

Road DOCKET No. 5

Number Term Year

3

Sept

1923

The Petition of R. D. Kendall for

Appt of Viewers to assess damages

in Bloom Twp

Versus

\$ 450

No. 3 1911 80 1833

Term 190.25

C. L. KENDALL

Versus

CUMBERLAND COUNTY

Amount Bill of Costs

For Adversus Term 190

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

Amount - - - \$.....

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY.

Of May Sessions ~~June~~ 1923
 No
 C. L. KENDALL
 Versus
 CLEARFIELD COUNTY
 Bill of Costs
 At Term, 190.....

				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 Wigglesworth	"	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
		Days in attendance.....	Miles direct travel		
		Days in attendance.....	Miles direct travel		
		Days in attendance.....	Miles direct travel		
		Days in attendance.....	Miles direct travel		
		Days in attendance.....	Miles direct travel		
		Days in attendance.....	Miles direct travel		
		Days in attendance.....	Miles direct travel		
		Days in attendance.....	Miles direct travel		
		Days in attendance.....	Miles direct travel		
		Days in attendance.....	Miles direct travel		
		Days in attendance.....	Miles direct travel		
		Days in attendance.....	Miles direct travel		
		Days in attendance.....	Miles direct travel		
		Serving subpoenas.....	Witness.....		
		Miles distance.....			
Whole amount of bill.....				17	64

CLEARFIELD COUNTY, SS:

Personally appeared before me a Justice of Peace, C. L. Kendall, 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
 20 day of June, A. D. 1923
 John Y. Rafferty, Prothonotary
 C. L. Kendall
 MY COMMISSION EXPIRES
 JANUARY 1ST. 1928

several other persons
on the other hand
Mr. Michael O. Thomas
P. L. Clark Mr. Baker
Mr. Thayer John Miller
with by reason of
them

6 service \$3.50
19 miles out 7.60
C \$11.10

C. L. Kendall was the
born says the above
which is true and
correct and he must
the maker of demand
and transfer the money
as set forth

C. L. Kendall

born and married
before me this 15
day of June 1923
Geo. H. Ralston
Notary

No. 3 Sept Term, 1923

C. L. Kendall

Vs.

Clearfield County

Commissioners. Subpoena.

_____, Attorney.

COUNTY OF CLEARFIELD, SS:

Commissioners Subpoena.

The Commonwealth of Pennsylvania, in

Don Thomas Williams
Michael T. & Carl John Bruggs
William Thorpe, John S. Sackett

~~and~~ Command you, that setting aside all manner of business and excuses whatsoever, you
be and appear in your proper person before *A. S. Brown, Jr.* at *12-110 North Williams*
Esq., Commissioner, at *ten o'clock* in *Clearfield*

next Pa., on the *13th* day of
next, at *8^{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 *Wardell*

Plaintiff

~~Defendant~~, and.

Clearfield County *Deputy* Defendant, 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 *1901*

Geo. A. Palatino
Prothonotary.

[REDACTED]

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

The petition of C. L. KENDALL 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 entered
upon the land of your petitioner and made fills and cuts
and constructed ditches and has destroyed a large amount
of valuable timber, 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.

C L Kendall

STATE OF PENNSYLVANIA

SS:

COUNTY OF CLEARFIELD

G. L. Kendall, being sworn, says the facts set forth in the foregoing petition are correct and true.

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

G. L. Kendall

John Rafferty
MY COMMISSION EXPIRES
JANUARY 1ST, 1924

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY

3 Sept 1923

J. C. KENDALL

P E T I T I O N

14 May 1923 Petition
received and thereupon
at the Court of Common Pleas
of S. Michael
one of the persons named
in the petition
and also the clerk
of the court
by the court

620. W. R. RENTZ & RENTZ
ATTORNEYS AT LAW
PUNEBOS, PA.

MAY 14 1923
CLERK

2-15 pay day

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 that the said view would be held on the~~ ~~14th day of June~~ ~~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 proposed for the above mentioned road and that there were present at the view J. C. Kandell the claimant and W C Pentz Esq Attorney for the claimant and others;~~

~~and that~~ ~~the said view would be held on the~~ ~~14th day of June~~ ~~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 proposed for the above mentioned road and that there were present at the view J. C. Kandell the claimant and W C Pentz Esq Attorney for the claimant and others;~~

~~and that~~ ~~the said view would be held on the~~ ~~14th day of June~~ ~~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 proposed for the above mentioned road and that there were present at the view J. C. Kandell the claimant and W C Pentz Esq Attorney for the claimant and others;~~

~~and that~~ ~~the said view would be held on the~~ ~~14th day of June~~ ~~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 proposed for the above mentioned road and that there were present at the view J. C. Kandell the claimant and W C Pentz Esq Attorney for the claimant and others;~~

~~and that~~ ~~the said view would be held on the~~ ~~14th day of June~~ ~~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 proposed for the above mentioned road and that there were present at the view J. C. Kandell the claimant and W C Pentz Esq Attorney for the claimant and others;~~

~~and that~~ ~~the said view would be held on the~~ ~~14th day of June~~ ~~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 proposed for the above mentioned road and that there were present at the view J. C. Kandell the claimant and W C Pentz Esq Attorney for the claimant and others;~~

~~and that~~ ~~the said view would be held on the~~ ~~14th day of June~~ ~~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 proposed for the above mentioned road and that there were present at the view J. C. Kandell 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 Esq County Solicitor when the following witnesses were called and examined on the part of the claimant, to wit. J. C. Kandell, the Claimant, William Michaels, William Thorp, William Thomas and John Wrigleworth

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

That J C Kandell the claimant is the owner of a tract of land consisting of eighty (80) acres about forty acres cleared the balance is woodland, situate in Bloom Township in Clearfield County Pennsylvania west of Grampian through the woodland part of said property the State Highway Commissioner in 1923 constructed a state Highway on Route Number 59, leading from Luthersburg to Grampian a distance through the claimants land a distance of 1560 feet in length which said road is fifty (50) feet in width. including an open sewer about 600 feet in length to drain the water of the road about two feet in depth and about two feet in width said road bed taking one and three fourth of an acre of land covered with timber That 300 feet of said road bed is a cut at the deepest point 17, feet in depth and the average depth is from 12, to 13 feet in depth and the balance of the road bed is a fill from four to six feet in hight making it very difficult to get across from one side of the road to the other The testimony of Mr Kandell is that the woodland is used for pasture and to enable him to continue to use it for pasture he will have to erect a wire fence along each side of the road the entire distance the road passes through his land a distance of 1560 feet along each side of the road or 3120 feet in length to protect and keep his stock off the state road, to keep them from getting run over and getting killed, hurt or crippled: the pasturing by a farmer of his cattle is a great benefit and profit to a farmer.

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.

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

J. G. KENDALL
Judge of the same Court: Upon the petition of ~~said~~
~~petitioner~~ of the Township of BLOOM

in said County, setting forth that he is the owner of a
farm situate in Bloom 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 entered upon the land
of your petitioner and made fills, cuts and constructed ditches and has
destroyed a large amount of valuable timber, which greatly and seriously
injures it and has been unable to agree with the Commissioners of Clearfield
County as to the amount of damages sustained by said construction

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 W. Ralston, Clerk.

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 *J. S.* Kendall 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.

And whereas in persuance of the aforesaid order of Court the said viewers will meet in the discharge of their duty on the premises of the said petitioner at the point where the said State Highway enters the said premises on Thursday the 14th day of June A. D. 1923 at two thirty (2.30) 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. W. Billotts
J. S. Michaels
VIEWERS.

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

L. C. Norris
Clerk.

To *J.C.* ~~Ed.~~ Kendall.

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, filling, ditches and drains cut for which damages the County of Clearfield is liable.

And whereas in persuance of the aforesaid order of Court the said viewers 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 two thirty (2.30) 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.L. Michaels.

VIEWERS.

28th May 1923 Service accepted

*Eng & Eng
attys for Kendall*

The witnesses produced all agree that the claimant has been damaged but as to the amount they differ materially or how much his property has been depreciated there is considerable difference as to the amount some fix the amount he has been damaged at eight hundred (\$800.00) dollars while some fix it as low as four hundred (\$400.00) dollars so to fix the amount the claimant has been damaged or his property depreciated in value by the state road through it in value rests almost entirely on the judgment or opinion of the viewers; the viewers therefore after having carefully viewed and inspected the premises are of the opinion that the claimant derives no special benefits from the construction of said road through his property: That all the benefits he derives is the general benefits that all other residents or property owners living along the said road who are not in the lease damaged or inconvenienced thereby, who have no land taken or suffered the inconvenience the claimant suffers. The viewers are therefore fully convinced, that the property of the claimant has been depreciated in value over and above all the benefits he derived in the sum of four hundred and fifty (\$450.00) dollars.

They therefore appraise or assess the damages that J. C. Kendall the claimant sustained by the construction of the aforesaid state highway through his farm at the aforesaid sum of four hundred and fifty (\$450.00) 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 the subject of a report with that title.~~

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 respectively 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 their damages and make report thereof as follows:

~~and the damages to which they are entitled and report of the viewers.~~

WITNESS our hands and seals this 24th day of July

A. D. 1927.

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.

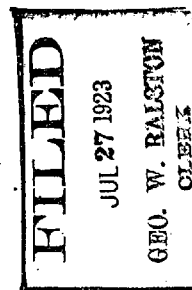
	DAYS	MILES	AMT.

No. 3 Sept Sessions, 1923

ORDER

To view & assess damages to a
road for J. C. KENDALL ~~owner~~ in 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 \$1.25 paid by _____
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