

Read DOCKET No. 5

Number      Term      Year

2      Sept      1923

Petition of Ira Dunworth for appt.

of Viewers to assess damages in

Bloom Twp

Versus

\$3 00

X

5

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

The petition of IRA DUNWORTH 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 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.

ira Dunworth

STATE OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

SS:

IRA DUNWORTH being sworn says the facts set  
forth in the foregoing petition are true and correct.

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

Ira Dunworth

John Y. Rafferty

MY COMMISSION EXPIRES  
JANUARY 1ST, 1928

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 Ira, Dunworth 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, fillings, ditches and drains cut; for which damages the County of Clearfield is liable.

Therefore the said viewers as required by the said order of Court will meet for the discharge of their duty on the said premises of the petitioner at the point where the said State Highway enters enters the same on Thursday the 14th day of June A. D. 1923 at three thirty (3.30) 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. G. Kramer  
E. D. Billotte  
J. S. Michaels.

VIEWERS.

Now June 4, 1923, service accepted for the County Commissioners of Clearfield County Pa.

J. C. Morris  
Clerk.

To Ira. Dunworth.

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 No 59, leading from Luthersburg to Grampian through your property, situate in Bloom Township Clearfield County Pa. By the amount of the land taken and by the cuts, fillings, ditches and drains cut for which damages the County of Clearfield is liable.

And the said viewers therefore in persuance of the aforesaid order of Court will meet on your aforesaid premises at the point where the said State Highway enters the same on Thursday the 14th day of June A. D. 1923 at three thirty (3.30) 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 appear and be heard.

A G Kramer

Ed Billotte

J J Michaels

VIEWERS.

28 May 1923 Service accepted

Pugsley  
Atty for Petitioner

No. 2 Sept. Sessions, 1923.

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 reassessed 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.

## ORDER

To view & assess damages to a  
road to IRA DUNWORTH mix the  
township of Bloom  
Clearfield County \_\_\_\_\_

Sessions, 19\_\_\_\_\_,  
read and confirmed Ni. Si. 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 \$125 paid by 4-10  
Pentz & Pentz, Attorneys

## 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 ensealing 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.

besides taking the public road away from his buildings which is a great inconvenience getting from his house and barn to the public road.

Besides depriving him of having the use of his farm for pasture purposes which is one if not the principal benefits to a farmer and even with a fence compelled to drive his cattle to and from the pasture field will require considerable time and great inconvenience; more or less damage.

It has been decided, that one may suffer as much if not more damages by the inconveniences he suffers then by the amount 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; some fixing the damages as much as \$1200.00, while others fix it as low as \$400.00. The viewers therefore after having carefully viewed and inspected the premises are of the opinion that the claimant derives no special benefit from the construction of the said road through his property that all the benefits he derives is general, no greater than all other parties residing along ~~near~~ the same who are not in the least damaged or inconvenienced thereby, have no land taken or suffer the inconveniences the claimant suffers. The viewers are therefore fully convinced that his property has been depreciated or reduced in value, over and above all the benefits he derived in the sum of Three hundred (\$300.00) dollars.

They therefore appraise the damages that Ira Dunworth the claimant has sustained at the sum of three hundred (\$300.00) 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 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 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 21<sup>st</sup> day of July  
A. D. 1923.

A. G. Kramer Seal  
E. J. Killoffe Seal  
J. S. Michaels Seal  
Seal

COUNTY OF CLEARFIELD, SS:

The Commonwealth of Pennsylvania, to Wm. Thomas or William Mahler  
John Wrigglessworth  
William J. Hook from Deepcreek

We command you, that settling aside all manner of business and excuses whatsoever, you be and appear in your proper person before O. A. Gram. Bell & Michael Esq., Commissioner, at the Court House in Clearfield

Pa., on the 15<sup>th</sup> day of June 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

Ira Smuckler Plaintiff, George H. Bell, and Clearfield County Defendant. And

that on the part of the 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<sup>th</sup> day of June

Anno Domini, one thousand nine hundred and twenty one

Prothonotary.

Served with Subpoena on  
the witness named. Mr  
Thomas William Nichols  
Agent Thos. W. Derby  
S. L. Kirk John Wrigley  
with his reading of  
them.

16 served 3.56  
19 miles due 7.60  
~~11.10~~

Chenfield Cash 11.  
The Subpoena being  
more than the above  
time is correct and  
true and the service  
was made on the 20th  
of June at his home at Fort

Ira H. Hinckley  
from and back to the  
before witness 15 June  
1923.

G. W. Palston  
Prothonotary

No. 2 Sept. Term, 1923

In the Court

vs.

Chenfield Co.

Commissioners Subpoena.

, Attorney.

# 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 ~~and the Supervisor of the Township of~~ ~~W. C. Pentz, Esq., Attorney for the Claimant,~~ ~~notices thereof were posted along the route of the~~ ~~proposed road, 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 ~~ground and the said road above~~ ~~mentioned road, and were~~ ~~present at the~~ ~~premises of the said~~ ~~Claimant at the time set and were attended by Ira Dunworth the~~ ~~Claimant and W. C. Pentz, Esq., the 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 Ira Dunworth the claimant, and William Michaels, William Thomas William Thorp, John Wrigleworth and T L Corp.

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 any 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 Beginning

That Ira Dunworth the claimant is the owner of a farm consisting of twenty acres of land situate in Bloom Township Clearfield County Pennsylvania having about eighteen acres cleared and under good state of cultivation, the remainder being woodland, and having thereon erected a dwelling house, barn and other outbuildings, through which said farm the State Highway Commissioner in the exercise of his powers constructed a State highway on route No 59 leading from Luthersburg to Grampian in 1923 changing the location or routr of the road through the property of the claimant taking it away from his buildings and cutting off from his farm buildings the main part of his farm: Said road is fifty (50) feet in width and six hundred and five (605) feet through the entire length of his farm taking about three fourth  $3/4$  of an Acre of land besides the amount destroyed by a drain nine hundred and seventy seven (977) feet in length through his cleared land down to a run some two feet in depth and about the same in width to drain the water of the road part of the road bed is cut down from two to six feet in depth and the principal part of the remainder is fill up from one to six feet in height above the level of his fields, making it very difficult to haul his grain and hay across the state road up to his barn. This lowest part of his farm is the watered part of his farm. And in order to pasture his cattle he will be compelled to 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 which will require a fence not less than twelve hundred feet in length to protect and keep his cattle of the State road. and drive or lead them twice a day from his barn across the State Road a distance of several hundred feet to and from pasture or keep them in the barn or barnyard all the time day and night.

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

IRA DUNWORTH

Judge of the same Court: Upon the petition of ~~John W. Palston~~

~~exhabitants~~ of the Township of Bloom Twp

in said County, setting forth that he is the owner of a farm situate in Sloom Twp. Clearfield County, Pa. 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 through the entire length of the farm of your petitioner, and have made cuts and fills, ditches and drains on the property of your petitioner, which greatly and seriously injures it, and have been unable to agree with the Commissioners of Cle:rfield 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 Palston, Clerk.

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY

Sept 20 1923

In re: IRA DUNNORTH

PETITION

14 May 1923 Petition  
and brief remonstrance  
of Kramer & Eschelle of  
G. S. Michaels  
are offered  
To review and assess  
the damages as pro-  
vided by law

By the Compt  
Franklin B. Geig  
P. J.

MAY 14 1923  
W. RALSTON PENTZ & PENTZ  
OLIVE, ATTORNEYS AT LAW  
PUBOIS, PA.

Geo.

275 they are

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

.....	Of.....	May Sessions .....	Term 1923..
..... IRA DUNWORTH .....	No.....	Bill of Costs	
Versus	.....	At..... Term, 190.....	
..... CLEARFIELD COUNTY .....	.....	.....	
.....	.....	.....	

			Dollars	Cents
William Michaels	one	Days in attendance 17..... Miles direct travel	3	02
William Thorpe	"	Days in attendance 13..... Miles direct travel	2	78
William Thomas	"	Days in attendance 17..... Miles direct travel	3	02
John Wriggleworth	"	Days in attendance 14..... Miles direct travel	2	84
T. L. Korb	"	Days in attendance 18..... Miles direct travel	3	08
William Dicky	"	Days in attendance 15..... Miles direct travel	2	90
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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.....			175	64

CLEARFIELD COUNTY, SS:

Personally appeared before me a Justice of Peace, Ira Dunworth, 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.

Swear to and subscribed before me this  
 19 day of June, A. D. 1923. }  
 John J. Rafferty, Notary }  
 Justice of the Peace  
 MY COMMISSION EXPIRES  
 JANUARY 1ST, 1928

July 5, 1922  
No. 2.....MAX.....Term 19023.

IRA DUNWORTH

Versus

CLEARFIELD COUNTY

Defd.....Bill of Costs  
For.....Term 190.....

Date.....190.....

Amount - - - \$.....