

DOCKET No. 6

Number	Term	Year
17	Dec	1925

Petition of Chas.C. McGee for Appt. of
visitors to assess damages in Bell Twp

Versus

That the petitioner has sustained damages by reason of the reconstruction of said State Highway, the course of which has been considerably changed and upon which a change of width and existing lines and locations has been occasioned.

That your petitioner has been damaged by the taking of ground and by the cutting off of certain ground so as to make the same impossible to use. and has been unable to agree with the Co. Com as to the amount of damages sustained.

REPORT, OF THE VIEWERS:-

The claimant Charles, C. McGee is the owner of two adjoining tracts of land (or farms) situate in Bell Township Clearfield County Pennsylvania; the one known as the lower tract or farm containing two hundred and eighty (280) acres; and the other or upper tract or farm containing one hundred and eighty (180) acres both of which tracts are mostly cleared and under cultivation, part of the remainder is used for pasture and the balance is unimproved woods land covered with young growing timber.

That during the year 1925 the State Highway Commissioner by his contractor and employees by authority in him vested by the Act of Assembly of May 31st 1911 P. L. page 468 and the supplements and amendments thereto; entered upon and constructed over the said tracts of land of the claimant a State Highway, leading from the Borough of Cherry-Tree in Indiana county Pa to the village of McGees, in Clearfield County Pa a State road on Route number (62) which said road is forty five (45) feet in width and through the lower (or two hundred and eighty (280) acre tract is four thousand eight hundred (4800) feet in length lacking a small fraction of five acres of land covered covered by the said road.

And the length of the road through the one hundred and eighty (180) acre tract is one thousand seven hundred and thirty (1730) feet in length, lacking five hundred and twenty square feet (520) of covering two (2) acres of the claimant's farm..

And as to the damages claimed for the construction of said road by the claimant through his farms the viewers cannot agree with the claimant on the claims made; to wit; As to the claim of the cost of the construction of a road from the State road to his barn at a cost of about two hundred and fifty (\$250.00) as the present township road which has existed at its present location runs close to his barn and has not been changed or destroyed by the construction of the State Road and as it is located on the land of the claimant and can therefore not be taken away from him even if vacated by the Township authorities to relieve the township from the keeping up of the same or relieve the township from any further liability for said road. But does not render the county liable or

And as to the damages claimed for the depreciation of the value of the strip of land between the State road and the Pennsylvania Railroad from two to three hundred feet in width which is estimated to contain about ten acres in amount for which is claimed five hundred (\$500.00) dollars which in the opinion is certainly excessive; as the testimony of Mr McGee the owner of the land and to other witnesses was that the farm containing two hundred and eighty (280) acres with the house and barn was worth about ten thousand (\$10,000.00) dollars but estimated it worth one hundred (\$100.00) dollars per acre which does not by any means coincide with their estimate of the value of the farm as at ten thousand (\$10,000.00) puts the land at thirty five (\$35.00) dollars per acre and at one hundred (\$100.00) dollars would put the value of the farm at twenty eight thousand (\$28,000.00) instead of ten thousand (\$10,000.00) dollars so the farm can only be worth thirty five (\$35.00) instead of a hundred (\$100.00) dollars per acre so that the rough steep side hill strip woods land is not worth one hundred (\$100.00) dollars nor the claimant damaged by the depreciation of the value thereof the sum claimed of five hundred (\$500.00) dollars. That at a high figure said land is not worth over thirty or thirty five dollars per acre the viewers therefore estimate of value the same at thirty two (\$32.00) dollars per acre and the testimony shows that it has only been reduced in value one half its value. The viewers assess the damages to said strip of land at sixteen (\$16.00) dollars or one hundred and sixty (\$160.00) dollars.

Neither as the viewers understand the law is the claimant entitled to any damages for fencing, as but very little of the claimant's fence if any has been effected or destroyed so that he is not damaged by the destruction of his fence and as the law of the State does not require a land owner to build or keep up fences except for his own benefit or convenience and as the county is only liable for the damages the claimant suffers by the construction of State Roads or Highways through his land and as there is no law requiring State roads to be fenced any more than Township or County roads therefore unless the claimant's fence has been destroyed by the construction of the State road is the county liable for

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 owner of the property ~~and that~~

~~Notice thereof were posted along the route of the proposed road,~~ that the said view would be held on the 11th day of December A. D. 1925, and the hearing to be held in the Arbitration Room, at the Court House, in Clearfield, Pa., on the 12th day of December, 1925, at 9 o'clock A. M. That the said viewers appointed by the said order viewed the ground ~~proposed for the above mentioned road, and that there were present at the view~~

The owner of the property; -----

parties in interest. That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the 12th day of December A. D. 1925, when the following appearances were noted: Charles C. McGee the owner of the property with his Attorney W. Wallace Smith Esq. E. C. Ake, Frank Wetzal and J. H. Iferd as witnesses. And Jesse E. Dale and B. W. McCracken two of the County Commissioners with their Attorney A. M. Liveright Esq. and L. C. Norris the clerk of the county commissioners and;

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 ~~the~~ ~~road~~. ~~And having had regard 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 retain for~~ ~~use the following described road, to wit~~ ~~Begin~~ is not liable for the fencing of a State road any more than a county is liable for the fencing of a county road or the township for the fencing of a township road unless the claimants ~~road~~ fence has been destroyed or damaged in the construction of a State road, as the same vehicles travel both roads with probably the same speed so there is no more danger to owner of a farm living along a State road than one living along a county or township road and as the County is not liable for the expense or cost of fencing a township road the viewers see no reason why the County should be liable for the expense of fencing a State road they therefore allow no damages for fencing.

As to the fifty (\$50.00) damages claimed for the two apple trees destroyed twenty five (\$25.00) a tree; as to whether they were worth twenty (\$20.00 more or less depends on the kind of fruit they bore and as there was no testimony produced whether first class or small scrubby sour fruit the viewers therefore in the absence of any proof as to the kind of fruit they bore assess the value of them at forty (\$40.00) dollars for the two trees or twenty dollars (\$20.00) a tree.

The viewers therefore assess the damages to the lower or the two hundred and eighty (280) acre tract as follows,

For the five (5) acres of land taken through the farm for the bed of the road at one hundred (\$100.00) dollars per acre	\$500.00
For the amount the ten acre strip of land out of by the State road from the main body of the tract	160.00
Value of the two apple trees destroyed	40.00
Total	\$700.00

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 30th day of November in the year of our Lord one thousand nine hundred twenty five

Charles C. McGee

Judge of the same Court: Upon the petition of ~~some~~ habitants of the Township of BELL

in said County, setting forth that he is the owner of two certain farms situated in the Twp. of Bell, one of which contains approximately 180 acres and the other of which contains approximately 280 acres; that the title of petitioner to said farms was derived by various deeds, One from Jos. L. Campbell to Chas. C. McGee recorded in Deed B. 226, page 374 one from Henry H. McGee recorded in Deed B. 186 page 144, That the State H. Com. has undertaken and proceeded with the construction of an improved highway, Route No 62 particularly the portion thereof between McGees Mills and Burnside which passes through the premises of the petitioner.

assess damages and therefore, praying the Court to appoint proper persons to view and ~~lay out the road~~ ~~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 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, having respect to the best ground for a road, 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 course and distance and references, 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, release from any damages that may arise to them, paying the same, but if the owners of such lands 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. Rabston, Clerk.

No. Term 190

Charles C. McElwee

Versus

Clearfield County

Clearfield Bill of Costs

For Term 190

Orpha St. Lawrence

Date 190

Amount - - - \$ *11.22*

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 by the Court of Quarter Sessions of Clearfield County Pennsylvania; to view and inspect the two certain tracts of land, the one containing about one hundred and eighty (180) acres of land and the other about two hundred and eighty (280) acres, situate in Bell Township, County and State aforesaid, and assess the damages the said Charles, C. McGee the owner thereof has sustained by the construction and the change of Route of the State Highway Route Number (62) leading from the Borough of Burnside to the village of McGees in the County aforesaid for which if any the County of Clearfield is liable.

You are therefore hereby notified, that the said viewers will meet at the Hotel at McGees, on Friday December 11th 1925 at nine o'clock A. M. to attend to the duty assigned them, of which time and place 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 in the said case a chance to be heard will be held in the Arbitration Room in the Court House in Clearfield Pa on Saturday the 12th day of December A. D. 1925 at nine thirty (9.30) o'clock A. M. when and where all parties interested may attend and be heard.

A. G. Kramer

E. D. Billotts,

J. J. Michaels,
VIEWERS.

Now December 7th 1925 service accepted for the County Commissioners of Clearfield County Pa.

L. C. Norris Clerk

To Charles, C. McGee: You are hereby notified, that the undersigned viewers, appointed by the Court of Quarter Sessions of Clearfield County and State of Pennsylvania; to view and inspect your two certain tracts of land; the one containing about 180, acres and the other about 280 acres situate in in Bell Township, County and State aforesaid and assess the damages you have sustained by the construction and the change of Route of the State Highway on Route Number 62, leading from the Borough of Burnside to the Village of McGees in the County aforesaid for which if any the County of Clearfield is liable.

You are therefore hereby notified, that the said viewers will meet at the Hotel at McGees, on Friday December 11th, 1925 at nine o'clock A. M. to attend to the duty assigned them of which time and place 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 in the said case a chance to be heard; will be held in the Arbitration Room in the Court House in Clearfield Pa on Saturday December the 12th, 1925 at nine thirty (9.30) o'clock A. M. when and where all parties interested may attend and be heard.

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

Dec. 7, 1925. Service duly accepted & time
waived.
L. M. Miller Smith
Atty for Claimant.

Amount of damages assessed to the lower or two hundred
and eighty (280) acre farm

\$700.00

Amount of damages assessed to the upper or the one hundred
and eighty (180) acre farm

\$800.00

Total amount of damages assessed to both farms.. \$1500.00

Witnesses cost attached attended at hearing \$11.22

As to the damages to the upper or one hundred and eighty (180) acre farm; as to the damage claimed for the fencing that neither the viewers observed at the view nor was there any testimony produced at the hearing of any fence destroyed or damaged by the construction of the road and as there is no law in Pennsylvania requiring a land owner to construct or keep his land or the public road fenced up the county is therefore in the opinion of the viewers liable for the construction of fences along the public road, they therefore assess no damages for fencing.

And as the State Road does not come within several hundred feet of either of the house or barn the viewers cannot conceive how either of the buildings can be damaged by the construction of the State road except by being somewhat inconvenienced they therefore assess no damages to the buildings except what is caused by the inconvenience of the road being changed from the front of the house and barn to the rear or back of the buildings for which they assess the damages as herein stated. They therefore assess the damages to the upper, or one hundred and eighty (180) acre as follows. The value of the two (2) acres of land through the middle of the farm occupied by the State Road and inconveniences caused thereby at one hundred (\$100.00) dollars per acre \$200.00
The cost or expense of repairing the private road from the house and barn to the State road \$200.00

The expense of the construction of two culverts across the drain of the State road to enable the claimant to get across the State road to his fields at the upper side of the road 30.00

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

Amount of damages assessed for the inconvenience of having the road change to the back of the farm buildings and of being compelled of driving his cattle from the farm across the State road morning and evenings

~~which was not practical to procure within that limit.~~ \$370.00
Total amount of damages assessed to the upper farm \$800.00

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:

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

WITNESS our hands and seals this 21st day of December;

A. D. 1925.

A. G. Kramer Seal
C. B. Billotte Seal
J. S. Michaels Seal
Seal

received

No. 17 Dec Sessions, 1925

ORDER

To view and assess damages a
to Chas. C. McGee use in the
road for township of Bell
Clearfield County

Jan 1 1926
Sessions, 1925

read and confirmed Ni. St. Road to be
opened 33 feet wide, except where there
is side hill cutting or embankment and
bridging, there to be 16 feet wide.

By the Court
A. H. Black
J.

Filed 19

Fees \$1.25 paid by

W. Wallace Smith, Atty.,

Enty 4229

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. E.—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.

FILED
DEC 21 1925
GEO. W. RALSTON
CLERK

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 ensembling 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

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

In re: Reconstruction of :
Route No. 62 State Highway :

PETITION.

To the Honorable A.R. Chase, President Judge of the Court of
Quarter Sessions of Clearfield County, Pennsylvania.

The petition of Charles C. McGee respectfully represents:-

(1). That he is the owner of two certain farms situated in the Township of Bell, Clearfield County, Pennsylvania, one of which contains approximately 180 acres and the other of which contains approximately 280 acres; that the title of petitioner to said farms was derived by various deeds which are: One from Joseph L. Campbell to Charles C. McGee, recorded in Deed Book 226, page 374, one from Henry H. McGee et ux, recorded in Deed Book 186 page 144, and one from H.H. McGee et ux, recorded in Deed Book 181, page 539.

(2). That the State Highway Commissioner of the State of Pennsylvania has undertaken and proceeded with the construction of an improved State Highway, being Route No. 62, particularly the portion thereof between McGees Mills and Burnside, which passes through the premises of the petitioner aforesaid.

(3). That the petitioner has sustained damages by reason of the reconstruction of said State Highway, the course of which has been considerably changed and upon which a change of width and existing lines and locations has been occasioned; and that the construction of said portion of the State Highway has proceeded so that the grading thereof has been done.

(4). That the said petitioner has been damaged by the taking of a substantial quantity of ground and by the cutting off of certain other ground so as to make the same inaccessible and virtually impossible to use, by the destruction of fences,

trees, etc., by being required to build new fences, crossings and entrances into parts of said farms, by the change of location in the road with reference to the buildings and the consequent necessity of re-adjustment thereto, and in various other particulars.

(5). That your petitioner has been unable to agree with the County Commissioners of Clearfield County on the amount of damages to be paid to your petitioner for the land appropriated and other injury resulting to your petitioner.

YOUR PETITIONER THEREFORE PRAYS your Honorable Court to appoint viewers to appear upon the premises and to view and assess the damage and injury which your petitioner is entitled to receive compensation for by reason of the appropriation of his land and other injury incident to the reconstruction and re-location of the said State Highway.

+ Charles C. McGee

STATE OF PENNSYLVANIA :
COUNTY OF CLEARFIELD : SS

Charles C. McGee, being duly sworn according to law, deposes and says that the facts set forth in the foregoing petition are true and correct.

Sworn and subscribed before me + C. C. McGee

this 23 day of November,

A.D. 1925.

W. H. B. B. B.
Clerk of O.C.

17 Dec 22 1925

IN THE COURT OF CHANCERY
SESSIONS OF CLEARFIELD COUNTY,
PENNSYLVANIA.

In re: Reconstruction of
Route No. 62 State Highway.

PETITION.

From *Dec 30 1925*

*James H. / Hiram Eng
G. Bellette & Jack
Michaels are applicants
incumbent to view and
report to the court*

*W. W. Raston
P. J.*

FILED

NOV 30 1925

W. W. RASTON
W. W. ALLEN
ATTORNEYS AT LAW
CLEARFIELD, PENNSYLVANIA