

Road DOCKET No. 5

Number
10

Term
Sept

Year
1922

Public road in Penn Twp

Versus

X

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

IN RE: ROAD leading from public road at or near Thomas McCartney
to Public road at or near residence of John S. McKenrick in
Penn Township.

PETITION FOR VACATION OF PORTION OF ABOVE ROAD.

TO THE PRESIDENT JUDGE OF THE SAID COURT:-

The petition of the under-
signed citizens and tax payers of Penn Township aforesaid,
respectfully represents:-

FIRST:- That a portion of the public road leading from
the public road at or near Thomas McCartneys to a public road at
or near John S. McKenrick is useless and burdensome to the
Township of Penn and in the opinion of your petitioners should be
vacated, to wit, that portion of said road commencing at the coal
mine opening of Edward Flynn to the public road at or near John
S. McKenricks'.

Your petitioners therefore pray: for a view and vacation
of the above portion of road.

And they will ever pray, etc.

Millard S. Wall

W. E. Wall

J. L. Wall

J. R. Kendall

Allen Penitz

A. J. Beers

J. R. Winesworth

O. L. Bloom

Albert Engstrom

James L. Weaver

W. M. Dickey

John H. Curry

C. B. Williams
Albert Radzietz
M. A. Bloom
J. R. Scott
Clark Taylor
Symon L. Pester
Thos. E. Hall
H. Hall
J. P. Davis
Miles Wisor
Lloyd Mahlon
Wm. H. Elmer
E. A. Spencer
Foster Geager
Clare Smith
A. R. Spencer
Lee R. Spencer
Ralph Freeman
J. G. Haley
S. L. Kester sr
E. M. Davis
Murray A. Spencer
Ralph Smith
B. N. Orinworth
E. V. Spencer
Edward Spencer
J. F. Miller

W. B. Williams
Albert Rudzita
M. A. Bloom
J. R. Scott
Clark Taylor
Symon L. Rester
Thos. E. Hall
J. H. Hall
J. P. Davis
Miles Wisor
Clayd Mahlon
Wm. H. Elmer
E. A. Spencer
Foster Yeager
Clare Guiker
A. R. James
Lee R. Spencer
Ralph Freeman
J. G. Haley
J. L. Kester
E. M. Davis
Murray A. Spencer
Ralph Guiker
C. N. Wrightworth
E. V. Spencer
Edward Spencer
J. F. Miller

STATE OF PENNSYLVANIA)
COUNTY OF CLEARFIELD) SS:

being duly sworn according to law, says that to the best of his knowledge, information and belief the facts stated in the above petition are true and correct.

Sworn and subscribed before me {

this 29 day of May. A. D. {
1922.

Wm J Thorp

Geo H Ralston
Notary

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

10 Sept. 22 1922

IN RE: PUBLIC ROAD IN
PENN TOWNSHIP.

Not made return
before

PETITION FOR VACATION OF
PORTION OF ABOVE ROAD.

Was ~~George~~ 1st 1922, George
Hutton Eng. 88.7m and
George Hutton an applicant
return as proposed for
by the Court.

George Hutton 1922

FILED

JUN 1 1922

ED. W. RAISEWITZ

CLERK OF COURTS

A. H. WOODWARD
CLEARFIELD, PA.

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
		direct	
Frank Hutton	3	44	26.90
J. E. Fry	3	44	26.90
Geo. K. Weber	2	38	18.80

No. 10 Sept Term 19 22

ORDER TO VACATE

a portion of
To view and vacate/road situate
in the Township of Penn
Clearfield County.

Now Sept Sessions 1922
read and confirmed Ni. Si.

By the Court.
Now 4th Sessions 1922.
confirmed absolute.

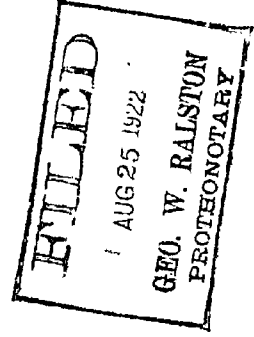
By the Court.
Mugler/Bell

Filed 19

Atty.

Fees \$1.25 paid by

A. H. Woodward, Atty.



hearing. Your viewers are of the unanimous opinion that any citizen or persons desiring to use this portion of the road for coal hauling will be accommodated with a better grade and better road by using the present road known as the Punxsutawney Road to Walltown, thence to Thos McCartney's and thence to the Flynn mine, the extra distance would be very little more than one mile. Your viewers measured the distance from where the road to vacated intersects the Punxsutawney road near the house of J.S. McKenrick to where the Punxy road is intersected by the road up Bell Run at Walltown and found it to be four fifths of a mile. The preponderance of evidence was, that the road if opened would be mostly for the benefit of those citizens living west of J.S. McKenrick, who obtain their coal supply from the Flynn mine.

Your viewers file herewith a draft or map of the road to be vacated in the survey of which, the stakes of the original survey were not found on the ground, hence the draft filed herewith, may not comply entirely with that filed in No. "1" Dec. Sessions 1919, but reference is made to said draft as therein filed and which is intended to be vacated by this board of viewers

and that a plan, 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 claims for damages filed, or made, by the viewers and none should be allowed if made.)

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: **none**

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

Witness our hands and seals this 22nd

day of

August

, A. D. 1922

Frank Sullivan [SEAL.]

J. E. Fry [SEAL.]

George W. Mosier [SEAL.]

Viewers

TO The BOARD OF COUNTY COMMISSIONERS OF CLEARFIELD COUNTY, PA.

You are hereby notified that the undersigned Viewers, appointed by the Court of Quarter Sessions of Clearfield County, Pennsylvania, to view and vacate a Public Road leading from the public road at or near Thomas McCartneys to a public Road at or near John S. McKenrick to wit: That portion of said road commencing at the Coal Mine opening of Edward Flynn to the public road at or near John S. McKenrick in Penn Township in the County aforesaid, will meet at the Coal mine opening of Edward Flynn on said road in Penn Township, on Monday the 14th day of August 1922 at 9:30 O'clock A.M. to attend to the duty assigned them.

And that the required Public Hearing will be held in the Court House in the Borough of Clearfield on Wednesday the 16th day of August 1922 at 8:30 O'clock A.M. when and where all parties intested may attend and be heard.

DuBois, Pa. July 31st 1922

Mark Sullivan
J. E. Frey
George Weber
Viewers

Now Aug 2nd 1922 Service accepted for the County Commissioners

L. C. Harris
Clerk

To The BOARD OF SUPERVISORS, PENN TOWNSHIP ROAD DISTRICT.

You are hereby notified that the undersigned Viewers, appointed by the Court of Quarter Sessions of Clearfield County, Pennsylvania, to view and Vacate a Public Road leading from the public road at or near Thomas McCartneys to a public road at or near John S. McKenrick to wit that portion of said road commencing at the coal mine opening of Edward Flynn to the public road at or near John S. McKenrick in Penn Township, in the County aforesaid, will meet at the coal mine opening of Edward Flynn on said Road in Penn Township on Monday the 14th day of August 1922 at 9:30 o'clock A. M. to attend to the duty assigned them.

And that the required Public hearing will be held in the Court House in the Borough of Clearfield on Wednesday the 16th day of August 1922 at 8:30 o'clock A.M. when and where all parties interested may attend and be heard

DuBois, Pa. July 31st 1922

John Steelman
J. E. Fry
George Becker
Viewers

Now Aug 1st 1922 service accepted for the Supervisors of Penn Township.

A. H. Woodward
Atty for Penn Tsh.

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 **PENN TOWNSHIP**, 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 **August**, A. D. 1922, 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 **16th** day of **August**, A. D., 1922, at **8:30** 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 **W. T. Thorpe, Wm. Halper and C. A. Phillips** Supervisors of Penn Twp., ~~A. H. Woodward Esq., Atty for Petitioners and Walter Welch Atty for citizens favoring the road, and by O. L. Bloom, Wm. Pentz, J. J. Weisgarber, Chas. Wall, Thos. E. Wall, Jas. Quigley, J. R. Scott, A. D. Williams, E. J. Clark, E. J. Flynn, Geo. Heilburn, J. A. Rafferty, Harry Yost, Thos. McCartney, Bernard Clapsaddle, J. S. McKenrick, Ambrose Rafferty, C. H. Flynn, B. L. Kendall, Wm. Quigley,~~ parties interested, either in favor of or against vacating said road. And that the aforesaid hearing was held in the Arbitration Room in the Court House, in Clearfield, Pa., on the **16th** day of **August**,

A. D. 1922, when the parties interested in the said road were in attendance: **A. H. Woodward, Esq., Atty for petitioners, and Walter Welch, Esq., Atty for those opposing the petition and W. T. Thorpe, and Wm. Halper** Supervisors of Penn Twp., **Jas. Quigley, John Weisgarber, Wm. Pentz, T. E. Wall, Oscar L. Bloom, Chas. Wall, Arthur Williams, John Wrigglesworth, W. S. Hornbecker** Asst. Twp. Eng. State Highway Dept., **Jas. A. Rafferty, Thos. McCartney, Geo. Heilburn, Bernard Clapsaddle, Edward Clark, Harry Yost, Ambrose Rafferty, and Edward Flynn,** all of whom were sworn or affirmed

And that after the view and hearing above mentioned, the undersigned Viewers do agree that said road has become useless, inconvenient and burdensome. That the road which the petitioners ask to be vacated is a portion of the road viewed as No. 1 Dec. Term 1919 and confirmed by this Court at Feb. Sessions 1920, that portion of said road beginning at the coal mine of Edward Flynn and ending in the public road at or near the house of Thos. McCartney having been opened and in use. That portion of said road beginning at the coal tippile of Edward Flynn and ending in the Public road near the house of J. S. McKenrick petitioned to be vacated in this proceeding, has never been opened.

Your viewers find that the first 1300 feet of the road from the coal tippile of Edward Flynn is not a prohibited grade, but a portion of it is through spoutty, wet ground, that portion from Kennan run for some 1500 feet is steep and much more than the legal grade. The preponderance of evidence offered was such as to convince your viewers, that the road if built would not accommodate or be useful to a sufficient number of the travelling public or the citizens of the community as to justify the cost of construction, which was estimated by the State Highway Engineer to be \$2000.00, which estimate was confirmed by the Supervisors present at the

CLEARFIELD COUNTY, SS.:

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 **1st** day of **June** in the year of our Lord, one thousand nine hundred and **twenty-two**

By the Honorable Singleton Bell, President Judge of the said Court: Upon the petition of sundry inhabitants of the Township of **Penn**, in the County aforesaid setting forth that

a portion of the public road leading from the public road at or near Thomas McCartneys to a public road at or near John S. McKenrick is useless and burdensome to the Twp of Penn and in the opinion of your petitioners should be vacated, to wit that portion of said road commencing at the coal mine opening of Edward Flynn to the public road at or near John S. McKenricks'

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 **Frank Hutton, Esq., J. E. Fry,** and **George Weber** 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 appointment, 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 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 the place where they would meet, to view said road and the time and place of hearing.

By order of the Court.

Wes W. Ralston

Clerk.