

DOCKET No. 5

Number

2

Term

Sept

Year

1921

VACATION OF PUBLIC ROAD IN

BURNSIDE TWP.

Versus

X

Jay Fry

Ernest Dyermin

A. E. Lee

Dugan Fry

C. E. Kulton

J. L. Byer

H. A. Rombach

J. H. Weaver

A. K. Beck

A. B. Shepherd

B. F. Shepherd

J. E. Buttrough

E. R. Krag

Samuel H. White

John Torbin

J. A. Stoffer

Howard Hill

B. F. M. Cully

Thomas Ragoz

M. O. S. onnell

A. S. Byers

John M. Byers

W. S. Winberg

IN THE COURT OF QUARTER SESSIONS
OF CLEARFIELD COUNTY PA.

| | | | |
|---------------|--|-----------------|--|
| # 2444 A 1921 | IN RE: Vacation of Public Road in Burnside Twp. | P E T I T I O N | <p>LAW OFFICES A. H. WOODWARD CLEARFIELD, PA.</p> <p>MAY 17 1921</p> <p>BALTIMORE OFFICE SUPPLY CO., BALTIMORE</p> |
|---------------|--|-----------------|--|

May 17, 1921, A. G. Kramer, Esq., E. D. Belloc, Esq.
and J. S. Michaels are appointed viewers to act
and report to the next term of quarter sessions

By the Court,

Singleton Bell
19

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY PA.

TO THE HONORABLE THE PRESIDENT JUDGE OF THE SAID COURT:-

The undersigned residents and tax payers of the township of Burnside, in the County of Clearfield, respectfully pray:-

That a portion of the public road leading from McGees School House to Cherry Tree borough as vacated and supplied by proceedings taken in Your Honorable Court to No. 8 May Sessions 1917 has become useless, unnecessary and burdensome, viz, all that part of said road leading from the entrance to the residence of the Henry Coleman estate property in a northerly direction to the residence of T. D. Fronk, and they respectfully pray the Court that the portion of said road above described may be vacated.

MR. J. R. Schraft
J. R. Schraft
J. S. Lowman
W. E. N. Goodless
Clairing
S. Y. Chapman
W. Bee

W. L. Keim
Arden Allison
John Gahr
Anthony J. King
H. Bracken
James J. T. T.

J. J. Young
S. S. Young
James B. Owens
B. J. Hughes
Samuel S. Reedman
J. P. Young

G. B. Young
John Bertman
J. H. Trose
Harry Trose
Hina-B. B. B.

C. S. McCardell

Nathan Keirn

G. F. Baum

John Wagner

Harrison Wagner

Sam King

J. V. McKee

John Pierce

P. E. Pierce

G. W. Bee

E. J. McCardell

J. B. Bee

J. R. Pittman

Geo Lehman

Edw. Patchin

J. L. Nelson

A. R. Stewart

Earl Butenbach

H. H. H. H. H.

H. E. H. H. H.

E. C. Beck

Alden W. Beck

John Somerville

Emanuel Merlmann

J. H. McCardell

Wm. D. Gering

Daniel Keirn

E. C. Buffitt

Sam Buffitt

Thos. Leamer

Edw. Johnson

Earl Shankle

Rudolph Sutton

Clair Russell

J. D. Spawle

O. W. Ross

J. M. Wilson

J. A. Douglass

Armedy Andrew

Chas. Hager

John H. H. H.

Chas. Ross

W. R. Bolvin

Bert Guffitt

Stanton Nelson

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

2 Sept. 1921

IN RE: Vacation of Public
Road in Burnside Twp.

P E T I T I O N

FILED
MAY 17 1921
CLERK OF COURT

LAW OFFICES
A. H. WOODWARD
CLEARFIELD, PA.

BALTIMORE OFFICE SUPPLY CO., BALTIMORE

871 229 42 1/2

RETURN OF VIEWERS.

TO THE HONORABLE THE JUDGE OF QUARTER SESSIONS OF THE PEACE, IN AND FOR THE
COUNTY OF CLEARFIELD, PA.

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 the 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 **Burnside** -----, and that **three** ----- notices thereof were posted along the route of the said road to be vacated, that the said view would be held on the

14th day of **June** -----, A. D. 1921, and that the public hearing, as required by the Act of Assembly, and the Rules of Court, would be held in the Arbitration Room in the Court House, in Clearfield.

Pa., on the **15th** --- day of **June** ----- A. D., 1921, at **9.30** o'clock A.M., and that said Viewers, appointed by the said order, viewed the road desired to be vacated, and that there were present at the view **Ed Huff, Edward Walls, J. L. Brothers one of the Supervisors of the Township, James Douglas, C. H. Langdon, Redford Westover, Grant Dunlap, A. W. Tonkins and R D Tonkins all opposed to having said road vacated, no one appearing in favor of having said road vacated.**-----

parties interested, ~~and the parties interested~~ against vacating said road. And that the aforesaid hearing was held in the Arbitration Room in the Court House, in Clearfield, Pa., on the **15th** --- day of **June** -----,

A. D. 1921, when the parties interested in the said road were in attendance: **C. H. Langdon Edward Wall, Leona Wall and R. D. Tonkin all opposed to having said road vacated; No one appearing in favor of having said road vacated.**

And that after the view and hearing above mentioned, the undersigned Viewers do agree that said road has **not**, become useless, inconvenient and burdensome **and should therefore not be vacated for the following reasons.**

FIRST: Because, it is a rural mail route, from McGees Mills to the village known as Stiffler town in Burnside Township Clearfield County Pa, and if vacated part part of said mail route would have for lack of a road have to be changed to the opposite side of the river over a part of the same route now passed over by another rural carrier and out off several families along the present route from receiving mail delivery.

Second: Because; the end of the road next to Stiffler town about feet in length: The location of which was lately changed by a view at the instance of the New York Central Railroad Company by the consent of the Supervisors of the Township, in order to cut out two dangerous, grade Railroad crossings in the lower end of the Cherry Tree Railroad yard:

For the privilege of which in order to protect the Township against any post orexpense the said Railroad Company has paid the Township authorities of Burnside Township the sum of \$3500.00, sufficient to put said road in proper condition; so that the Township will be at no expense in putting the,

At a Court of Quarter Sessions of the Peace of the County of Clearfield, Pa., held at Clearfield, Pa.,
in and for said County, on the 17 day of May in the year of our Lord, one
thousand nine hundred and twenty-one.

By the Honorable Singleton Bell, President Judge of the said Court: Upon the petition of sundry
inhabitants of the Township of Burnside, in the County aforesaid setting forth that a.....
portion of the public road leading from McGees School House to Cherry Tree
Borough as vacated and supplied by proceedings taken in Your Honorable
Court to NO. 8 MAY SESSIONS 1917 has become useless, unnecessary and
burdensome, viz, all that part of said road leading from the entrance to
the residence of the Henry Coleman estate property in a northerly direction
to the residence of T. D. Fronk, and they respectfully pray the Court that
the portion of said road above described may be vacated.

and, therefore, praying the Court to appoint proper persons to view and vacate said road between the
points mentioned, whereupon the said Court, upon due consideration had of the premises, do order and ap-
point from and among the County Board of Viewers: A. G. Kramer, Esq., E. D. Billotte, Esq.,

J. S. Michaels who have been duly appointed by the said Court on the
County Board of Viewers, and filed their oaths of office in the office of the Court of Common Pleas of the
County aforesaid, as required by law and are, therefore, duly qualified to perform the duties of their appoint-
ment, with impartiality and according to the best of their judgment; are to view the said road, and after
having viewed the same, if they, or a majority of them, do agree that there is no necessity for said road, they
shall proceed to vacate the same as agreeably to the desire of the petitioners as may be, and make report
thereof to the next Court of Quarter Sessions to be held in and for said County, stating particularly whether
there is any necessity for said road, or whether the same should be vacated; and the reason why, together
with a plot, or draft, thereof showing the courses and distances with reference to the improvements through
which said road passes.

And in case the viewers aforesaid shall decide in favor of vacating said road, they shall obtain from
the persons through whose lands the said road passes, or otherwise affected, or damaged, by the vacating
of said road, releases from whatever damage they may sustain by the vacation of said road; and in case the
owners of such lands, or persons affected, thereby refuse to release their claim to damages, the said Viewers
shall assess the same, taking into consideration the advantages, as well as the disadvantages, arising from
the vacation of said road; and make report of such assessment; which report they shall in like manner trans-
mit 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 the place where they would meet, to view said road and the time and place of hearing.

By order of the Court.

Geo H. Ralston

Clerk.

To; T. R. Weimer, Jesse, E. Dale and M. L. Farrell,
County Commissioners of Clearfield County Pa.

You are hereby notified; that the undersigned viewers
appointed by the Court of Quarter Session's of Clearfield County
Pa; to view and vacate, that portion of the public road leading
from the McGees school House to the Cherry Tree Borough; from a
point in said road, from the entrance to the residence of the
Henry Coleman Estate, in Burnside Township; to the residence of
T. D. Fork on said road; in Burnside Township, in the County afo-
resaid, will meet at the entrance of the road leading from said
road to the residence of the Henry Coleman Estate; in Burnside
Township on Tuesday the 14th day of June A. D. 1921, at nine (9),
o'clock A. M. to attend to the duty assigned them, of which time
and place aforesaid all parties interested will please 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 befo-
re the filing of their report in Court, in order to give all par-
ties interested, either for or against the vacating of the said
road a chance to be heard by the viewers, will be held in the
Arbitration Room in the Court House in Clearfield Pa, on Wednesday
the 15th day of June A. D. 1921, at nine thirty (9:30) o'clock A. M
when and where all parties concerned in said road, either in favor
of or against having said road vacated may appear and be heard.

J. H. Kramer
E. W. Billotte
J. L. Michaels
VIEWERS.

Now June 2, 1921 service accepted of the foregoing notice for
the County Commissioners of Clearfield County Pa.

L. E. Morris

To John Nowry, J, Ralph, Hutton; and J. L. Brothers
Supervisors of Burnside Township Clearfield County Pa.

You are hereby notified; that the undersigned viewers
appointed by the Court of Quarter Session's of Clearfield County
Pa; to view and vacate, that portion of the public road leading
from the McGee's School House to the Cherry Tree Borough; from a
point in said road, from the entrance to the residence of the
Henry Coleman Estate; in Burnside Township; to the residence of
T. D. Fonk on said road; in Burnside Township, in the County afo-
resaid, will meet at the entrance of the road, leading from said
road to the residence of the Henry Coleman Estate; in Burnside
Township, on Tuesday the 14th day of June A. D. 1921, at nine (9)
o'clock A. M. to attend to the duty assigned them. of which time
and place aforesaid all parties interested will please 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 before
the filing of their report in Court, in order to give all parties
interested, either for or against the vacating of the said road a
chance to be heard by the viewers will be held in the Arbitration
Room in the Court House in Clearfield Pa, on Wednesday the 15th
day of June A. D. 1921 at nine thirty (9-30) o'clock A. M. when
and where all parties interested in the said road, either in favor
of or against having said road vacated may appear and be heard.

A. G. Kramer
E. W. Billette
J. L. Michaels.
VIEWERS.

Now June 4th 1921 served this notice on John Nowry, J, Ralph
Hutton and J. L. Brothers the Supervisors of Burnside Township
Clearfield County Pa personally by handing each of them a true
and correct copy of same.

John Nowry

Stiffler town end of the road sought to be vacated in good condition.

THIRD:

Because from the appearance of the road and the information furnished the viewers; this is a road that is traveled considerable and is in good repair and not expensive to keep up.

Fourth:

That by vacating the part of the road sought to be vacated, would cut out several mile of the middle of the road leading from the lower end of Burnside and the upper end of Bell Townships to the Borough of Cherry Tree and the lower end of Indiana County and leave the one end of each part of the said road not vacated; and, at a private dwelling house without and outlet or lawful termination which is contrary to law;

See Trickett on Pa Road laws page 235, where it is held that the viewers in vacating part of a public road, must not leave the part unvacated without an exit, or lawful public terminus: And to end a public road at a private dwelling house is an unlawful ending. So that this road can therefore not be lawfully vacated.

The viewers therefore report against vacating said road.

and that a plat, or draft, of said road to be vacated showing the courses and distances, and over whose property the said road passes, is hereto attached and made a part hereof.

The undersigned Viewers further report that they endeavored to procure from all parties affected by the vacation of said road, or over whose properties said road passes, or in any way damaged by the vacation of said road, a release in writing of all claims to damages that may arise from the vacation thereof, and that they procured such release from:

No damages assessed.

And that the following persons having, in the opinion of the Viewers, been damaged by the vacation of said road, and having refused to release the damages to which they may be respectively entitled to by reason of the vacation, and closing up 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:

~~and we have submitted our conclusions on the merits of the petition~~

Witness our hands and seals this 15th day of June -----, A. D. 1921.

A. G. Kramer [SEAL.]

E. B. Bilotte [SEAL.]

J. S. Michael [SEAL.]

Viewers.

No. 2 Sept Term 1921

ORDER TO VACATE

To view and vacate road situate
in the Township of Burnside
Clearfield County.

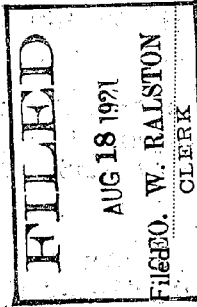
Now Sept Sessions 1921

read and confirmed Ni. Si.

By the Court.
Angeline Bell
Now see Sessions 1921

confirmed absolutely

By the Court.
Singletown Bell
1921



Atty.

Fees \$1.25 paid by

A. H. Hildebrand Atty

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 | Am't |
|-----------------------|----------|------------|----------------|
| <u>A. G. Kramer</u> | <u>4</u> | <u>86</u> | <u>\$34.80</u> |
| <u>E. D. Billotte</u> | <u>3</u> | <u>120</u> | <u>28.50</u> |
| <u>J. S. Michael</u> | <u>3</u> | <u>96</u> | <u>27.30</u> |