

DOCKET No. 6

Number	Term	Year
<u>11</u>	Dec	1925

Petition of U. B. Christ Church  
for Appt. of viewers to assess  
damages in Chest Twp  
**Versus**

X

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

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

Petition of the United Brethren in Christ Church, located in Chest Township, Clearfield County, Pennsylvania, respectfully represents:

FIRST: That it is an unincorporated association, being a religious body, to wit, - a congregation under the laws and authorities of that body of worshippers known as United Brethren in Christ.

SECOND: That it is the owner of a certain parcel of land situate in Chest Township, Clearfield County, Pennsylvania, specifically described as is set out in Exhibit "A" hereto attached and made a part hereof.

THIRD: That, upon said parcel of land, immediately prior to the doing of the acts herein stated, there was located upon the said parcel of land a church building, used for the regular services of the congregation and also a residence building known as the parsonage for the various uses and purposes of the congregation, with garden and adjoining grounds, and also a certain farm building used for protection, from the weather, of vehicles and horses, and for other purposes incident to the purposes of the congregation, and also certain other buildings used by the congregation for its various purposes.

FOURTH: That the said parcel of land eas bounded upon one side by a public road, which has long existed, running from the Borough of Newburg to the Borough of Westover within Clearfield County, Pennsylvania.

FIFTH: That the aforesaid road has, during the year 1925, been improved by the Commonwealth of Pennsylvania as a permanent highway, being known and designated in the highway system of said commonwealth as route 221.

SIXTH: That the Commonwealth of Pennsylvania, acting by its officials and agents and employees and contractors, has relocated portions of the said road, causing a change in the lines and location thereof, and has, by such relocation taken a strip of land, which was the property of your petitioners, approximately 150 feet in length and approximately forty (40) feet in width, the precise width of said taking and appropriation being unknown to the petitioner, and has proceeded to construct upon said strip of land, so taken, a highway, having a hard surface, sixteen feet in width with berm on either side and, where said improved road crosses the land of your petitioners has erected a fill raising the surface of the road materially above the surface of the adjoining land.

SEVENTH: That, by such construction and appropriation, the farm building, used for purposes of shelter as aforesaid, has been totally destroyed, a large part of the valuable land, including the garden, has been taken and the access to the remaining buildings greatly impaired and affected, and also the said parcel of land is now divided into two portions, separated by the highway aforesaid.

EIGHTH: That, by the appropriation of land, the destruction of a building thereon erected, the changing of location of highway and the separation of the parcel of land into two fragments, the value and convenient use of your petitioners' property has been greatly diminished.

NINTH: Wherefore, your petitioner prays your Honorable Court that viewers may be appointed to appraise or determine the damages so suffered, and such further proceedings be had as provided by the Acts of Assembly relating thereto.

And it will ever pray.

*W. H. Michael* UNITED BRETHREN OF CHRIST CHURCH  
By *Thomas Michael* Minister  
*Wm. H. Cussey* Trustees  
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EXHIBIT "A"

All that certain parcel of land situate in Chest Township, Clearfield County, Pennsylvania, originally conveyed in two purparts, the first being by deed by E. A. Irvin and wife dated August 12, 1893, and recorded in Deed Book 79, page 208, bounded and described as follows:

Beginning at a post on public road near bld Wagner house; thence south eighty-eight (88) degrees thirty (30) minutes east thirteen and four-tenth (13 4/10) perches to post on line of D. W. Michaels; thence by same north twenty-two (22) degrees thirty (30) minutes west, ninety (90) perches to post; thence by land of E. A. Irwin north eighty-eight (88) degrees thirty (30) minutes west six and nine-tenth (6 9/10) perches to post on public road; thence by said public road south twenty (20) degrees fifteen (15) minutes west eight and six-tenth (8 6/10) perches to post and place of beginning. Containing seventy-seven and nine-tenth (77 9/10) perches more or less.

The Second Thereof:- Being by deed from D. W. Michaels and wife, which deed has been lost or mislaid, the premises conveyed being a small piece of land immediately adjoining that hereinbefore described and the whole being a single property with well defined and apparent boundaries; and the buildings and improvements being erected upon the whole property, partially upon one portion thereof and partially upon the other.

Clearfield County, SS

Before me, the subscriber hereto, came  
*Ross H. Henry* who, being sworn according to law, deposes  
and says that the facts set forth in the above petition are true  
and correct.

*Ross H. Henry*

Sworn and subscribed to before me  
this 29 day of October, A.D. 1925.

-- *Devinchael* --

*Ross H. Henry*  
Commission Expires Feb.  
Monday in January, 1926.

ORDER

Nov, November 5<sup>th</sup> 1925, petition considered and

*W. J. E. True, James Stangle*

are appointed viewers to appraise the damages, and otherwise proceed as provided by the Acts of Assembly relating thereto.

*By the Court*

*A. K. Blaies*  
*J. J.*

11 Dec - 1925

Mr. John W. McLean  
Attala County  
Mississippi

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

COMMERCIAL PRINTING CO., CLEARFIELD, PA.

IN THE COURT OF Quarter Sessions OF CLEARFIELD COUNTY,

United Bullock et al.  
Christ Church

Versus

Clearfield County

Of Dec Term, 190...

No. 11

Plaintiff Bill of Costs

At Dec Term, 190...

		Dollars	Cents
<u>Rev E. Dunkelbarger</u>	Days in attendance	<u>4</u>	<u>00</u>
<u>W. H. Murchals</u>	Days in attendance	<u>4</u>	<u>00</u>
<u>Clay J. Huff</u>	Days in attendance	<u>4</u>	<u>00</u>
	Miles direct travel	<u>17</u>	<u>20</u>
	Days in attendance		
	Serving subpaenas		
	Miles- distance		
Whole amount of bill			

CLEARFIELD COUNTY, SS:

Personally appeared before me Rev E E. Dunkelbarger, 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

8th day of January, A. D. 1900

Geo W. Palstoy, Prothonotary

E E. Dunkelbarger

No. 16..... Date 11 Term 1901

John T. Bullock vs  
Charles Shumay

Versus

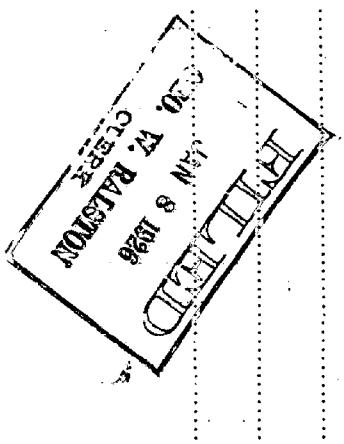
Mayfield Corp.

Plaint..... *Bill of Costs*

For..... Term 1901

Date Jan. 8 1901

Amount - - - \$ 17.25



Beginning at a post on public road near old Wagner house; thence south  
thence south  $88^{\circ} 30'$  east  $13 \frac{4}{10}$  perches to post on line of D.W. Michaels  
thence by same North  $22^{\circ} 30'$  west, 90 perches to post: thence by land of  
E. A. Irvin North  $88^{\circ} 30'$  West  $6 \frac{9}{10}$  perches to post on public road:  
thence by ssid public road south  $20^{\circ} 15'$  west  $8 \frac{6}{10}$  perches to post and  
place of beginning. Containing  $77 \frac{9}{10}$  perches more or less

The Second Thereof. Being by deed from D. W. Michaels and wife, which deed  
has been lost or mislaid, the premises conveyed being a small piece of  
land immediately adjoining that hereinbefore described and the whole being  
a single property with well defined and apparent boundaries and the build-  
ings and improvements being erected upon the whole property, partially  
upon one portion thereof and partially upon the other.

That the said parcel of land was bounded upon one side by a public  
road, running from the Boro of Newburg to the Boro of Westover.

That during the year 1925 the Comth of Penna. has relocated portions  
of said road, causing a change in the lines and location thereof, and the  
value and convenient use of your petitioner's property has been greatly  
diminished.

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 5th day of November in the year of our Lord one thousand nine hundred twenty five

United Brethren in Christ Church  
Judge of the same Court: Upon the petition of sundry inhabitants of the Township of Chest in said County, setting forth that it is the owner of a certain parcel of land situate in Chest Twp.

assess damages

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 John Scollins, Esq., J. E. Frye and James Spangle

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. Ralston, Clerk.

# RETURN OF VIEWERS

To the Honorable the Judge of the Court of Quarter Sessions of the Peace for the County of Clearfield:

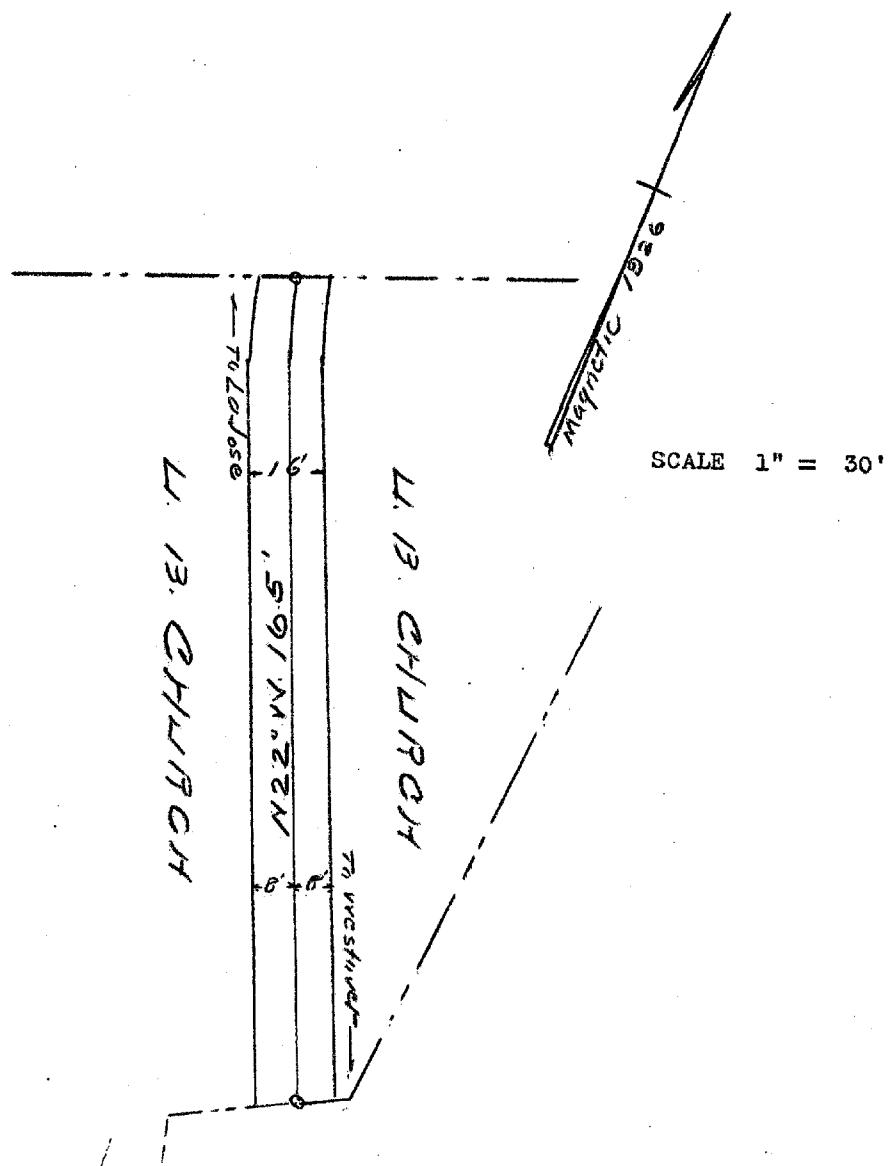
We, the undersigned viewers, duly appointed by your Honorable Court by the foregoing order from and among the County Board of Viewers who have been duly appointed by your Honorable Court and have filed their oaths of office in the Court of Common Pleas of Clearfield County, be leave to report as follows:

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 Trustees of the United Brethren in Christ Church, the Petitioner, and that~~ ~~three~~ notices thereof were posted along the route of the proposed road, that the said view would be held on the 7th day of January A. D. 1926, and the hearing to be held in the Arbitration Room, at the Court House, in Clearfield, Pa., on the 8th day of January, 1926, at 10 o'clock A.M. That three viewers appointed by the said order viewed the ground proposed for the above mentioned road, and that there were present at the view F. Cortez Bell, Esq., Rev. E. E. Dunkleberger, John Z. Kitchen, Jos. Dunkleberger, Quentin Neff, Raymond Kuntzman, William Michaels, D. W. Michaels, Ross Curry, William Michaels

parties in interest. That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the 8th day of January A. D. 1926, when the following appearances were noted: F. Cortez Bell, Esq., for Petitioner; A. M. Liveright, Solicitor, B. W. McCracken and J. E. Dale, County Commissioners; Rev. E. E. Dunkleberger, Pastor; W. H. Michaels, Clair J. Neff, witnesses, sworn, examined and cross-examined by Counsel and your Board.

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~~ use the following described road, to wit: ~~Beginning~~ find and return that damages have been sustained by petitioner; that petitioner is the owner of a certain lot or parcel of ground in Chest Township, Clearfield County, upon which is erected the Church property, parsonage and necessary outhBuildings; and that Route 221 of the Pennsylvania State System of Highways leading from LaJose to Westover has been relocated and improved as a permanent highway, and that by the relocation and construction thereof a strip of petitioner's land comprising .087 acres in area, 16 feet in width and appurtenances for berm-bank running North 22 degrees West 165 feet in length, was taken as shown on plan or draft thereof hereto attached and made a part hereof. That in the relocation and construction of said highway over and across petitioner's land necessitated the removal of petitioner's Barn 18'x 20', toilet or out-house and chicken-house located on the site thereof, and destroying the garden of the parsonage. The amount of damage as testified to by the Pastor, trustees and witnesses, is \$1000.00.

After viewing the premises and conditions and hearing the evidence, and taking into consideration the benefits accruing thereto by reason of the improvement of said Route #221 as a permanent Highway, your Board is of the opinion that the foregoing estimate is excessive, but that the petitioner should be compensated for the land taken and occupied and the damages caused to it.



ROAD VIEW - - ASSESSMENT OF DAMAGES +  
 IMPROVED HIGHWAY LEADING FROM NEWBURGH  
 BOROUGH TO WESTOVER BOROUGH THROUGH LANDS  
 OF UNITED BRETHERN IN CHRIST CHURCH IN  
 CHEST TOWNSHIP, CLEARFIELD COUNTY, PENNA.  
 DISTANCE 165 FEET.

LAND TAKEN FOR ROAD 0.087 ACRES.

VIEWED JANUARY 7, 1926.

JOHN SCOLLINS)  
 JAMES SPANGLE) VIEWERS.  
 J. E. FRY )

To: Trustees of the United Brethren in Christ Church of Chest Township, Clearfield County:

You are hereby notified that the undersigned viewers, appointed by the Court of Quarter Sessions of Clearfield County, Pennsylvania, in re: No. 11, December Sessions, 1925, to view and assess damages done to the property of the United Brethren in Christ Church in the construction and relocation of the State Highway leading from the Borough of Newburgh to the Borough of Westover in Clearfield County aforesaid, will meet at the United Brethren in Christ Church in Chest Township on Thursday, the 7th day of January, A. D. 1926 at ten-thirty (10:30) o'clock A. M., to attend to the duties assigned them; all parties interested will take notice.

And that the public hearing as required by Act of Assembly and 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 said damages an opportunity to be heard will be held in the Arbitration Room in the Court House in Clearfield on Friday, the 8th day of January, A. D. 1926 at ten (10:00) o'clock A. M., or as soon thereafter as counsel can be heard, at which time and place all parties interested may attend and be heard.

W. Scallion  
J. C. Frey  
James Spangle

Dated, December 21st, 1925

Viewers

Clearfield County, SS:

Now, this 23<sup>rd</sup> day of December, A.D. 1925, service of the above Notice is accepted for the petitioner, Trustees of the United Brethren in Christ Church.

Bill Gauly & Foyth  
Attorney for Petitioner

To: The County Commissioners of Clearfield County, Penn'a:

You are hereby notified that the undersigned viewers, appointed by the Court of Quarter Sessions of Clearfield County, Pennsylvania, in re: No. 11, December Sessions, 1925, to view and assess damages done to the property of the United Brethren in Christ Church in the construction and relocation of the State Highway leading from the Borough of Newburgh to the Borough of Westover in Clearfield County aforesaid, will meet at the United Brethren in Christ Church in Chest Township on Thursday, the 7th day of January, A. D. 1926 at ten-thirty (10:30) o'clock A. M., to attend to the duties assigned them; all parties interested will take notice.

And that the public hearing as required by Act of Assembly and 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 said damages an opportunity to be heard will be held in the Arbitration Room in the Court House in Clearfield on Friday, the 8th day of January, A. D. 1926 at ten (10:00) o'clock A. M., or as soon thereafter as counsel can be heard, at which time and place all parties interested may attend and be heard.

John Scallion  
J. C. Dry  
James Spangler  
Viewers

Dated, December 21st, 1925

Clearfield County, SS:

Now, this 23 day of December, A.D. 1925, service of the above notice is accepted for the Commissioners of Clearfield County.

L. C. Morris,  
Clerk

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 the United Brethren in Christ Church the sum of Two Hundred (\$200.00) Dollars.

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

WITNESS our hands and seals this 18th day of February

A. D. 1926.

*John Seepink* Seal  
*J. O. Hay* Seal  
*James F. Spangle* Seal  
Seal

No. 11 Dec Sessions, 19 25

## ORDER

To view and assess damages to  
United Brethren in Christ Church  
TAXATION  
TOWNSHIP  
Chest  
Clearfield County  
June Thirteenth 1925 = 1925

read and confirmed Ni. Si. Read to be  
opened 33 feet wide where there  
is a suitable cutting or embankment and  
bridges to be 16 feet wide  
By the court  
J. H. Head, P. J.

June 26 1925  
confirmed and signed  
by the court  
J. H. Head

19  
Fees \$1.25 paid by \_\_\_\_\_  
Bell, Boulton & Forsyth, Atty's

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.

Viewers cannot interfere with the damages assessed by the original viewers, except so far as the location may be changed by the viewers.

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.

## 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. 1925.

Seal  
Seal  
Seal  
Seal

