

Road DOCKET No. 6

Number	Term	Year
6	Sept	1925

Petition of Mrs Phoebe Ibbeson for  
Appt. of Viewers to assess damages  
in Decatur Twp

**Versus**

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

In re: Appointment of viewers :  
for land of :  
Mrs. Phoebe Ibbeson, :  
Decatur Township. :

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

Petition of Mrs. Phoebe Ibbeson respectfully represents:

FIRST: That she is the owner of a piece of land, situate in Decatur Township, Clearfield County, Pennsylvania, bounded and described as follows:

Beginning at a stake in the northerly side of a township road leading from Osceola to Houtzdale, being the southeasterly corner of a parcel of land conveyed to the Decatur Township School Board by Indenture dated July 19, 1925, thence by the easterly line of same north twenty-two (22) degrees twenty-eight (28) minutes west one hundred eighty-five and six-tenth (185 6/10) feet to a stake; thence parallel to and forty-five (45) feet distant from the center line of the Moshannon Branch of the Pennsylvania Railroad; north seventy-four (74) degrees fifty-six (56) minutes east two hundred sixty-nine and two-tenth (269 2/10) feet to a stake; thence by other lands of grantor, South twenty-two (22) degrees twenty-eight (28) minutes east one hundred fifty-two and eight-tenth (152 8/10) feet to a stake in the northerly side of the aforesaid Township Road; and thence thereby south sixty-seven (67) degrees thirtytwo (32) minutes west two hundred sixty-seven (267) feet to place of beginning, containing one (1) acre. Which property was conveyed to your petitioner by a deed from the Kittanning Coal Company, dated 31st day of May 1917 and recorded in Clearfield County in Deed Book 233, page 508.

SECOND: A public road has long since existed, running from the Borough of Osceola to the Borough of Houtzdale and adjoining said land.

THIRD: The aforesaid public road has been improved as a permanent highway, by the Commonwealth of Pennsylvania, County of Clearfield, and has been relocated so that, by the new location thereof, a strip of land, approximately two hundred sixty-seven (267) feet in length and being approximately seven (7) feet wide at one end and approximately four and three-tenth (4.3) feet wide at the other end, has been taken for the purpose of construction of said highway.

FOURTH: That the Commonwealth of Pennsylvania, by its officers, agents and contractors, went upon said lands of your

petitioner and took a material portion thereof for the purpose of construction of state highway and appropriated the land of your petitioner for such highway purposes.

FIFTH: That said Commonwealth as aforesaid, in the course of construction of said highway has built a high embankment across the land of your petitioner, within approximately six or eight feet of the porch of your petitioner's house, and necessitating the removal of the coal shed, barn, fence and other property of your petitioner, as a result of which the fair market value of your petitioner's property has been greatly lessened and the value of said property materially diminished.

SIXTH: That your petitioner made an effort to adjust this matter with the County Commissioners of Clearfield County, to avoid controversy, but no agreement has been reached.

WHEREFORE your petitioner prays your Honorable Court to appoint viewers to appraise the damages so suffered, and that further proceedings be had as provided by the Acts of Assembly relating thereto.

X Phoebe Ibbeson

State of Pennsylvania : ; ss  
County of Clearfield :

Before me, the subscriber hereto, came Mrs. Phoebe Ibbeson, who being duly sworn according to law, deposes and says the facts set forth in the above petition are true and correct.

X Phoebe Ibbeson

Sworn and subscribed to before me  
this 6th day of July, A. D. 1925.

Hatty Bell  
Notary Public

MY COMMISSION EXPIRES MARCH 5, 1927

ORDER

Now, this  $7\frac{1}{2}$  day of July, 1925, the within petition having been read and considered, *A. G. Kanner Esq., Harry Reese & George Weber* are appointed viewers to proceed as required by the Acts of Assembly relating thereto.

*By the Court*  
*A. R. Ghose -*  
*P. J.*

IN THE COURT OF QUARTER  
SESSIONS OF  
CLEARFIELD COUNTY, PA.  
6 Sept 20 1923

In re:

Appointment of viewers for  
land of  
Mrs. Phoebe Ibbeson,  
Decatur Township

PETITION OF

MRS. PHOEBE IBBESON

HED  
GEO. W. & J.  
TOM. R. IBBESON  
MONONATION

BOULTON, FORESTH & BELL  
ATTORNEYS AT LAW  
CLEARFIELD, PA.

IN THE COURT OF Common Pleas OF CLEARFIELD COUNTY.

Plaintiff Phoebe Gibson Of 6 Session Term, 190.....  
 No. Plaintiff Bill of Costs  
 Versus At Term, 190.....  
Clearfield County

		Dollars	Cents
<u>James C. Gibson</u>	1 Days in attendance..... Miles direct travel	<u>3</u>	<u>32</u>
<u>Elvira Gibson</u>	1 Days in attendance..... Miles direct travel	<u>3</u>	<u>32</u>
<u>William Gibson</u>	1 Days in attendance..... Miles direct travel	<u>3</u>	<u>32</u>
<u>Samuel Cattung</u>	1 Days in attendance..... Miles direct travel	<u>3</u>	<u>32</u>
	Days in attendance..... Miles direct travel	<u>73</u>	<u>28</u>
	Days in attendance..... Miles direct travel		
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	Serving subpennas..... Witness.....		
	Miles distance.....		
	Whole amount of bill.....		

CLEARFIELD COUNTY, SS:

Personally appeared before me..... Kathy Bell, who being duly sworn, saith the above Bill of Costs is correct, that the witnesses named were ~~and~~ necessary, material, and in attendance as above stated, and that the milenghe is correct as he believes.

Sworn to and subscribed before me this  
 31 day of July, A. D. 190..... Kathy Bell  
Gus H. Palstoy, Prothonotary

Road D.

No. 6. ~~of the~~ Massachusetts 1900.

Dock Street

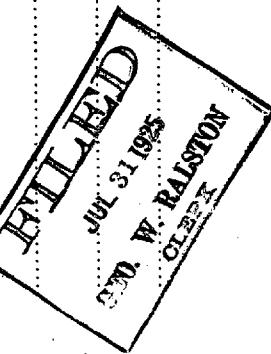
versus  
Cleather Co. T.

Plaintiff Bill of Costs

For ..... Term 1900 .....

Date ..... 1900 .....

Amount - - - \$ 12.28



Beginning at a stake in the northerly side of a township road leading from Osceola to Houtzdale, being the southeasterly corner of a parcel of land conveyed to the Decatur Township School Board by Indenture dated July 19, 1925, thence by the easterly line of same north  $22^{\circ} 28'$  west 185  $6/10$  feet to a stake; thence parallel to and 45 feet distant from the center line of the Moshannon Branch of the Pennsylvania Railroad; north  $74^{\circ} 56'$  east 269  $2/10$  feet to a stake; thence by other lands of grantor, south  $22^{\circ} 28'$  east 152  $8/10$  feet to a stake in the northerly side of the aforesaid Twp. Road; and thence thereby south  $67^{\circ} 32'$  west 267 feet to place of beginning. containing one acre. Which property was conveyed to your petitioner by a deed from the Kittanning Coal Co. dated 31st day of May 1917 and recorded in Clearfield County in Deed Book 233, page 508.

A public road has long since existed, running from the Boro of Osceola to the Boro. of Houtzdale and adjoining said land.

The aforesaid public road has been improved as a permanent highway, by the Comth. of Penna. and has been relocated so that, by the new location thereof, a strip of land, approximately 267 feet in length and being approximately 7 feet wide at one end and approximately  $4 \frac{3}{10}$  feet wide at the other end, has been taken for the purpose of construction of said highway

Your petitioner has been unable to agree with the County Commissioners as to the damages received by said change of road

the adjoining property owner for a road into her lot or make a road up over her lot doing considerable damage to her lot which adds to her damages as it has been decided that the inconveniences the party suffers has a right to be taken into consideration in computing the damages the claimant suffers as he may be damaged as much by the inconveniences than by the land taken. Allison, vs E, M, Biglow 68, Superior Court Report page 219.

Nor are the viewers bound by the testimony produced at the hearing which in this case are somewhat conflicting varying as to the amount of damages the claimant sustains from one thousand dollars down to three hundred dollars and therefore impossible to be guided by the testimony in fixing the damages the claimant suffered or sustained neither are the viewers bound by the testimony: It has been decided. That the viewers are appointed to view the premises and from the view and the testimony produced to acquire all the information possible and therefrom to arrive at a final conclusion, which does not concide with the testimony or the opinion of the viewers and is perfectly proper and highly advisable to seek all the light afforded by the testimony of the witnesses: But as the evidence as to the amount of damages and the value of the property is after all but the mere opinion of the witnesses, and unless it coincides with the judgment of the viewers is not and should not in itself be conclusive upon their action or finding. The primary duty is to view the premises and then to reconcile the testimony as near as possible with the view: In Re Barbadoes Street Norristown, 8, Phila, Report, page 498.

The viewers therefore after duly considering the benefits derived by the claimant from the state road past her property and the increase in the value of her property thereby as well as the testimony produced at the hearing are fully convinced does not cover the cost or expense of replacing the fence destroyed along the front of her property necessary to keep the cattle pasturing on the commons near her property from trespassing on her property to protect her garden and vagatables and garden truck The cost or expense of the moving of her stable and coal house to replace

TO: Jesse, E, Dale, T, R, Weimer and B, W, McCracken; County Commissioners of Clearfield County Pennsylvania.

You are hereby notified, that the undersigned viewers, appointed appointed by the Court of Quarter Sessions of Clearfield County Pennsylvania to view and assess the damages that Phoebe Ibbeson of Decatur Township County and State aforesaid has sustained by the change of the bed of the location of the State Highway between Osceola and Houtzdale through her property in Decatur Township in the County and State aforesaid by extending through her property a distance of two hundred and sixty seven (267) feet in length and other alledged damages done to her property.

You are therefore hereby notified, that the said viewers will meet on the premises of the said Phoebe Ibbeson in Decatur Township County and State aforesaid on Thursday July 30th 1925 at (9.30) o'clock A. M. to attend to the duty assigned them, of which time and place aforesaid you 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 a chance to be heard; will be held in the Arbitration Room in the Court House in Clearfield Pa, on Friday July 31, A. D. 1925 at nine thirty (9.30) o'clock A. M. at which time and place all parties interested may appear and be heard.

A. G. Kramer  
H. A. Reese  
Geo K. Weber

VIEWERS.

Now July 19 1925 service accepted for the County Commissioners of Clearfield County Pennsylvania.

L. C. Morris  
Clerk.

TO:- Mrs. Phoebe, Ibbeson:- You are hereby notified, that the undersigned viewers appointed by the Court of Quarter Sessions of Clearfield County Pennsylvania to view and assess the damages that you sustained by the change of the route or roadbed in the construction of the State Highway from Osceola to Houtzdale in Decatur township county and State aforesaid; through your property by having taken a strip of your land and other alleged damages done to your property:

You are therefore hereby notified, that the said viewers will meet on your premises in Decatur Township in the County and State aforesaid on Thursday July 30th 1925 at 9.30 o'clock A. M. to attend to duty assigned them of which time and place aforesaid you 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 a chance to be heard: will be held in the Arbitration Room in the Court House in Clearfield Pa on Friday July the 31, A. D. 1925 at nine thirty (9.30) o'clock A. M. at which time and place all parties interested may appear and be heard.

A G Kramer

H R Reese

Geo K Weber

VIEWERS.

Now July 21 1925 service accepted for Mrs Phoebe Ebbeson  
and personal service waived.

Bill Poulton Shayth  
Atty for Plaintiff

Lot in Decatur Township  
Clearfield County PA  
Young & Son's Construction of Decatur  
July 30, 1945 by A.G. KRAMER  
A. REESE  
Geo. K. WEBER

R. & R. V. PAR.  
Acre

DECATOR  
SCHOOL DIST.

MRS. BESON LOT

K.C.C.

152.5

Double  
House

1/16 Acre

1/16 Acre

1/16 Acre

1/16 Acre

DRY STONE WALL

1/16 Acre

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 7th day of July  
in the year of our Lord one thousand nine hundred twenty five

Mrs Phoebe Ibbeson

Judge of the same Court: Upon the petition of ~~subscribers~~  
~~subscribers~~ of the Township of Decatur

in said County, setting forth that she is the owner of a piece of land situate in Decatur Twp. bounded and described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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  
Harry Reese and GEO. K. WEBER

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 ~~viewers~~ ~~viewers agreed 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.

# 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~~

~~and the~~ ~~notices thereof were posted along the route of the~~  
~~proposed~~, that the said view would be held on the 30th day of July,

A. D. 1925, and the hearing to be held in the Arbitration Room, at the Court House, in Clearfield, Pa., on the 31st day of July, 1925, at 9.30 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

at the view besides the viewers Mrs Phoebe Ebbison, the claimant and William Ebbison and Samuel Cartwright;

Grand Jury  
parties in interest. That the hearing was held in the ~~Arbitration~~ Room, in the Court House, at Clearfield, Pa., on the 31d day of July A. D. 1925, when the following appearances were noted: Mrs Phoebe Ebbison, the claimant and William Ebbison James Ebert and Samuel Cartwright as witnesses with Cortiz Bell Esq Attorney for the Petitioner; And Jesse E Dale, T. R. Weimer and B. W. McCracken the county commissioners with their Attorney A. M. Liveright Esq. And after hearing the parties interested and their witnesses; --

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 no return for ----- use the following described road, to wit

Beginning ----- And after having made the view and heard the testimony produced ----- find the facts as follows: to wit: That Mrs Phoebe Ebbison is the owner of one acre of land situate in Decatur Township Clearfield County Pennsylvania along the highway, leading from Osceola Mills to the Borough of Houtzdale on Highway route number ----- on which she has erected a house and barn and a coal house:

That the State Highway Commissioner has lately improved said highway and by widening the rail highway bed has taken and occupies a strip of her land along the front of her lot and buildings approximately seven (7) feet in width at the one end and four and three tenth (4.3) feet at the other end, and two hundred and sixty seven (267) feet in length, making a fill along the entire length of her lot in front of her buildings and all the way along the front of her lot a bank from two and one half by three and one half (3.5) feet in height, requiring four steps to get up or down from the road to her house or up from the house or porch onto the highway. Also requiring her to move her stable back onto her lot several feet and destroying her coal house requiring her to build a new coal house

And in order to put the house and the surroundings in as good a condition as it was before will require the raising of the house and porch along the front of the house some three feet in height and the foundation of the house and porch will have to be raised the same in heights at a considerable expense or cost or endure the inconvenience of steps from the house or porch in order to get ----- down from the road ----- is house or porch ----- up onto the road and the inconvenience of getting into her stable and coal house having either to buy a strip of land from

the one destroyed, the cost of putting down steps from the road to the porch in the front of her house, the inconvenience of access to, the front of her house, the value of the land taken, the inconvenience of getting in to her barn and coal house exceed in the opinion of the viewers the benefit derived or any increase to the value of her property by the construction of said road along the front of her property does not increase its value but instead thereof decreases the value thereof two hundred and fifty (\$250.00) dollars and therefore assess the damages of the claimant at the said sum of two hundred and fifty (\$250.00) 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 <sup>lot</sup>

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, to assess their damages and make report thereof as follows:

and we herewith return releases obtained and copy of the same

WITNESS our hands and seals this Fourth day of August:

A. D. 1925.

A. G. Kramer

Seal

K. A. Reese

Seal

G. K. Weber

Seal

Seal

No. 6 Sept Sessions: 19 25

## ORDER

To view and assess damages to  
Mrs Phoebe Tobeson  
~~as well as~~ use in the  
township of Decatur  
Clearfield County

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 arrangement, they will report to that effect.

Now I do not know if this  
report of mine having been  
on file for a period of 30  
days and no objections  
filed to said report, the  
same is confirmed absolutely.  
By the Court

W. H. Chase  
S. C.

Filed 19 Fees \$1.25 paid by .

Bell, Boulton & Forsyth, Atty's.

## 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.

*Seal.*

Seal

Seal.