

No. 6 September Sessions, 1919.

In Re.

Road in Huston Township.

OPINION.

FILED

AUG 11 1920

GEO. W. RALSTON
CLERK

In the Court of Quarter Sessions of Clearfield County, Penna.
In Re.) No. 6 September Sessions, 1929.
Road in Huston Township.)

A petition has been presented praying that the Court should confirm nunc pro tunc a Report of Viewers filed in this case, finding necessary and reporting a location of a certain public highway. The reason given is that the papers in the case had been taken out and were inadvertently absent in the hands of the Attorney for the Exceptants at February Sessions and so were not confirmed Ni Si at either February or May Sessions.

The difficulty in this case is that the other facts do not justify the Court in granting the relief prayed for, even were it moved so to do by reason of the facts mentioned. The only effect which the absence of the papers could have had would be to delay final action and as the papers were up to June 21, 1920, there could not be even a Ni Si confirmation. The petition asked for a public highway from a point on the Mount Pleasant road to a point on the Penfield-Tyler road at Horning Run, and for the vacation of the public road beginning at the first terminus named and extending to a point on the Penfield road at Mill Run. The original report filed found in favor of laying out of the public road prayed for but did not pass upon the vacation of the other road. This being discovered an order was made on June 21, 1920, referring the matter back to the Viewers with direction to adequately proceed. As the original report referred to the subject of vacation only in this language "We recommend that the public road known as the Mill Run hill road be vacated from a point about 50 feet above the residence of W. J. Lanich thence along said road a distance of 3800 feet more or less to

the summit of the hill along the line of land of P. W. Rudolf", which was insufficient in law to sustain any order of vacation, and throughout the whole proceeding and the petition and view the question of the vacation of one road is coupled with the creation of a new one. The supplemental report is not as clear as it might be as to the reason for the vacation of the road but may be deemed sufficient, if no controversy is raised relating thereto. It follows necessarily, however, that there can be no Ni Si confirmation until the regular Term of Court following the filing of the supplemental report on August 9, 1920, however much this may be an inconvenience to the good people of that part of the County or however much the Court might be glad to assist them in the matter, because the Court is utterly without jurisdiction to grant the relief prayed for.

By the Court,

Singler Bell

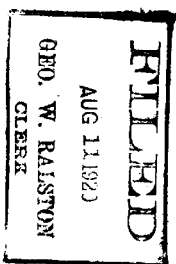
P. J.

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No 6 Sept 2 1919

Road in Nustm
Loop

Supplemental
Report

J E Fry 1¹/₂ days 11 ²⁵
Frank Hattall 1¹/₂ " 11 ²⁵

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