

DOCKET No. 6

Number	Term	Year
13	Sept	1925

Petition of E. A. Thompson for viewers
to assess damages in Greenwood Twp

Versus

.....
.....
.....

E. A. Thompson (No. Dec. Sess. 1925.
- vs. -

Commissioners of } Road View -
Clearfield County

Witnesses Costs at hearing on Oct. 14 - 1925.

\$ 3.00
2.80
<u>\$ 5.80</u>

W. J. Thorp. one day }
28 miles }

\$ 3.00
4.80
<u>\$ 7.80</u>

Chas. Thorp. one day
48 miles

SCHEDULE #A"

Beginning at a red oak on the bank of the west Branch of the Susquehanna river; thence extending North 15² West- 220 perches to a chestnut; thence by remainder of the tract North 75° East, 84 perches to a post; thence by A. Woodside's land, south 15° East, 246 perches to a white oak corner on the river; thence up said river, the several courses and distances thereof to the red oak and place of beginning. Containing 122 acres and 122 perches and allowance.

Beginning at a white oak on the river bank; thence up said river North 50° West 15¹/₂ perches to an old white oak (down), thence by above described piece North 15° West, 90 perches to a stone heap; thence by land of William Haslett, deceased, south 43° east, 66 perches to a stone heap and South 13° West, 49 perches to beginning, containing 10¹/₄ acres.

Beginning at a fallen hickory, corner of tracts Nos. 3562 and 3565; thence by land granted to George Elder, South ---- perches to bank of the river; thence down said river its several courses and distances to a fallen black oak and corner of land described above; thence along the same North 14° West, 227 perches to a chestnut, thence North 76° East, 87 perches to a post; thence south 14° east, 26 perches to land of Nicholas McCracken; thence south 62° 110 perches to post; thence north 12° west, 40 perches to hemlock thence North 21° East, 18 perches to hemlock; thence north 5° West, 24 perches to hemlock; thence north 39¹/₂° West, 6¹/₂ perches to hamlock; thence North 41¹/₂° West, 54 perches to hamlock; thence North 1° West, 35 perches to hemlock; thence North 39¹/₂° West, 7 8/10 perches to birch on the original line of tract #3562: thence by said line South 61° West, 130 perches to beginning. containing 287 acres and 92 perches more or less.

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 19th day of August

in the year of our Lord one thousand nine hundred
twenty five

E. A. THOMPSON
Judge of the same Court: Upon the petition of ~~XXXXXX~~
~~XXXXXX~~ of the Township of Greenwood

in said County, setting forth that he is the owner of a
farm in Greenwood Twp. a description of said land being hereto attached
and marked schedule "A". That the Comth of Penna. by its officers, went
upon said lands of the petitioner and took material portions thereof for the purpos
of the construction of said highway, and your petitioner and Commissioners of
Clearfield County have been unable to agree upon the amount of damage justly
payable to your petitioner

and therefore, praying the Court to appoint proper persons to ^{assess damages} ~~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 Aaron G. Kramer, Esq.,
Ed Billotte and Jack 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 and 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 ~~and respect to the premises and to~~
assess the damages

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 claimant ~~and that~~ ~~names thereof were posted along the route of the proposed road, that the said view would be held on the~~ ~~day of~~ ~~A. D. 192~~, and the hearing to be held in the Arbitration Room, at the Court House, in Clearfield, Pa., on the 14th day of October ----, 1925, at 9 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~~ and were attended E. A. Thompson the claimant and several other disinterested parties

And ~~parties in interest.~~ That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the 14th day of October A. D. 1925, when the following appearances were noted: A. E. Thompson the claimant with his Attorney George R. Rigler Esq with the claimant's witnesses; to wit.
W. T. Thorp and Charles Thorp. And after the view and the inspection of the property of the claimant and the hearing of the testimony report the finding of the facts as follows;

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,
Beginning water that fell on his land during rain storms or in wet or tainy weather and does no particular injury in the opinion of the viewers to the claimants land. In the case of Henry T McCormick' vs L. B. Kinsey at al No 10, Superior court page 607. It is said that the court will not interfere with the supervisors in the betterment of the drainage of a public road, although they may have partially changed the courses of surface water without increasing the volume which would have found its way ultimately over the land on the lower side and in any event on the land of the Plaintiff; which land was natually over the land of the claimant to the water of that particular water shed.

In the case of Taylor vs, Canton Township 30, Superior Court Report page 305: A township is not responsible for damages caused by water which naturally drains over land of one of its property owners; such owners must take care of water which naturally flows upon his land; but a township cannot divert water to his land, or increase of the water shed draining on his land or premises: Woolheater vs; Mifflin Township 14, Superior Court Report page 557.

Where Supervisors in the exercise of their reasonable discretion, for the purpose of maintaining a road, construct side ditches in order to carry off the surface water falling upon and unto the road, a land owner whose property was subject to a natural servitude of drainage from the road and from land above the road cannot recover damages because water flows extensively on his premises in flood times. De,Noble, vs, Wilkins Township 74, Superior Court, Report, page, 389.

That the claimant E. A. Thompson is the owner of some five hundred (500) acres of land in Greenwood Township Clearfield County Pennsylvania of which about one hundred and twenty five (125) acres are cleared and under state of cultivation; the balance is woodland.

that during the year 1925 the State Highway Commissioner by his contractor and employees constructed a State Highway through the land of the said petitioner on the State Highway Route Number sixty two (62). Leading from Mahaffey to the village of Bells Landing in the said county and State: That the said Highway Commissioner by exercising the authority conferred upon him by the Act of Assembly of May 31st 1911 P. L. 468 and suppliments and amandments thereto changed the location of the road or Highway through the land of the petitioner from the location of the township road and in so doing has taken a strip of the claimant's land, twenty nine (29) feet in width by three thousand six hundred and thirty two (3632) feet in length taking three and one half ($3\frac{1}{2}$) acres of his land and going through his orchard, destroying thirty one (31) of his bearing apple trees; running close to his barn back of his house, requiring the tearing down and removing of his corn crib and the rebuilding of the same away from the road, and the filling in in front and around his barneso as to enable him to drive in onto his barn floor to haul in his grain and hay; also requiring him to make three drive ways across the drain on the upper side of the road to enable him to get up into his fields at the upper side of the road which is upgrade from the road a cut or bank from two to three feet in hights at the upper side and to furnish drain pipe for the water of the drain of the road to pass under the necessary filling over the drain on which items the viewers assess damages to the claimant as follows:

The value for the three and one half ($3\frac{1}{2}$) acres of land	
taken at one hundred (\$100.00) per acre	\$350.00
The value of thirty one (31) apple trees destroyed	
at twenty dollars (\$20.00 a tree or	620.00
For thirty six (36) feet of sewer pipe necessary for	
drains under the three crossings across the upper	
side of the roar	50.00
carried over	\$1020.00

Brought over	\$1020.00
For the moving and rebuilding of the corn crib	35.00
For the filling in front of the barn	50.00
Labor for the construction of the crossing across the drain at the upper side of the road	25.00
Total	<u>\$1130.00</u>

As to the other items on which damages are claimed, to wit; for the fencing of the road. As none of the claimants land, not even along the township road is at present nor has been for a number of years been fenced and has for a number of years been traveled by automobiles and as none of the claimant's cattle have been killed or injured thereby the viewers see no necessity for a fence along the State Highway. The viewers see no more necessity for a fence along a State Road than a Township road as very few of either the Township or State Roads are fenced as no road or field or land is required by the law to be fenced and if there is no necessity for a fence the county is clearly liable to pay the expense of the construction of a fence; especially like in this case no fence has been destroyed by the construction of the State Road. They therefore do not allow any damages for the material and labor of the building of a fence along the State road.

And as to the chicken coop and the pig pen, the viewers see no necessity for the moving of either of said buildings as both of them are far enough away from the road not to interfere with the road nor the road in any way effecting or interfering with either of said buildings; The viewers are therefore not justified in awarding damages for removing the same.

In reference to the damage claimed for the drain pipe and the labor for the extension of the drains from the lower side of the State Highway down to a ravine or the river. which drains are erected through under the road to drain the water that flows from the claimants land on the upper side of the road in order to keep it from collecting at the upper side of the road and flowing over the road, as these drains only drain the water that falls at the upper side of the road on the claimants own land which only comes from rains during wet seasons or rainy weather and as the land is down grade has always been the natural flow of the

TO, J. E. Dale, T. R. Welmer and B. W. McCracken, County 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 the damages that E. A. Thompson of Greenwood Township in said county sustained by the construction of a State Road or Highway on Route Number (62) through his property in said Township in the County and State aforesaid leading from Mahaffey to Bells landing; Will meet on the premises at the residence of the said E. A. Thompson on Tuesday October the thirteenth (13th) 1925 at nine (9) o'clock A. M. to attend to the duty assigned them. of which time and place of meeting 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 Wednesday October the fourteenth (14th) A. D. 1925 at nine (9) o'clock A. M. at which time and place all parties interested may attend and be heard.

A. G. Kramer
E. W. Billotte
J. L. Michaels
VIEWERS.

Now September 30, 1925 service accepted for the County Commissioners of Clearfield County Pennsylvania.

L. C. Norris
clerk.

TO, E. A. Thompson.

Sir.

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 construction of the State Road or Highway through your property in Greenwood Township in the County and State aforesaid will meet at your residence in Greenwood Township in the county aforesaid on Tuesday October the 13th thirteenth at nine o'clock A. M. to attend to the duty assigned them of which time and place of meeting 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 be 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 Wednesday October the 14th fourteenth A. D. 1925 at nine (9) o'clock A. M. at which time and place all parties interested may attend and be heard.

A. G. Kramer
E. D. Billotte
J. S. Michaels.
VIEWERS

Sept. 30. 1925. I hereby accept service of notice of the view above named & the hearing in said Case & waive personal service.

Leok B. glw
att. for E. A.
Thompson-

In, Re, Road Damages of W. F. Moore vs county commissioners of Clearfield County No 144, May Term, 1922; a case tried in the Court of Common Pleas of Clearfield County where the Plaintiff sought to recover the cost of the drain pipes and the labor of extending and covering a drain from the State Road constructed through the claimant's farm in Brady Township to drain the water from the upper side of the State Road which flowed down from the land of the claimant onto the State Road. With that case the court held that the county was not liable and non suited the plaintiff in which case the facts were similar to the present case.

The viewers are therefore convinced that the claimant is not entitle to damages or the cost of the extension of the sewers from the State road down through his field to a ravine or to the river, They cannot allow said claim.

The viewers therefore after an inspection of the property the hearing of the testimony produced at the hearing are fully convinced that the claimant derived no special benefit from the construction of the State Highway over his property than any of the other property owners along said road: They therefore assess the damages of the claimant E. A. Thompson after deducting the benefits he derived and the increase if any in the value of his property at the sum of eleven hundred and thirty (\$1130.00) dollars as above stated.

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 release 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 herewith return

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

WITNESS our hands and seals this 26th day of October, -----

A. D. 1925.

A. G. Kramer Seal

E. S. Lott Seal

J. S. Michals 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.

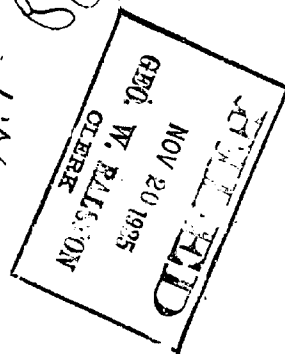
Reviewers cannot interfere with the damages assessed by the original viewers, except so far as the location may be changed by the reviewers.

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.

*Next Session 1925
the powers of the viewers
are all enlarged and
extended to December
Session 1925.*

*By the Court
A. R. Bigler*



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

No. 13 Sept Sessions, 1925

ORDER

To view and assess damages to ~~road~~ road for E. A. Thompson ~~in the~~ in the township of Greenwood Clearfield County _____

May Sessions, 1926,

read and confirmed Ni. Si. ~~Road to be~~ opened 22 feet wide, except where there is side-fitting or embankment and bridging there to be 16 feet wide.

By the Court.

A. R. Bigler

P. J.

Filed _____ 19 _____

Fees \$1.25 paid by _____

Geo. R. Bigler, Atty.,

In the Court of Quarter Sessions of Clearfield County,
Pennsylvania:

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

The petition of E. A. Thompson, respectfully represents:

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

That for many years a public road existed through and
over said lands, being the highway from Bells Landing towards
Mahaffey.

That a route has been established by Action of the
Commonwealth of Pennsylvania, known as Route No. , which is so
located as to cross the said lands of the petitioner.

That the Commonwealth of Pennsylvania, by its officers,
Agents or contractors, went upon said lands of the petitioner and
took material portions thereof for the purpose of the construction
of said Highway, changing the said location from the line of the
public road theretofore existing and taking other lands for 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 said damage being
caused by the said construction in various particulars, in addi-
tion 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 damage justly
payable to your petitioner.

He, therefore, prays your Honorable Court to appoint viewers to appraise and determine the damages so suffered and that further proceedings be had as provided by the Act of Assembly relating thereto and he will ever pray.

E. A. Thompson

CLEARFIELD COUNTY: SS

On the 17 day of Aug - 1925, before me, the subscriber, personally appeared E. A. Thompson, who being duly sworn, says the facts set forth in the foregoing petition are true and correct.

E. A. Thompson

Sworn and subscribed before me
the day and year above mentioned.

W. C. Fugate, N.P.
my Com. expires 4/15/27.

Schedule "A".

Beginning at a red oak on the bank of the West Branch of the Susquehanna river; thence extending North 15 degrees West - 220 perches to a chestnut; thence by remainder of the tract North 75 degrees East, 84 perches to a post; thence by A. Woodside's land, South 15 degrees East, 246 perches to a white oak corner on the river; thence up said river, the several courses and distances thereof to the red oak and place of beginning. Containing 122 Acres and 122 perches and allowance.

Beginning at a white oak on the river bank: thence up said river North 50 degrees West $15\frac{1}{2}$ perches to an old white oak (down), thence by above described piece North 15 degrees West, 90 perches to a stone heap; thence by land of William Haslett, deceased, South 43 degrees East, 66 perches to a stone heap and South 13 degrees West, 49 perches to beginning, containing $10\frac{3}{4}$ Acres.

Beginning at a fallen hickory, corner of tracts Nos. 3562 and 3565: thence by land granted to George Elder, South ---- perches to bank of the river: thence down said river its several courses and distances to a fallen black oak and corner of land describes above: thence along the same North 14 degrees West, 227 perches to a chestnut, thence North 76 degrees East, 87 perches to a post: thence South 14 degrees East, 26 perches to land of Nicholas McCracken: thence South 62 degrees, 110 perches to post: thence North 12 degrees West, 40 perches to hemlock; thence North 21 East, 18 perches to hemlock: thence North 5 degrees West, 24 perches to hemlock: thence North $39\frac{1}{2}$ degrees West, $6\frac{1}{2}$ perches to hemlock: thence North $41\frac{1}{2}$ degrees West, 54 perches to hemlock: thence North 1 degree West, 35 perches to hemlock: thence North $39\frac{1}{2}$ degrees West, $7\frac{8}{10}$ perches to birch on the original line of tract #3562: thence by said line South 61 degrees West, 120 perches to beginning containing 287 Acres and 92 perches more or less.

of beginning. Containing 122 Acres and 122 perches and also
eral courses and distances thence to the red oak and place
white oak corner on the river: thence up said river, the sev-
A. Woodside's land, South 15 degrees East, 246 perches to a
tract North 75 degrees East, 84 perches to a post; thence by
West - 320 perches to a chestnut; thence by remainder of the
of the Euphrates river; thence extending North 15 degrees
Beginning at a red oak on the bank of the West Branch
wence:

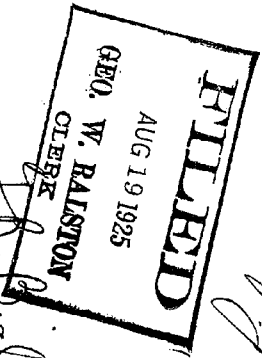
Beginning at a white oak on the river bank; thence up said river North 50 degrees West 15¹/₂ perches to an old white oak (down), thence by above described piece North 15 degrees West, 90 perches to a stone heap; thence by land of William Hallett, deceased, South 43 degrees East, 86 perches to a stone heap and South 13 degrees West, 49 perches to beginning, containing 10¹/₂ acres.

containing 287 acres and 92 perches more or less. Beginning at a fallen Hickory, corner of tracts Nos. 3562 and 3563; thence by land granted to George Elder, South --- perches to bank of the river; thence down said river its several courses and distances to a fallen black oak and corner of land described above; thence along the same North 14 degrees West, 327 perches to a chestnut, thence North 76 degrees East, 87 perches to a post; thence North 14 degrees East, 26 perches to land of Nicholas Mackachen; thence South 62 degrees, 110 perches to post; thence North 12 degrees West, 40 perches to hemlock; thence North 21 East, 18 perches to hemlock; thence North 6 degrees West, 24 perches to hemlock; thence North 39 degrees West, 64 perches to hemlock; thence North 41 degrees West, 54 perches to hemlock; thence North 1 degree West, 32 perches to hemlock; thence North 39 degrees West, 78/10 perches to birch on the original line of tract #3562; thence by said line South 61 degrees West, 120 perches to beginning containing 287 acres and 92 perches more or less.

13 Sept 20 1925
In the Court of Quorum
Jes. of Clearfield
Co. Pa.

Petition of Z. A. Thompson
for appointment
of receivers

Now the said 13th
1925, James S. Warner
Esq, Ed. B. Little, and
Jack Mitchell are
affiliated receivers
to them and report
by the Court
A. M. Black
P. J.



J. H. B. 12.9.25

and now Aug. 18 1925. We hereby accept service
of notice of the presentation of the within petition for
appointment of receivers -
Clearfield County Commissioners
Geo. H. C. Johnson Clerk