the petitioner, ~~and~~ ~~for do vacate~~ ~~the following described road~~ the following described road, to-wit: Beginning at the barn of W. R. Shirey in Goshen Township to what used to be Mapes Mill the terminus of said road in said Township that said road between said points has in the opinion of the viewers on account of the limited amount of travel thereon between said points become useless and will therefore be a useless bill of expense to put and keep said road in proper repair, and might therefore in case of an accident involve the township in a bill of cost and damages and as said saw mill has long since been abandoned; there is no cleared land of any account and no settlement beyond the residence of the said W. R. Shirey or buildings of any kind except the Crooked Run hunting and fishing camp which is over a mile beyond the terminus of said road which said hunting and fishing club is composed of some forty members, principally residents of Clearfield Town, none of which are residents of or taxpayers of Goshen Township. And as the viewers understand the law, a hunting and fishing camp is not such a necessity as to require a district to construct or maintain a public road when not used for any other purpose; but for hunting, fishing and gathering berries. Chief Justice Black in defining what constitutes the necessity for a public road in the extension of Second Street in Columbia 11 Harris page 346; as follows; The necessity for a public road to be; anything that will prevent a portion of the people from getting to market; to Church; or other places where men are in the habit of meeting on their lawful business or in pursuance of their proper duties. And in the Pikeland Road case Pa Rep No 63 page 474 Justice Sharswood refers to the former case as being the law.

It has also been decided; that a Church, where people gather in sacred worship; a School House which is for the children of all the people in the community also a Cemetery which is public for all people residing in the community and a Railroad Station also a public resort for people wishing to travel; but no where as far as the viewers have any knowledge has it ever been decided, that a pleasure resort or a hunting and fishing camp or any other private institution kept up simply for the benefit of its own member is such a necessity that it can be made the terminal of a public road. so that the viewers take it that any public road no longer necessary for the accomodation of the public at large can be vacated.

And as the Crooked Run hunting and fishing camp is a private institution gotten up and maintained by its members for their exclusive use and benefit, it does not come within the rules laid down that constitute a necessity for the terminus of a public road.

The viewers are therefore of opinion that said road W. R. Shirey's barn to what used to be Mapes Mill the terminus of said road has become useless, inconvenient and burdensome to the taxayers of the township and would therefore recommend that the same be vacated:

and that a plan or draft of said road showing courses and distances and the property 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 using 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, assess them damages and make report thereof as follows. No damages assessed

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

WITNESS our hands and seals this 5<sup>th</sup> day of April  
A. D. 1917.

A. G. Kramer



E. K. Billotte



J. L. Michaels



No. 4 May Sessions, 1917

**ORDER**

To view and vacate a road for public use in the township of Goshen, Clearfield County

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 the 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.

	Days	Miles A.M.T.
A. G. Hammer	3 1/4	15.20
E. B. Biddle	4 5/2	23.20
J. M. Michale	3 6/0	19.00

May Session, 1917,  
read and confirmed N. S.  
Road to be opened 33 feet  
wide, except where there is  
side hill-cutting or embank-  
ment and bridging, there to  
be 18 feet wide.

By the Court  
Angus B. Bell  
Dec 1917 Clearfield  
County, Pa.  
By the Clerk  
Myself

Filed  
Fees \$1.25 paid by Angus B. Bell  
27 more it

**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.



To:- Jessie. E. Dale, H. H. Spencer and Austin Haney,  
County Commissioners of Clearfield County Pa.

You are hereby notified, that the undersigned viewers appointed by the Court of Quarter Sessions of Clearfield County Pa, to view and vacate a part of the public road long since laid out leading from a point in the public road near the Goshen Church to what is known as Mapes Mill; from a point in said road, at or near the barn on what is known as the Shirey place in Goshen Township, to the terminus of said road near the Mapes Mill, about one mile distant from the said Shirey place in Goshen Township, in the County aforesaid, will meet at the Barn on the said Shirey place in Goshen Township on Tuesday the 3d day of April A. D. 1917 at nine o'clock A. M. to attend to the duty assigned them, of which time and place aforesaid all parties interested will take notice.

And that the public hearing as required by the Act of Assembly and the Rules of Court to be held by the viewers in order to give all parties interested, either in favor of or against vacating said road a chance to be heard by the viewers before the filing of their report; will be held in the Court House in Clearfield Pa on Thursday the 5th day of April A. D. 1917 at nine (9) o'clock A. M, at which time and place all parties concerned in said road may attend and be heard.

A G Kramer

E D Billotte

J S Michaels

VIEWERS.

Now Mar 22<sup>nd</sup> 1917 service of this notice accepted for the  
County Commissioners of Clearfield County Pa.

L C Morris Clerk

Clerk.

To:- W. H. Condon, Ira. Tate and Thomas Taylor,  
Supervisors of Goshen Township Clearfield County Pa.

You are hereby notified, that the undersigned viewers, appointed by the Court of Quarter Sessions of Clearfield County Pa, to view and vacate a part of the public road long since laid out leading from a point in the public road near the Goshen Church, to what is known as Mapes Mill, from a point in said road, at or near the barn on what is known as the Shirey place in Goshen Township, to the terminus of said road near the Mapes Mill, about one mile distant from the said Shirey place in Goshen Township, in the County aforesaid, will meet at the barn on the said Shirey place in Goshen Township on Tuesday the 3d day of April A. D. 1917 at nine o'clock A. M. to attend to the duty assigned them, of which time and place aforesaid all parties interested will take notice.

And that the public hearing as required by the Act of Assembly and the Rules of Court to be held by the viewers in order to give all parties interested, either in favor of or against vacating said road a chance to be heard by the viewers before the filing of their report; will be held in the Court House in Clearfield Pa on Thursday the 5th day of April A. D. 1917 at nine (9) o'clock A. M. at which time and place all parties concerned in said road may attend and be heard.

A G Branner

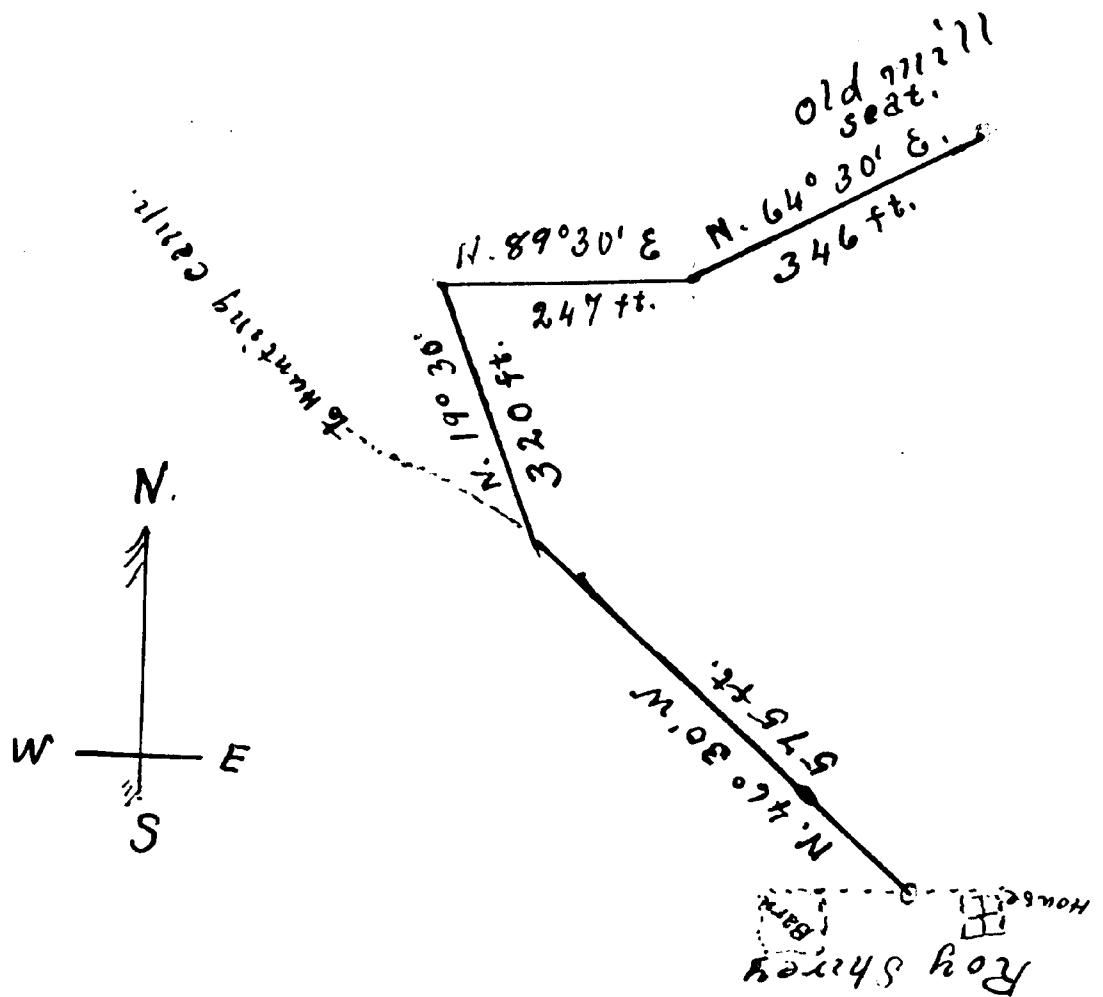
E D Billotte

J S Michael

VIEWERS.

Now March 2 1917 served the foregoing notice on W. H. Condon, Ira Tate, and Thomas Taylor the Supervisors of Goshen Township personally by handing each of them a true and correct copy of same.

Ira T. Tate



Draft showing location of public road  
in Goshen township, Clearfield Co., Pa.  
viewed and vacated the 3rd. day of  
April, A.D. 1917. By,

A. G. Kramer,

E. D. Billotte,

J. S. Michaels,

viewers,

Scale  $\frac{1}{2}$ " to 100'