

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

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

.....	Of.....	May.....Term, 1923.....
.....WARREN CHARLES.....	No.....	
Versus		Bill of Costs
.....CLEARFIELD COUNTY.....	At.....	Term, 190.....
.....		

		Dollars	Cents
William Michaels	one Days in attendance 17 Miles direct travel	3	92
William Thorpe	" Days in attendance 13 Miles direct travel	2	78
William Thomas	" Days in attendance 17 Miles direct travel	3	02
John Wrigglesworth	" Days in attendance 14 Miles direct travel	2	84
T. L. Korb	" Days in attendance 18 Miles direct travel	3	08
George Charles	" Days in attendance 15 Miles direct travel	2	90
William Dicky	" Days in attendance 15 Miles direct travel	2	90
	Days in attendance..... Miles direct travel		
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	Days in attendance..... Miles direct travel		
	Days in attendance..... Miles direct travel		
	Serving subpoenas..... Witness.....		
	Miles distance.....		
Whole amount of bill.....		20	54

CLEARFIELD COUNTY, SS:

Personally appeared before me, a Justice of the Peace, George Charles, who being duly sworn, saith, the above Bill of Costs is correct, that the witnesses named were subpoenaed, necessary, material, and in attendance as above stated, and that the mileage is correct as he believes.

Sworn to and subscribed before me this
19 day of June, A. D. 1923. }
John J. Rafferty, Notary
My COMMISSION EXPIRES
JANUARY 1ST, 1928

George Charles

Road

No. / Sgt. S. G.
May.....Sum. 19023.

WARREN CHARLES

Versus

CLEARFIELD COUNTY

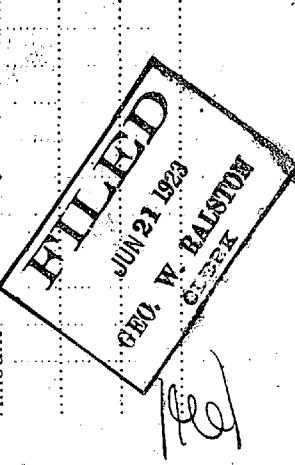
Off *Bill of Costs*

For *Mr. W. T. M.* Term 190

Amount

Date 190

Amount - \$



W. C. Bentz, '82
John J. Bentz, '15

Bentz & Bentz
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

Bentz & Bentz

Served the witness, Ed.
poem on the witness
Name, for Thomas, T. L.
Korb, the witness
Mr. Mc Dentay, the Plaintiff
John Wiegliowich
by reading to him

6 Service #3, 307
14 witness dect. ~~7, 10, 13, 14, 15~~
~~18, 19, 20, 21, 22, 23~~

George Charles Brown
duly sworn says the
above witness is correct
and the costs taxed
are correct and now
George Charles.
Devon and Subpoena
before me this 13 day

Decr. 1923

Geo W. Palston
Prothonotary

No. 1 Septr 23

Term, 1911

Name & Circuit

300
1905
5.00

vs.

Classified Co

Commissioners Subpoena.

, Attorney.

COUNTY OF CLEARFIELD, ss:

Commissioners Subpoena.

The Commonwealth of Pennsylvania, to Wm. Turner Shillcox
Wm. Shillcox T. L. Kno. John M. Shillcox
Clearfield Pa. Speciey

Do command you, that setting aside all manner of business and excuses whatsoever, you be and appear in your proper person before A. G. Brainerd, Esq. & Michael A Esq., Commissioner, at the Court House in Clearfield

Pa., on the 15th day of

June next, at 12 o'clock P. M., there to testify the truth according to your knowledge in a certain case now pending and then and there to be tried, wherein Wm. M. Shillcox

Plaintiff

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 8th day of June,

Anno Domini, one thousand nine hundred and thirty three

Geo. S. Shillcox
Prothonotary.

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 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.

J. G. Kramer.
E. D. Billotte.
J. S. Michaels.

VIEWERS.

Now June 5, 1923 service accepted for the County Commissioners of Clearfield County Pa

L. C. Morris 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 Grampian 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 persuance 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 H Billotte

J S Michaels

29 May 1923 Service accepted

Viewers.

Dug of Dug.
atty Billotte

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 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 than 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

where it was not practicable to proceed with the same.

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 herewith ~~subscribed~~ released obtained and copy of the article.

WITNESS our hands and seals this 23d day of July

A. D. 1923.

A. G. Kramer *Seal*

E. J. Billotte *Seal*

J. S. Michaels *Seal*

Seal

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:

A. D. 1922, 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 ground proposed for the above-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 occasion for a road as desired by the petitioner, and that the same is 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 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 $2\frac{1}{2}$ or three (3) miles from Grampian, 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 53 leading from Luthersburg to Grampian 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 depth the greater distance to drain the water of the highway taking three and one eighth ($3\frac{1}{8}$) 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 height 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 ^{and back} 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, 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 14th day of May, in the year of our Lord one thousand nine hundred twenty three

JUDGE OF THE SAME COURT: WARREN CHARLES
Upon the petition of sundry in
habitants 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 qualified 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. W. Palstone

Clerk

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

CHARLES
The petition of WARREN ~~CHILD~~ 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 petition has tried to agree with the Commissioners of the County of Clearfield for the payment 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 Shuler

STATE OF PENNSYLVANIA
SS:
COUNTY OF CLEARFIELD

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 J. Rafferty

MY COMMISSION EXPIRES
JANUARY 1ST, 1928

IN THE COURT OF COMMON PLEAS
OF CLERFELD COUNTY.

Sept. 26 1923

In re: WARREN CHILDS

P E T I T I O N

14 March 1923 Petition
Signed and sworn to before
A. T. Kramer, S. D. Bellotti
and J. S. Pfeiffer -
and affouned to read
to witness and as for
the damage as per
preceding line

110 Main Street

Marion, Pa.

14 March 1923

W. R. ALSPENZ & SPENTZ
ATTORNEYS AT LAW
DUBOIS, PA.

275-By attorney