

Road DOCKET No. 5

Number	Term	Year
14	Dec	1921

Petition of Dolly Miller to assess
damages in Brady Twp.

Versus

X

TO THE HONORABLE, THE JUDGE OF THE COURT OF QUARTER
SESSIONS OF THE COUNTY OF CLEARFIELD;

The petition of DOLLY MILLER, by her
husband, WILLIAM MILLER, respectfully represents:

That DOLLY MILLER is the owner of a
certain piece of land situate in Brady Township, Clear-
field County, Pennsylvania, at what is known as the C. &
M. Junction, where the State Highway crosses the Buffalo
Rochester & Pittsburgh Railroad; that the State of Penn-
sylvania has improved the road leading from DuBois to
Luthersburg, and which road goes through and over the
property of your petitioner, and for which improvement a
settlement has been made. That the State Highway Depart-
ment now wants to improve a part of Route No. 69, which
leads from the said road to West Liberty in said Township
and which improvement will take a large proportion of the
land of your petitioner at said point and will destroy the
dwelling house and all of the out buildings and the well
of water which belong to your petitioner. That your pe-
titioner has tried to settle with the Commissioners of
Clearfield County for the said improvement, but they will
not make any settlement or make any offer of settlement for
taking said land. That, in addition thereto, the said
Highway Department has already graded down and taken a part
of the property of your petitioner and although your peti-
tioner had settled with said Commissioners for said piece of
ground taken, for the sum of FIFTY DOLLARS (\$50.00), the

said Commissioners have failed, neglected and refused to pay the said FIFTY DOLLARS (\$50.00).

Your,petitioner, therefore, prays your Honorable Court to appoint proper viewers to appear on the premises of this petitioner and assess the damages to which she is entitled.

And she will ever pray, etc.

DOLLY MILLER

By William Miller

STATE OF PENNSYLVANIA

SS:

COUNTY OF CLEARFIELD

Personally appeared before me, a Notary Public in and for said County and State, WILLIAM MILLER, who being duly sworn according to law deposes and says that he is the husband of DOLLY MILLER, the above named petitioner; that he is familiar with all of the facts and circumstances of this case and that the statements contained in the foregoing petition are correct and true to the best of his knowledge and belief.

William Miller

Sworn and subscribed before me,
this 29th day of October, 1921.

John H. Marshall
NOTARY PUBLIC

Commission expires February 19, 1925

5 Ac. 1921 no motion of stay filed of course for balance
 the return of the return are subject and continue to
 with bond.

By A. Couch
 Singleleaf

IN THE COURT OF QUARTER SES-
 SIONS OF THE COUNTY OF
 CLEARFIELD
 14 Dec 14 1921

In Re Case No. 1921
 Reorganized
 Reorganized
 Reorganized

PETITION OF DOLLY
 MILLER.

31 Dec. 1921 Petition
 of Dolly and her husband
 J. S. Miller, by S. A. Miller
 are applicants herein
 as prayed for in
 what is next to be
 said.

By the Court
 Singleleaf
 Miller

PENTZ & PENTZ
 ATTORNEYS AT LAW
 DUBOIS, PA.

OCT 31 1921

W. W. KALININ
 CLERK

The question raised at the hearing is whether the \$1750.00 paid Mrs Miller in 1920^{or} to include her entire property or only that portion effected and destroyed by the construction and improvement of the State road leading from DuBois to Luthersburg.

The testimony at the hearing before the viewers is somewhat conflicting: T. P. Weimer a member of, and President of the board of the County Commissioners did not know or recollect whether the settlement with Mrs Miller included the ground the house stands on and the removing of the house or not but presumed it did.

Mr M. L. Farrell a member of the board of the County Commissioners stated that the moving of the house was included which would include the land on which the house and other outbuildings stand including the destruction of her well of water. He further states, that Mrs Miller ask \$2000.00; but did not state whether she agreed to sell them the entire property for two thousand dollars or only the land taken in the construction of the state highway from DuBois to Luthersburg and the destruction of the barn or included the land the house stands on. While both Mr and Mrs Miller testify that the land the house stands on or the moving of the house was not included in the deal and that all it covered was the ground occupied by the road from DuBois to Luthersburg which runs within five feet of the corner of the house and the destruction of the barn. That the only thing said about the moving of the house was after the distance from ~~the~~ the aforesaid road was ascertained by measurement was that Mr Weimer said that the house did not need to be moved.

Mr A M Work testified that he was present with Mrs Miller in the Commissioners office when the County Commissioners paid her the said. ~~the~~ \$1750.00 and that the only thing said to Mrs Miller at that time about moving the house was by Mr Weimer who said to her that the house need not be moved. Mrs Miller also testified; that Mr Weimer said to her that the house did not need to be moved which is not denied by Mr Weimer.

The testimony further shows that after the aforesaid contract was closed that the Commissioners came to her and agreed to pay her fifty (\$50.00 for a small corner above the house to reduce the curve in the Reynoldsville road where it connects with the state Highway from DuBois to Luthers on her property and to get ground to fill the approaches to the new bridge over the Railroad. showing that the Commissioners did not consider that they had purchased ~~or paid for~~ more of Mrs Miller's land than they had paid for. But afterwards refused to pay said \$50.00 but used the ground.

The contract between Mrs Miller and the County Commissioners offered in evidence with a Map or draft attached showing the location of the highway and how Mrs Miller's property is effected which is as follows

Whereas a survey of said road shows; That it is necessary to change the location of said highway across the property of Dolly Miller and William Miller, her husband, situate in Brady Township, Clearfield County, Pennsylvania as shown by Map Traced by W. H. Hockman from State Highway Map -G- 21" hereto attached. have granted the right to change the location of said highway over and across our premises situate in Brady Township, Clearfield County Pennsylvania, as shown by Map marked " Traced by W. H. Hockman -G- 21" hereto attached and made a part of this agreement. Said Map and tracing only showing the road from DuBois to Luthersburg and dont show the Reynoldsville road at all or that it effects in any way either the house, coal and wood house or well.

Several witnesses called on the value of the property before it was interfered with by the construction of the State Highways through it to wit Mrs Miller, Mr Miller, A. M. Wertz, Samuel Postlewaite, Mr J M Askey, Mr S M Smith and Mr Edward Rishel all testified that the property was worth \$3000.00 and by the construction of the Reynoldsville Road through it that it will be entirely destroyed.

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 Sessions of Clearfield County Pa, to view the premises and assess the damages caused to the property of Dolley Miller the petitioner by the construction of a State Highway, Route Number (59) from DuBois to Luthersburg in Brady Township near the C & M Junction; and by the improvement or construction of a State Highway, Route Number (69) from the aforesaid State Highway, from at or near the C & M Junction, to West Liberty in Brady Township, through the property of the said petitioner in Brady Township in the County and State aforesaid is claimed will take a large portion of the land of the petitioner: And destroy the dwelling house and all the outbuildings, including the well of water of the petitioner; for which damages the county of Clearfield is liable.

In pursuance whereof the said viewers will therefore meet on the premises of the said petitioner in the Township of Brady in the County and State aforesaid on Thursday the 26th day of January A. D. 1922 at one thirty (1.30) P. 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 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 in the case a chance to be heard by the viewers, will be held in the City Council Chamber in the City of DuBois on Friday the 27th day of January A. D. 1922 at nine (9) o'clock A. M. when and where all parties interested may attend and be heard.

Now Jan'y 18 1922 service accepted
for the County Commissions of Clearfield County Pa.

A. E. Norris

A. Kramer
E. D. Billott
J. S. Michaels
VIEWERS.

TO: DOLLEY, MILLER, AND HER HUSBAND; WILLIAM, MILLER.

You and each of you are hereby notified; that the undersigned viewers appointed by the Court of Quarter Sessions of Clearfield County Pa, to view ~~to view~~ the premises and assess the damages caused to the property of Dolly Miller the petitioner by the construction of a State Highway, Route Number (59) from DuBois to Luthersburg in Brady Township near the C & M Junction and by the improvement or construction of a State highway, Route Number (69) from the aforesaid State Highway from at or near the C & M Junction to West Liberty in Brady Township, through the property of the said petitioner in Brady Township in the County and State aforesaid is claimed will take a large portion of the land of the petitioner and destroy the dwelling house and all the outbuildings including the well of water of the petitioner; for which damages the County of Clearfield is liable.

In pursuance whereof the said viewers will therefore meet on the premises of the petitioner in the Township of Brady in the County and State aforesaid on Thursday the 26th day of January A. D. 1922 at one thirty (1.30) o'clock P. 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 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 in the case a chance to be heard by the viewers, will be held in the City Council Chambers in the City of DuBois on Friday the 27th day of January A. D. 1922 at nine (9) o'clock A. M. when and where all parties interested may attend and be heard.

Served on Dolly Miller
Jan 14, 1922
P. Miller & D. Miller
J. Miller

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

Dolly Miller is the owner of a certain piece of land situate in Brady Twp. Clearfield Co. Penna. at what is known as the C. & B Junction where the State Highway crosses the Buffalo, Rochester & Pittsburgh Railroad, that the State of Penna. has improved the road leading from DuBois to Luthersburg, and which road goes through and over the property of your petitioner and for which improvement a settlement has been made that the State Highway Dept. now wants to improve a part of Route No 69 which leads from the said road to West Liberty in said Twp. and which improvement will take a large proportion of the land of your petitioner at said point and will destroy the dwelling house and all of the out buildings and the well of water which belongs to your petitioner.

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~~ and that ~~notice of view~~ were posted along the route of the

proposed road, that the said view would be held on the 26th day of January

A. D. 1922, and the hearing to be held in the Arbitration room, at the Court House, in Clearfield, Pa., on the 27th day of January, 1922, at _____ o'clock _____ M. That

viewers appointed by the said order viewed the ~~road~~ proposed for the above mentioned road, and that there were present at the view Dolly Miller the claimant W. C. Pentz Esq Attorney for the claimant also Mr T. R. Welmer one of the County Commissioners;

parties in interest. That the hearing was held in the ~~Arbitration Room, in the Court House,~~ City Council Chamber in DuBois Pa on the 27th day of January A. D. 1922, when the following appearances were noted: ~~Dolly Miller~~

Dolly Miller William Miller her husband T. R. Welmer and M L Farrell of the County Commissioners with several witnesses; also W. C. Pentz Esq Attorney for the claimant and A. H. Woodward Solicitor for the County Commissioners including several witnesses:

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 ~~road~~ 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 ~~the~~ use the following described road, to wit: ~~Reynoldsville~~

That in the construction of the State Highway from DuBois to Luthersburg in 1920 on Route No 59, the said State Highway Commission found it necessary to change the line or Route of the road through the property of Dolly Miller in Brady Township in Clearfield County Pa in order to lessen the curve and connect the road with the new bridge erected by the B. R. & P Railroad Company over their tracts near the C & M Junction by doing so passing over the land of the said Dolly Miller with in five feet of the house and destroying or tearing down her barn and some other buildings.

The County Commissioners in 1920 paid her for the injury or damage done her property the sum of \$1750.00.

That the State Highway Commissioners are now arranging to construct a State Highway on Route Number 69, from Reynoldsville to connect with the aforesaid State Highway at the C & M Junction of the B R & P Railroad on the property of the said Dolly Miller in Brady Township County and State aforesaid which takes about all of the remainder of her property consisting of about one acre of ground with a frame and other outbuildings thereon; requiring either the destruction of the house and other buildings or the moving of them, across the road about 250 feet; the construction of a new foundation including the cellar including ~~the~~ the cost on which the same can be moved: The house consists of a good frame house; the back part of the house is 18, by 30 feet in size two stories high and the front part attached is 18, by 30 feet painted and well finished with a porch 6 by 30 feet in size with a basement 18 by 30 feet in size with a good stone foundation under the entire house.

Clearfield County, ss:

At a Court of Quarter Sessions of the Peace of the
County of Clearfield, held at Clearfield, Pa., on and
for said County, on the 31st day of
October in the year of our Lord
one thousand nine hundred twenty-one

Judge of the same Court. Upon the petition of
Dolly Miller
~~and other~~ residents of the Township of Brady

in said County, setting forth that

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, 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 impari-
ality 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.

Geo W Ralston, Clerk.

The viewers therefore after a careful examination of the premises estimating the cost of the removal of the buildings, the value of the ground before it was interfered with by the construction of the State Highways consider that the property was worth all of \$3000.00 and that by the taking of the balance of the ground including the cost of the the removal of the house and other buildings and the destruction of the well the cost of a lot on which to move the buildings and the inconvenience will in the opinion of the viewers ~~will~~ inflict a damage on Mrs. Miller all of three thousand (\$3000.00) dollars the full value of the property; less the sum of \$1750.00 already paid her or \$1250.00 They therefore assess the damages due Mrs Dolly Miller at \$1250.00 with the privilege thereto of removing the buildings therefrom within a reasonable time.

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




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

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:

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

WITNESS our hands and seals this 27th day of January
A. D. 1922

A. G. Kramer 
E. B. Billott 
J. S. Michael 

No. 14 Dec Sessions, 1921

ORDER

To view & assess damages
to view *Brady Miller*
Road for
Township of *Brady*
Clearfield County, Penna.

Session, 19

read and confirmed by *Si*

Read to be opened 23rd

to be opened 23rd

to be opened 23rd

to be opened 23rd

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Appeal #140 May 1922
Filed 19

Fees \$1.25 paid by
Pentz & Pentz &

Miller & Hartswick, Attys.,

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.
<i>A. G. Kramer</i>	<i>3</i>	<i>74 26.20</i>
<i>E. D. Bilbott</i>	<i>3</i>	<i>103 27.60</i>
<i>J. S. Michael</i>	<i>2</i>	<i>140 22.00</i>

FILED
FEB 9 1922
GEO. W. RALSTON
CLERK

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 sealing 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. 191

