

read

DOCKET No. 5

Number	Term	Year
1	Feb	1922

Petition of Ethel Wright 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 ETHEL WRIGHT, W. L. WRIGHT,
L. S. WRIGHT, CARRIE MEHRWEIN, JOHN MEHRWEIN, and ROLAND
WRIGHT respectfully represents:

That they are the owners of a certain piece
of land situate in the Village of Taylortown, in the Town-
ship of Brady in said County, along the highway leading
from Luthersburg to Grampian. That the said highway is
one of the roads now being improved by the State of Penn-
sylvania and known as Route No. 59. That the Highway De-
partment of the State of Pennsylvania, in making said im-
provement, have laid out and constructed through the prem-
ises of your petitioners, ~~a sewer for the carrying away of~~
water from said highway and are gathering the water over a
large area and conducting it down through said sewer.
That, prior to this construction there was no place for the
carrying of any water from the highway as it was originally
laid out onto the premises of your petitioners. That the
County of Clearfield, under the laws of the State of Penn-
sylvania, is liable for the damages done by said construc-
tion of said sewer and that your petitioners have tried to
agree with the Commissioners of Clearfield County for the
damages due them, but they can not come to any agreement.
That the said improvement greatly injures the property of
your petitioners by reason of the location of said sewer.

Your petitioners, therefore, pray the Court to appoint competent viewers, under the laws of this Commonwealth, for the purpose of viewing and assessing the damages due them by reason of the location of said sewer.

And, they will ever pray, etc.

H L Wright
Ethel Wright
R J Wright

L S Wright

STATE OF PENNSYLVANIA

SS:

COUNTY OF CLEARFIELD

Personally appeared before me, a Justice of the Peace in and for said County and State, W L Wright who being duly sworn according to law deposes and says that the facts set forth in the foregoing petition are correct and true to the best of his knowledge and belief.

Sworn and subscribed before me,
this 10th day of November, 1921.

H L Wright

L J Seyler

Q. J. SEYLER
JUSTICE OF THE PEACE
MY COMMISSION EXPIRES
FIRST MONDAY IN JANUARY 1922

COMMONWEALTH

vs.

In Re: *Assessment*
of damages *N.S.*
Knight vs. A.

In the Court of Quarter Sessions of Clearfield County.

No. *Fifty* Sessions, A. D. 19*22*

Indictment,

Verdict,

Com. Bill of Costs

Sessions, 190

Justice,

"

Witnesses at Hearing,

Constable,

Trans. Costs,

S.S. Constable, H. Knight *subscribing returns*

"

9 returns

2 -

"

7 miles direct

1.40

3.40

"

Dist. Att'y

; Sheriff

Clerk,

Fine

; Jury Fee,

Certified from the Record,

Clerk

C.H. Holden

In attendance 1 days

2.00 ~~*2.40*~~

2.40

Miles direct

4.24

2.40

Sam Barnall

In attendance 1 days

2.00

2.36

Miles direct

3.00 ~~*3.56*~~

2.00

Mr. H. Hochstet

In attendance 1 days

2.00

2.00

Miles direct

In attendance days

Miles direct

In attendance days

Miles direct

In attendance days

Miles direct

In attendance days

Miles direct

In attendance days

Miles direct

In attendance days

Miles direct

In attendance days

Miles direct

In attendance days

Miles direct

In attendance days

Miles direct

Clearfield County, ss:

Personally appeared *H.S. Knight*, who being sworn according to law doth depose and say that the above bill of costs is correct; that the witnesses named were present and material, and the miles actually traveled as above stated.

Sworn and subscribed before me this *27* day of *July*, 19*22*

John R. Ruff

J. L. Hargrath

PUBLIC
MARCH 7, 1923

CERTIFICATE.

I, _____ District Attorney of Clearfield county, hereby
certify that the witnesses above named were subpoenaed by me and were in
attendance, and were necessary for the trial of this case.

DISTRICT ATTORNEY.

No. _____ Sessions, 190

COMMONWEALTH

versus

Commonwealth Bill of Costs.

Amount,

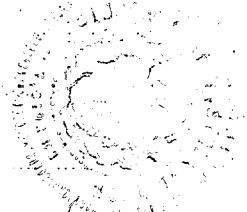
\$

Filed

, 190

PROTHONOTARY.

DISTRICT ATTORNEY.



they are the owners of a certain piece of land situate in the Village of Taylortown, in the Twp of Brady in said Coutny, along the highway leading from Luthersburg to Grampain. That the said highway is one of the roads now being improved by the State of Penna. and known as Route No. 59. That the Highway Dept of the state of Penna. in making said improvement, have laid out and constructed through the premises of your petitioners, a sewer for the carrying away of water from said highway and are gathering the water over a large area and conducting it down through said sewer.

That, prior to this construction there was no place for the carrying of any water from the highway as it was originally laid out onto the premises of your petitioners. That the petitioners are unable to come to any agreement with the County Commssioners as to damages due them.

Clearfield County, Pa.

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 6th day of
December in the year of our Lord
one thousand nine hundred twenty-one

Judge of the same Court: Upon the petition of
ETHEL WRIGHT, W. L. WRIGHT, L. S. WRIGHT, CARRIE MEHRWEI
standing as tenants 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 man-
ner 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.

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 Viewers of the County of Clearfield~~ Petitioner and that ~~the said view would be held on the 26th day of January, A. D. 1922, and the hearing to be held on the 27th day of January, 1922, at 9 o'clock A. M. That the viewers appointed by the said order viewed the premises and that there were present at the view the claimant and his Attorney W. C. Pentz Esq~~

~~the Council Chamber of the City of DuBois, Pa., on the 27th day of January, A. D. 1922, when the following appearances were noted: Mr. Wright the petitioner with W C Pentz Esq his Attorney and his witnesses. And A H Woodward Esq County Solicitor, including T R Welmer and M B Farrell of the Board of the County Commissioners with several witnesses.~~

~~the claimant Ethel Wright is the owner of a property in the village of Taylortown in the Township of Brady in the County of Clearfield State of Pennsylvania along the State Highway leading from Huthersburg to Grampian being improved by the State Highway Commission on Route Number 59. That the said Highway Department in making improvement along the premises of the petitioner have laid out and constructed through the premises of the petitioner a sewer, four feet deep three and a half feet in width and (310) feet in length to drain the water from the aforesaid State Highway, which drain runs through the lot of the petitioner in the rear of the house between the house and the spring house and spring from which the family of the petitioner get their water.~~

~~The said Highway is located on the bed of the former road and the only damages claimed is for the construction or putting in of the aforesaid drain or sewer and the damage thereby done to his property.~~

~~The testimony of several witnesses call and examined at the hearing before the viewers fix the amount of damages the claimant has suffered amounts to between four and five hundred dollars, Mr Wright the claimant testified that he is damaged not less than four (\$400.00) dollars and that he has secured estimates from different parties as to the cost of a fifteen inch drain pipe, the laying of the pipe and the filling in of the drain or sewer and that best estimate he has been able to secure runs about \$410.00.~~

~~Mr Carrell one of the State Engineers testified that it was absolutely necessary to place the drain at that point, as the water could have been carried down the road some further, but to have done~~

so would have drained it into a ravine that would have flowed it into a spring that Mr Ellinger gets his water from; The testimony shows that Mr Wright agreed after some solicitation that the drain might be put down through his lot provided he was secured or paid the damages; when Mr Weimer one of the County Commissioners and president of the board who was present representing the Commissioners state that the County would stand good for the damages who as a witness at the hearing admitted that he stated so to Mr Wright that the County would stand good for the damages; supposing at the time he made said statement ~~was mistaken~~ that the County was liable but has since learned that he was mistaken. He also stated in his testimony that Mr Wright by said ditch was damaged about five hundred (\$500.00) dollars: Mr Wright stated, that all the damages he claimed or ask was what it cost for a fifteen inch drain pipe the length of the drain and the cost of the laying of the pipe and the filling in of the drain through his lot. which the viewers beleive he is legally entitled to.

In the case of Allison vs E. M. Biglow State Highway Commissioner, of Pennsylvania; 68, Superior Court Rp page 219: That where a portion of a public road were to be opened in the usual and regular way there could not be much doubt; the paymaster must pay not only for the land actually taken in opening the new road, but also for any injury to or distruction of the property, of an abutting owner necessarily brought about by the construction of the new road at the grade, affixed: Under the Constitution is vested the same right of compensation of one whose property has been injured or destroyed as it does where his land has been taken which cannot be taken away by legislative enactment without due compensation to the owner.

The viewers therefore assess the damages of Mr Wright the claimant at \$410.00

TO; W. L. Wright, Ethel Wright, R. F. Wright and L. S. Wright.

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 the premises and assess the damages caused to the property of the petitioners Ethel Wright et al situate in the village of Taylortown in the Township of Brady in the County of Clearfield Pa by the construction; by the State Highway Commission of a large sewer through their land to drain the water from the State Highway on Route Number 59, for which damages the County of Clearfield as provided by an Act of Assembly of 1916.

In pursuance whereof the said viewers will therefore meet on the premises of the said petitioners in the Township of Brady in the County and State aforesaid on Thursday the 26th day of January A. D. 1922 at four (4), 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 said case a chance to be heard by the viewers, will be held at 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 us July 14
1922

By J. D. Dwyer
Atty for Petitioner

A. G. Kravner
E. D. Billotte
J. A. Michaels
VIEWERS.

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 the petitioners Ethal Wright et al situate in the village of Taylortown in the Township of Brady in the County of Clearfield Pa by the construction; by the State Highway Commission of a large sewer, through their land to drain the water from the State Highway on Route Number 59, for which damages the County of Clearfield as provided by an Act of Assembly 19 1915 is liable.

In pursuance whereof the said viewers will therefore meet on the premises of the said petitioners in the Township of Brady in the County and State aforesaid on Thursday the 26th day of January A. D. 1922. at four (4), 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 said case a chance to be heard by the viewers, will be held at 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.

A. H. Kramer.

E. D. Billotte.

J. S. Michaels.

VIEWERS.

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

L. C. Sparris

Clerk.

No. 1 Feb

Sessions, 1922

ORDER

To view and Assess
damages
Township of Brady
Clearfield County

Session, 19

read and confirmed Mr. St.

Road to be opened 22 feet

side hill cutting of embankment and bridging, there to be 18 feet wide.

Filed

19

Fees \$1.25 paid by

Appeal # 141 May 1922

Pentz & Pentz, 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	A.W.T.
A. H. Kramer	3	22.50	
G. S. Bullett	3	22.50	
J. S. Michael	2	15.00	

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 ensembling 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

SEAL
SEAL
SEAL

SEAL
SEAL
SEAL
SEAL

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 the undersigned viewers have obtained and copy of the notices.~~ *attached*

WITNESS our hands and seals this 17th day of January

A. D. 1922

A. G. Kramer



E. B. Billotte



J. St. Michael

