

road

DOCKET No. 5

Number

Term

Year

1

Sept

1923

Petition of Warren Charles for Appt.

of Viewers to assess damages in

Bloom Twp

Versus

\$ 9.00



*Road*

No. *1* *Sept* *56*  
*1903* Term 19023

WARREN CHARLES

Versus

CLEARFIELD COUNTY

*Ref* Bill of Costs

For *Wm. H. H. H. H. H.* Term 190

*Deputy*

Date 190

Amount - \$

**FILED**  
JUN 21 1923  
GEO. W. BAISTON  
CLERK

*Recd*

Wm. C. Pentz, '82  
John J. Pentz, '15

Pentz & Pentz  
Attorneys-at-Law  
DuBois, Pa.

June 20, 1923

George W. Ralston, Esq.  
Clearfield, Pa.

Dear Sir:

We herewith hand you Bill of Costs in  
Warren Charles vs. Clearfield County, for witnesses  
attending before the viewers.

This case is in the Court of Quarter  
Sessions and you will please file it there.

Yours respectfully,

WCP:M

*Pentz & Pentz*

Served the within Sub.  
 poena on the within  
 name of Thomas, T. L.  
 Korb, Mr. Michael  
 Mr. W. B. B. Mr. Thos  
 John Haggliwood  
 by reading to them

6 Service \$3.50  
 14 miles drive ~~7.00~~ 3.00  
~~\$10.50~~ 3.00  
 D. 11

George Charles being  
 duly sworn says the  
 above return is correct  
 and the costs taxed  
 are correct and true  
 sworn to before me this 13 day  
 Jan. 1923

Geo W. Ralston  
 Prothonotary

No. 1 Sept Term, 1912

Name of Clerk

VS.

Clearfield Co

Commissioners Subpoena.

, Attorney.

Commissioners Subpoena

COUNTY OF CLEARFIELD, SS:

The Commonwealth of Pennsylvania, to

Wm Thomas & Sons

Michael J. King, John W. Ingalls  
William J. King, Wm. Deley

The Command you, that setting aside all manner of business and excuses whatsoever, you  
be and appear in your proper person before A. H. Brown Esq. at Richards  
Esq., Commissioner, at the Court House in Clearfield

Pa., on the 15 day of

next, at 9 o'clock A, M., there to

testify the truth according to your knowledge in a certain case now pending and then and there  
to be tried, wherein Nannie Charles

Plaintiff Defendant, and

Clearfield County Defendant Respondent, and

that on the part of the Plaintiff And this  
you are not to omit under penalty of five hundred pounds.

WITNESS, the Honorable SINGLETON BELL, President Judge of our said

Court, at Clearfield, Pa., the 8 day of June

Anno Domini, one thousand nine hundred and Twenty

Geo. A. H. Brown  
Prothonotary.

To: T. R. Welmer, 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 of Warren Charles the petitioner and assess the damages caused to his property by the change of the route No 59, of the State Highway leading from Luthersburg to Grampian through the property of the petitioner situate in Bloom Township Clearfield County Pa by the amount of the land taken, and by the cuts, fills, ditches and drains and other injuries to his property, for which damages the County of Clearfield is liable.

And that the said viewers in the discharge of the duties of their appointment will meet on the premises of the said petitioner at the point where the said State Highway enters the same on Thursday the 14th day of June A. D. 1923 at one thirty (1.30) o'clock P. M. to attend to the duty assigned them, of which time and place 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 in the case a chance to be heard by the viewers will be held in the Arbitration Room in the Court House in Clearfield Pa; on Friday June 15th A. D. 1923 at eight thirty (8.30) o'clock A. M. when and where all parties interested may attend and be heard.

*A. H. Kramer,*  
*E. D. Billatto,*  
*J. J. Michaels,*  
VIEWERS.

Now June 14, 1923 service accepted for the County Commissioners of Clearfield County Pa

*L. C. Norris* Clerk

To: Warren, Charles.

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 you sustained by the change of the route of the State Highway: Route No 59; leading from Luthersburg to Crampian through your property the length of your farm situate in Bloom Township Clearfield County Pa. By the amount of the land taken, and by the cuts, filling, ditches and drains, for which damages the County of Clearfield is liable.

And in pursuance of which order the said viewers will meet on your said premises at the point where the said State Road enters the same on Thursday the 14th day of June A. D. 1923 at one thirty (1.30) o'clock P. M. to attend to the duty assigned them, of which time and place 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 in the case a chance to be heard by the viewers will be held in the Arbitration Room in the Court House in Clearfield Pa on Friday the 15th day of June A. D. 1923 at eight thirty (8.30) o'clock A. M. when and where all parties interested may attend and be heard.

*A. G. Kramer*

*E. D. Billotte*

*J. S. Michaels*

Viewers.

*28 May 1923 Letter accepted*

*Recd of Pay  
Atty P. H. ...*



The pasturing by a farmer of his cattle is one of the greatest benefits he derives from his farm.

Besides the taking away from the front of his house <sup>the public road</sup> is a great inconvenience in getting from his house and barn to the public road.

It has been decided, that one may suffer as much if not more damages by the inconvenience he suffers, than by the amount and value of the land taken or destroyed, 68, Superior Court Report page 219. The witnesses produced at the hearing by no means agree as to the amount the claimant has been damaged or his property depreciated in value; they differ all the way from \$2000.00 down to as low as \$400.00 so to fix the amount of damages the claimant has suffered or his property been depreciated in value rests almost entirely upon judgment of the viewers the viewers therefore after having carefully viewed and inspected the premises are of the opinion that the claimant derived no special benefits from the construction of the said road through his property: That all the benefits he derives is general, no greater then all other residents or property owners along the said road who are not in the least damaged or inconvenienced thereby, who have no land taken or suffer the inconvenience the claimant suffers. The viewers are therefore fully convinced that the property of the claimant has been depreciated or reduced in value, over and above all the benefits he derived in the sum of nine (\$900.00) hundred dollars. They therefore appraise or assess the damages that Warren Charles the claimant has sustained by the construction of the state highway through his farm at the aforesaid sum of nine hundred (\$900.00) Dollars

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 practical to place it with 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 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 have with us the releases obtained and copy of the notices.~~

WITNESS our hands and seals this 23d day of July

A. D. 1923.

A. G. Kramer Seal  
E. B. Billotte Seal  
J. S. Michaels Seal  
                     Seal

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	AMT.

## 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 respectfully 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. 192 \_\_\_\_\_

Seal  
Seal  
Seal  
Seal

No. 1 Sept Sessions, 1923

## ORDER

To view & assess damages to a road for WARREN CHARLES use in the township of Bloomfield County Clearfield County

Sessions, 19

read and confirmed N. S. Road to be opened 33 feet wide, except where there is side hill, cutting or embankment and bridging, there to be 16 feet wide.

Filed 19

Fees \$1.25 paid by Pentz & Pentz, Attorneys

FILED  
JUL 27 1923  
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, be 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~~ W.C. Pentz Esq. Attorney for the claimant

~~that the said view would be held on the~~ 14th day of June

A. D. 1923, and the hearing to be held in the Arbitration Room, at the Court House, in Clearfield, Pa., on the 15th day of June, 1923, at 8.30 o'clock A. M. That

The viewers appointed by the said order viewed the premises ~~mentioned road~~ and that there were present at the view Warren Charles the claimant and W C Pentz Esq Attorney for the claimant and others

parties in interest. That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the 15th day of June A. D. 1923, when the following appearances were noted: W. C. Pentz Esq Attorney for the claimant and A. H. Woodward County Solicitor when the following witnesses were called and examined on the part of the claimant to wit. Warren Charles the claimant, William Michaels, William Thorp, W E Thomas, C L Thorp and John Wriggleworth.

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. 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 use the following described road, to wit Beginning That Warren Charles the claimant is the owner of a farm of sixty five (65) acres, situate in Bloom Township Clearfield County Pennsylvania about 2 1/2 or three (3) miles from Gramplan, which is nearly all cleared and under good state of cultivation, and having thereon erected a good frame house a good barn and other out buildings; through which farm the State Highway Commission in 1923 erected a State highway on Route Number 59 leading from Luthersburg to Gramplan the entire length of the farm fifty (50) feet in width, Twenty seven hundred and twenty two (2722) feet in length including four or five drains or sewers through his fields from four to six hundred feet in length through one of his best fields which drains are from two feet in width by at least two feet in deapth the greater distance to drain the water of the highway taking three and one eighth (3-1/8) acres of his best land by the road bed alone without the drains which land the testimony shown was worth at least two hundred (\$200.00) an acre, about one half of the road is a fill from one to six feet in highth and nearly all of the balance of the distance a cut from one to six feet in depth below the level of the field; making it very difficult to haul his grain and hay across the state road up to his barn. The part of his farm across the state road from his barn is the watered part of his farm and in order to pasture his cattle he will be compelled to either herd his cattle at considerable expense or build and keep up a wire fence along both sides of the road the entire length of his farm a distance over one mile in length to protect and keep his cattle off the state road. and drive them from his barn to pasture twice a day across the state road a distance of several hundred feet or keep them in the barn or barnyard in order to keep them off the state road so as not to get hurt or crippled or killed.

Clearfield County, ss.

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 14th day of May

in, the year of our Lord one thousand nine hundred  
twenty three

Judge of the same Court: Upon the petition of WARREN CHARLES  
habitant of the Township of Bloom

in said County, setting forth that he is the owner of a  
farm situate in Bloom Twp. on the State Highway commonly known as Highway  
Route No. 59. That the Highway Dept. of Penna. in constructing and improving  
their new highway, left the old road bed as originally laid out and run thro.  
the entire length of the farm of your petitioner, and have made cuts, fills,  
ditches and drains on the property of your petitioner, which greatly and  
seriously injure it and have been unable to agree with the Commissioners  
of Clearfield County as to the amount of damages sustained thereby

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, Esq. and J. S. Michaels

who have been duly appointed by the Court and filed their oaths of office and are duly quali-  
fied to perform the duties of their appointment with impartiality and according to the best of  
their judgement, 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 distance, 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. H. Palston

Clerk.

TO THE HONORABLE, THE JUDGE OF THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY:

The petition of WARREN <sup>CHARLES</sup> CHILDS respectfully  
represents:

That he is the owner of a farm situate in  
Bloom Township, Clearfield County, Pennsylvania, on the  
State Highway commonly known as Highway Route No. 59;

That the Highway Department of Pennsylvania  
in constructing and improving their new highway, left the  
old road bed as originally laid out and run through the  
entire length of the farm of your petitioner, and they  
have made cuts and fills and ditches and drains on the  
property of your petitioner, which greatly and seriously  
injures it;

That by virtue of the laws of the State of  
Pennsylvania, the County of Clearfield is responsible for  
said damages;

That your petitioner has tried to agree with  
the Commissioners of the County of Clearfield for the pay-  
ment of the damages done to the property of your petitioner  
by reason of the construction of said highway, and the said  
Commissioners and your petitioner cannot agree upon what is  
a fair and just compensation.

Your petitioner therefore prays the Court to  
appoint viewers as provided by the laws of the State of  
Pennsylvania, to view and assess the damages due your  
petitioner for the constructing of the said highway.

And he will ever pray, etc.

*Warren Charles*

STATE OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

SS:

*CHARLES*

Warren ~~Chiles~~, being sworn, says the facts contained  
in the foregoing petition are correct and true.

Sworn and subscribed  
before me this 10  
day of May, 1923.

*Warren Charles*

*John Rafferty*

MY COMMISSION EXPIRES  
JANUARY 1ST, 1928

1 Sept. 20 1923

In re: WARREN CHILDS

P E T I T I O N

14 May, 1923 PLTm  
good and shortly  
A. L. Krany Jr. & D. Bellows  
and J. S. Melcher -  
and a few other  
at me, and and  
the damage so far -  
fixed up last

Good and smooth  
A. L. Brown & S. O. Bellows  
and S. Michael -  
and opened over  
the house  
to view and answer  
the damage as pro-  
posed by Lewis  
~~City~~  
Adm Council  
MAY 14 1923  
Intervention Bed  
70 W. R.

*Wm. W. Ralpenitz & Penitz*

275-Reg Alley