

DOCKET No. 6

Number	Term	Year
4	Dec	1924

Petition of D. D. Miller for viewers
to assess damages in Penn Twp

Versus

In the Court of Quarter Sessions of Clearfield County, Pennsylvania

To the Honorable A. R. Chase,
President Judge of said Court.

Petition of Donald D. Miller, respectfully represents:

That he is and for many years has been the owner of a farm in Penn Township, Clearfield County, Pennsylvania, a more complete description of said land being hereto attached and marked "Appendix A".

That for many years a public road existed through and over the said lands, being the high way from the Borough of Grampian towards Luthersburg.

That a route has been established by action of the Commonwealth of Pennsylvania, known as Route No. and popularly called The Lakes-to-the-Sea-Highway, which is so located as to cross the said lands of the petitioner.

That the said Commonwealth by its officers, agents and contractors, went upon the said lands of the plaintiff and took material portions thereof for the purpose of construction of the said highway, changing the said location from the line of the public road theretofore existing and being a taking of other lands for the said purpose.

That by the construction of said highway across the aforesaid lands of your petitioner, the said property was materially damaged and its market value lessened. The same being effected by the said construction in various particulars, in addition to the amount of land so actually taken.

That your petitioner and the Commissioners of Clearfield County have been unable to agree upon the amount of damages justly payable to your petitioner.

He, therefore, prays your Honorable Court to appoint viewers to appraise and determine damages so suffered, and that further proceedings be had as provided by the Acts of Assembly relating

thereto, and he will ever pray.

Don D. Miller.

Clearfield County: SS:

Before me, the subscriber hereto, came Don D. Miller, who, being duly sworn according to law, deposes and says that the facts set forth in the above petition are true and correct.

Don D. Miller.

Sworn and subscribed before me
this 17th day of September, 1924.

James D. Miller, Justice of the Peace.

MY COMMISSION EXPIRES
FIRST MONDAY IN JANUARY, 1928

APPENDIX A.

All that certain tract or piece of land situate in the Township of Penn, County of Clearfield and State of Pennsylvania, bounded and described as follows, viz:- Beginning at a stone corner thence by lands formerly owned by William Bard north 24° east 192 perches to a cherry; thence by lands of Bornshins north 64° west 80 perches to a locust; thence by lands of Richard Danver south 48° west 99 perches to a hemlock; thence north 64° west 30 perches to a post; thence south 15° west 24 $\frac{1}{2}$ perches to a stump; thence south 4° west 24 perches to a stone; thence south 35 $\frac{1}{2}$ ° west 56 perches to a hemlock; thence by lands formerly of Jeremiah More south 64° east 125 perches to a stone and place of beginning. Containing 141 acres 9 perches and the usual allowance of six per cent for roads.

Excepting and reserving therefrom six acres conveyed to Michael Burns by deed dated October 18, 1901, recorded in Deed Book 120, page 207; and one acre conveyed to Michael Burns by deed dated September 26, 1900 and recorded in Deed Book 121, page 77; also a certain strip of land conveyed to Atherton & Barns by deed dated November 29th, 1901, recorded in Deed Book 121, page 96.

IN THE COURT OF QUARTER SESSIONS, CLEARFIELD CO., PA.

4 Dec 20 1924

In re Petition of D. D.

Miller for Appointment of
Viewers

Now Sept 20th 1924, Frank W. H.

Judge of the

Probate Court

an appointed viewer
to view as provided for
by the act of assembly
of the Commonwealth

of Pennsylvania.

By the court,

J. H. McPherson

FILED

SEP 20 1924

GEO. W. RALSTON

BOWLES, RALSTON & BELL

ATTORNEYS AT LAW

CLEARFIELD, PA.

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APPENDIX A.

All that certain tract or piece of land situate in the Twp. of Penn, bounded and described as follows: viz:- Beginning at a stone corner thence by lands formerly owned by William Bard north 24° east 192 perches to a cherry thence by lands of Bornshins north 64° west 80 perches to a locust; thence by lands of Richard Danver south 48° west 99 perches to a hemlock; thence north 64° west 30 perches to a post; thence south 15° west 24½ perches to a stump; thence south 4° west 24 perches to a stone; thence south 35½° west 56 perches to a hemlock; thence by lands formerly of Jeremiah More south 64° east 125 perches to a stone and place of beginning. Containing 141 acres 9 perches and the usual allowance of six percent for roads.

Excepting and reserving therefrom six acres conveyed to Michael Burns by deed dated October 18, 1901, recorded in Deed Book 120, page 207, and one acre conveyed to Michael Burns by deed dated September 26, 1900 and recorded in Deed Book 121, page 77; also a certain strip of land conveyed to Abberton Burns by deed dated November 29, 1901, recorded in Deed Book 121, page 96.

To The COMMISSIONERS OF CLEARFIELD COUNTY, PENNSYLVANIA

You are hereby notified that the undersigned Viewers, appointed by the Court of Quarter Sessions of Clearfield County, Pennsylvania, to view and assess damages done to the property of D.D.MILLER in Penn Township, caused by the construction of a certain State Highway commonly known as "The Lakes to Sea Highway" through the premises of the said D.D.Miller, will meet at the House of D.D. Miller in said Township of Penn, on Monday the 13th day of October 1934 at ten 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, Pa. on Thursday, the 16th day of October 1934 at ten o'clock A.M. where you may attend and be heard if you so desire.

Dubois, Pa. Sept. 24th 1934

Frank Hulin
J E Fry
J S Michaels

Viewers.

Now Sept. 25, 1934, service of the above notice is accepted for the Commissioners of Clearfield County, Pennsylvania.

L C Morris
Clerk

To The ROAD SUPERVISORS OF PENN TOWNSHIP, CLEARFIELD COUNTY, PENNA.

You are hereby notified that the undersigned Viewers, appointed by the Court of Quarter Session of Clearfield County, Pennsylvania to view and assess damages done to the property of D.D.Miller, in the construction of the State Highway commonly known as The Lakes to Sea Highway, in Penn Township, in the County aforesaid, will meet at the house of D.D.Miller in said Township on Monday the 13th day of October, 1924 at ten o'clock A.M. to attend to the duties assigned them, all parties interested will take notice

And that the required Public Hearing will be held in the Court House in the Borough of Clearfield, Pa. on Thursday, the 15th day of October 1924 at ten o'clock A.M. when and where you may attend if you so desire, and be heard.

DuBois, Pa. Sept. 24th 1924

J. E. Sullivan
J. E. Fry
J. S. Michaels

Viewers.

Now. Sept. 27 1924 service of this notice is accepted for the Road Supervisors of Penn Township

Wm Helfer
Supervisor

To The ROAD SUPERVISORS OF PENN TOWNSHIP, CLEARFIELD COUNTY, PENNA.

You are hereby notified that the undersigned Viewers, appointed by the Court of Quarter Session of Clearfield County, Pennsylvania to view and assess damages done to the property of D.D.Miller, in the construction of the State Highway known as The Lakes to Sea Highway, in Penn Township, in the County aforesaid, will meet at the house of D.D.Miller in said Township on Monday the 13th day of October, 1934 at ten o'clock A.M. to attend to the duties assigned them, all parties interested will take notice.

And that the required Public Hearing will be held in the Court House in the Borough of Clearfield, Pa. on Thursday, the 16th day of October 1934 at ten o'clock A.M. When and where you may attend if you so desire, and be heard.

Dubois, Pa. Sept. 24th 1934

Frank Herlein
J E Fry
J S Michaels

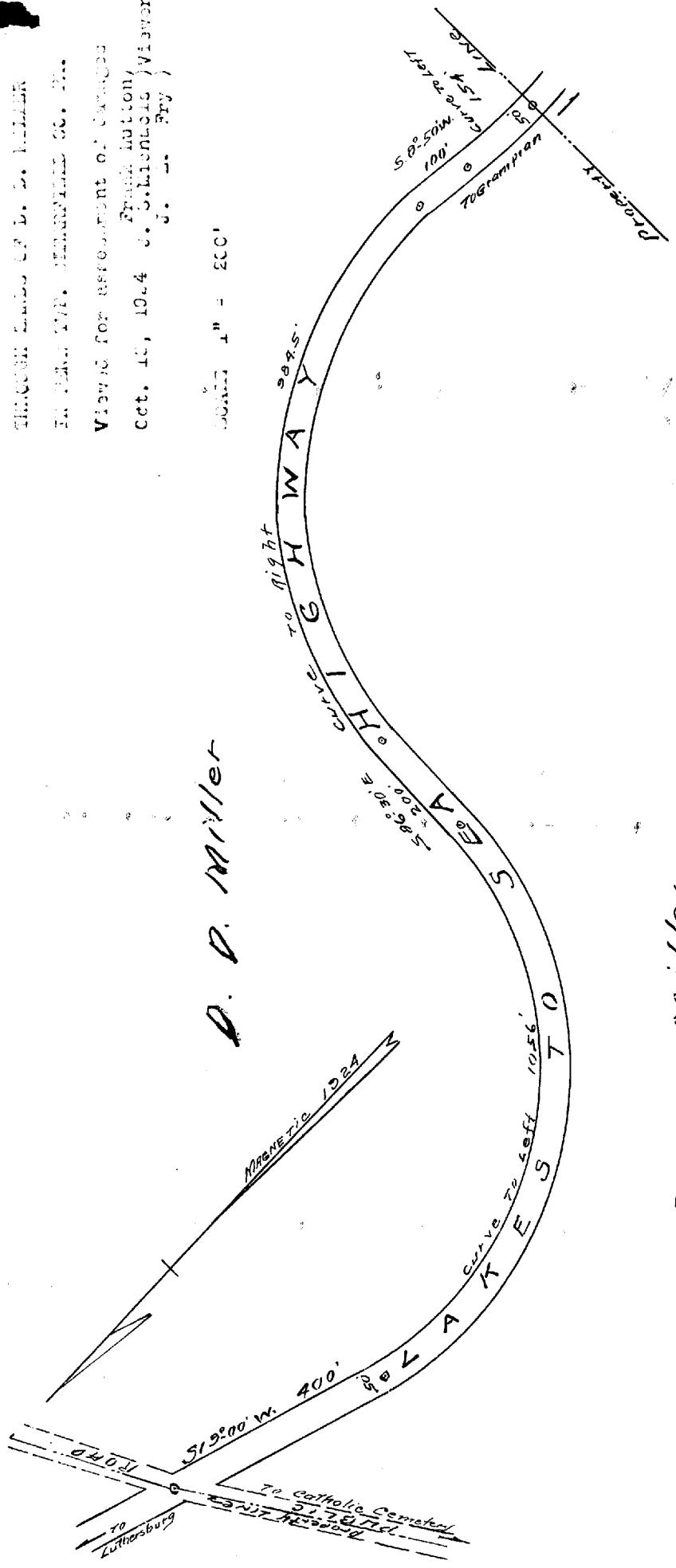
Viewers.

Nov. Sept. 27 1934 service of this notice is accepted for the
Road Supervisors of Penn Township

Wm J Thorpe
Supervisor

"Wadsworth-Curtis" HIGHWAY
CHAS. C. CURTIS, JR. & CO., INC.
111 W. 42nd Street, New York, N. Y.
TELEGRAMS: CURTIS, 26-2222
Warrant for arrestment of Charles C. Curtis, Jr., Frank J. Johnson, J. J. Winters,
Oct. 14, 1964. J. J. Winters, J. J. Fry

220 C.



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 20th day of September in the year of our Lord one thousand nine hundred twenty four

D. D. Miller
Judge of the same Court: Upon the petition of ~~Andrew~~
~~John~~ of the Township of Penn

in said County, setting forth that he is the owner of a farm in Penn Twp. a more complete description of said land being hereto attached and marked "Appendix A". That for many years a public road existed through and the said lands, being the highway from the Boro of Grampian towards Luthersburg. That a route has been established by action of the Comth. of Penn, popularly called The-Lakes-to-the-Sea-Highway which is so located as to cross the said lands of the petitioner. That by the construction of said highway, the said property was damaged and its market value lessened.

and therefore, praying the Court to appoint proper persons to ~~view and lay out the road~~ assess damages 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 Frank Hutton, Esq.
J. E. Fry, Esq and Jack 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.

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 Supervisors of the Township of

Penn and that three notices thereof were posted along the route of the proposed road, that the said view would be held on the 13th day of October

A. D. 1924, and the hearing to be held in the Arbitration Room, at the Court House, in Clearfield, Pa., on the 16th day of October, 1924, at 10 o'clock A. M. That

all the viewers appointed by the said order viewed the ground proposed for the above mentioned road, and that there were present at the view D. D. Miller and Wm Helper

one of the Supervisors of Penn Twp

parties in interest. That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the 16th day of October A. D. 1924, when the following appearances were noted: Cortez Bell, Esq. of Bell, Roulton and Forsythe Atty's for petitioner, Greighton Norris, Clerk of the County Commissioners D. D. Miller, Wm. T. Thorpe and Wm Helper citizens of Penn Twp and witness-ees on behalf of the petitioner, each of whom were affirmed, examined cross examined by the Viewers

After the view and hearing above mentioned, the undersigned, the majority of the said damages have been sustained by the petitioner viewers, do agree that there is no 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 use the following described road, to wit Beginning

We find that Route #59 of the State Highway system of roads, commonly known as "The Lakes to Sea Highway" runs through the farm of the petitioner in Penn Twp, Clearfield Co. Pa. approximately 2900 feet, that no portion of it occupies the same ground as the original highway through this premises, that a portion of the land so occupied was improved farm land in good state of cultivation, that a portion was cleared land used principally for grazing and still another portion was wood land on which was a good stand of second growth timber some of it white pine and large enough for marketing and sawing, that the road as layed out and constructed, necessitated the petitioner to construct a private roadway from his residence and buildings to the State Highway and to maintain at his expense a portion of the old road for the convenience and use of certain tenement houses, that there is a 33 inch seam of coal not yet worked, some 25 or 30 feet beneath the surface of said Highway. The amt of damage as testified to by the petitioner is \$1000.00. one witness testified that the property was depreciated \$1000.00 another fixed it at \$1200.00.

After being on the land and viewing the location and conditions as they now exist and hearing the evidence as to its acreage value and timber destroyed your viewers are of the opinion that this is excessive, that along with the damage done, there are benefits also., that the petitioner should be compensated for his land taken and occupied and his timber destroyed

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: To D. D. Miller Five Hundred (\$500.00) Dollars

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

WITNESS our hands and seals this 17th day of October

A. D. 1924.

Frank Hyatt Seal
J. C. Tay Seal
J. S. Michaels Seal
Seal

No. 4 Dec 24 Sessions, 1924

ORDER

To view and assess damages to
~~the~~ D. D. Miller ~~residence~~
township of Penn _____,
Clearfield County _____,
Now has - 2 S^{cc} = 1 24
Sessions, 19 _____,
at the time of the
read and confirmed At. St. _____
opened 33 feet wide, except where there
is side hill cutting or embankment and
bridging, there to be 16 feet wide.

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.

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By the end
of the year
1870.

Filed 19
Fees \$1.25 paid by Bell, Boulton & Forseyth, At



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 af 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