

DOCKET No. 6

Number

2

Term

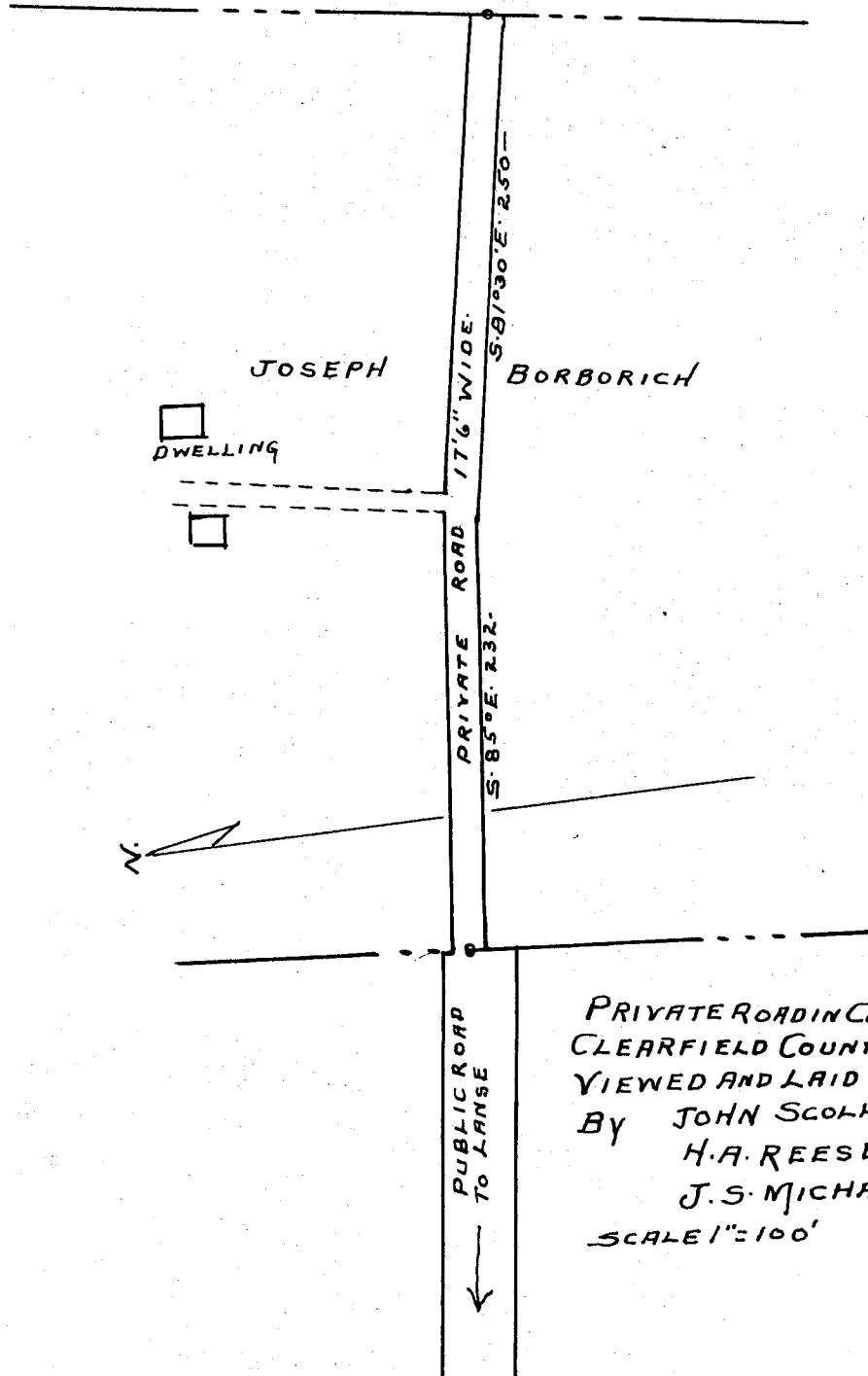
Feb

Year  
1926

Petition of Simon Moyer for private  
road. Cooper Twp

**Versus**

SIMON MOYER



PRIVATE ROAD IN COOPER TOWNSHIP  
CLEARFIELD COUNTY PA.  
VIEWED AND LAID OUT JAN. 4-1926  
By JOHN SCOLLINS, Esq.  
H.A. REESE  
J.S. MICHAELS  
SCALE 1"=100'

To: Joseph Borborick of Cooper Township, Clearfield County:

You are hereby notified that the undersigned  
viewers, appointed by the Court of Common Pleas of Clearfield  
County, Pennsylvania, in re: No. 3, Lohman's Case, 1936, to  
view and survey a private road to 20th from the farm of Plaintiff  
of this case in the Township of Cooper to the branch of the public  
road leading from Lohman's to Vicwest, known as the New Run Road, at  
a point where the present lane or road now existing over the land  
of Joseph Borborick and which said road or lane joins the terminus  
of said App. Road known as the New Run Road and which has been  
laid out and used for more than one year, in Clearfield County  
Pennsylvania, will meet at the dwelling house of Plaintiff in said  
Township of Cooper on Friday, the 6th day of January, A.D. 1936  
at one (1:00) o'clock P.M., to return to the parties informed then;  
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 have all parties  
interested in the said case given an opportunity to be heard will be  
held in the Arbitration Room in the Court House in Clearfield on  
Friday, the 6th day of January, A.D. 1936 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 will be heard.

John Scallion  
Harry Reese  
J. S. Michael

Given, December 31st, 1935

Viewers

Service of this Notice Accepted  
Bill, Muller & Wright  
Ado P. Jr. Portland

To: Simon Moyer of Cooper 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. 2, February Sessions, 1926, to view and supply a private road to lead from the farm or plantation of Simon Moyer in the Township of Cooper to the branch of the public road leading from Lanse to Viaduct, known as the Knox Run Road, at a point where the present lane or road now existing over the land of Joseph Borborich and which said road or lane joins the terminus of said two. Road known as the Knox Run Road and which has been laid out and used for more than one year, in Clearfield County aforesaid, will meet at the dwelling-house of Simon Moyer in said Township of Cooper on Monday, the 4th day of January, A.D. 1926 at one (1:00) o'clock P.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 Tuesday, the 5th 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 Beallard  
Harry Reese  
J. D. Michaels

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, Simon Moyer.

John M. Flanigan  
Attorney for Petitioner

to prevent any action against said to collector, except such damages, for the  
loss, damage and expense caused by the viewer in the course of his duty to

JOHN D. DALLIN

To: M. Ward Fleming, Attorney for Petitioner:-

You are hereby notified that the undersigned  
viewers, appointed by the Court of Quarter Sessions of Clearfield  
County, Pennsylvania, in re: No. 2, February Sessions, 1926, to  
view and supply a private road to lead from the farm or plantation  
of Simon Moyer in the Township of Cooper to the branch of the public  
road leading from Lanse to Viaduct, known as the Knox Run Road, at  
a point where the present lane or road now existing over the land  
of Joseph Borborich and which said road or lane joins the terminus  
of said Twp. Road known as the Knox Run Road and which has been  
laid out and used for more than one year, in Clearfield County  
aforesaid, will meet at the dwelling-house of Simon Moyer in said  
Township of Cooper on Monday, the 4th day of January, A.D. 1926  
at one (1:00) o'clock P. 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  
Tuesday, the 5th 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 Dallin  
Harry Reese  
J. D. Michaels  
Viewers

Dated, December 21st, 1925.

And now, December 23rd 1925, service of the within notice and receipt  
of copy of the same is hereby acknowledged, and accepted.

W. G. Bunting  
ATTORNEY FOR THE PETITIONER.

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 \_\_\_\_\_

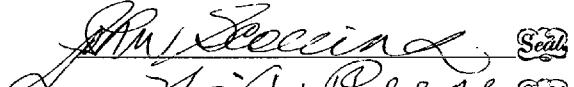
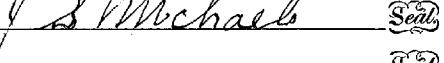
when it was not practical to preserve it within that limit.

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 Joseph Borborich, Twenty-two (\$22.00) Dollars

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

WITNESS our hands and seals this 16th day of February  
A. D. 1926.


No. 2 Feb Sessions: 19 26

## ORDER

To view for Simon S. Moyer <sup>a</sup>  
road for private use in the  
township of Cooper,  
Clearfield County,

NOTE.—In case of a private road, the release must be executed in favor of the petitioner for the 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. N. B.**—If the viewers believe the parties are not entitled to damages, taking into consideration the various advantages as well as the disadvantages of the

they will report to that effect.

THE JOURNAL OF CLIMATE

	DAY	MILES	AMT.
John Scollins	4	132	\$27.
H. A. Reese	3	132	\$20.
J.S. Michaels	3	134	\$20.

May Sessions, 1926  
read and confirmed Ni. Si. Road to be  
opened ~~37~~ feet wide, ~~except where there~~  
~~is side hill cutting or embankment and~~  
~~bridgeline there to be 16 feet wide.~~

By the court  
A. H. Chase  
S. J.  
Sept Sessions  
in confinement  
strictly  
By the court  
A. H. Chase  
S. J.

Filed 19 \_\_\_\_\_  
Fees \$1.25 paid by \_\_\_\_\_  
*M. Ward Flanagan, attorney*



## 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* \_\_\_\_.

Seals

Seit.

Seal.

Seal.

Clearfield County, ss:

17-3-15-8  
17-3-15-8

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 17th day of December in the year of our Lord one thousand nine hundred twenty five

Simon Moyer

Judge of the same Court: Upon the petition of subscribers inhabitants of the Township of Cooper

in said County, setting forth that he is a citizen and resident of the Twp. of Cooper

That he labors under great inconvenience for want of a private road to lead from his farm or plantation in the Twp of Cooper, to the branch of the public road leading from Lanse to Viaduct known as the Knox Run Road, at a point where the present lane or road now existing over the land of Joseph Borborich and which said road or lane joins the terminus of said Twp. Road known as the Knox Run Road and which has been laid out and used for more than one years past past.

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., Harry Reese and Jack Michaels

who have been duly appointed by the Court and filed their oaths of office and are duly qualified to perform the duties of their appointment with impartiality and according to the best of their judgement, are to view the ground proposed for the said road, and if they view the same, and a majority of the actual viewers agree that there is occasion for such road they shall proceed to lay out the same, as agreeable to the desire of the petitioner as may be, having respect to the best ground for a road and the shortest distance, in such a manner as to do the least injury to private property; and shall make report thereof, stating particularly whether they judge the same necessary for a public or private road, together with a plot or draft thereof, and the courses and distances and references to the improvements through which the same may pass; (and wherever practicable, the viewers shall lay out the said road at an elevation not exceeding five degrees, except at the crossing of ravines and streams, when by moderate filling and bridging the declination of the road may be preserved within that limit,) to the next Court of Quarter Sessions to be held for the said County.

And if the viewers aforesaid shall decide in favor of locating a public road, they shall obtain from the persons through whose lands the said road shall pass, releases from any damages that may arise to them on opening the same; but if the owner or owners of such land refuse to release their claim to damages, the said viewers shall assess the same, taking into view the advantages as well as disadvantages arising from said location, and make report of such assessments; which report they shall in like manner transmit to the next Court of Quarter Sessions, with the draft or plot aforesaid. In which said reports they shall state that they have been sworn or affirmed according to law, and that due and legal notice was given of the time when, and place where, they should meet, to view and lay out said road, and the time and place of hearing

By order of the Court.

Geo W. 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 Board of Supervisors of the Township of Joseph Borborich~~ and that three notices thereof were posted along the route of the proposed road, that the said view would be held on the 4th 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 5th 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 Simon Moyer, Joseph Borborich and Joseph S. Borborich

parties in interest. That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the 5th day of January A. D. 1926, when the following appearances were noted: M. Ward Fleming, Esq., for Petitioner; Bell, Boulton & Forsyth, Esqs., for Joseph Borborich; Simon Moyer, Petitioner; Joseph Borborich, Owner; and Charles Ardary, F. A. Gissey; Frank Hoover, Charles Devinney, Andrew Brolin, Mrs. Augusta Anderson, witnesses on behalf of parties in interest, 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 no occasion for a road as desired by the petitioner, and that the same is not necessary for a private 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 private use the following described road, to wit Beginning at the dwelling farm or plantation of Simon Moyer, in the Township of Cooper, in the County of Clearfield aforesaid; and thence running along parallel lines 17 feet 6 inches in width, North 81 degrees 30 minutes West 250 feet to post and thence North 85 degrees East 232 feet to public road, known as the Knox Run Road leading from Lanse to Viaduct; plan and draft thereof hereto attached and made a part hereof.

We further find a lane, 22 feet in width, has heretofore existed on the hereinbefore described location for a period of 50 years and upwards, and that until about 4 years since petitioner and his predecessors in title have maintained a gate on the Eastern terminus thereof. In March, 1925, Borborich renewed the fence on either side of said proposed road, reducing its width from 22 feet to 17 feet, 6 inches, and erected a set of bars on the Eastern terminus.

After viewing the premises and conditions and hearing the evidence, your Board is of the opinion that the petitioner labors under great inconvenience for want of a private road; and that damages to the amount of \$22.00 have been sustained by the said Borborich by reason of this award, and that the said Borborich should be compensated in that amount; and further that petitioner construct and maintain on said eastern terminus a good and sufficient Gate.

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

In the matter of } No. 2 February Session 1926  
Simon Moyer }  
for private road }

Now, June 24, 1926 I hereby release and waive my right to the twenty-two dollar (\$22.00) awarded me by the viewers, conditioned upon the performance of Simon Moyer of the remainder the report particularly in regards to the maintenance of a gate and also to the payment of all costs by Simon Moyer as petitioner.

J. M. Barberich

In the County of 200 of Office

Set of Deed Deed  
for a Private Road }  
in Cooper Twp }  
2 Feb. 20 26

May 20 1926 Roads open  
County, and confined to Dr

Sept. 20, 1926 Confirmed  
absolutely, By the County

A. R. Chase  
By

Certificate from the County  
This — day of May A.D.  
1926

Geo W. Robster

11/22/26 Certificate issued Cuy

LAW OFFICES OF  
**M. WARD FLEMING**  
PHILIPSBURG, PA.

Nov. 18th, 1926.

FILE: SIMON MOYER, PETITION FOR PRIVATE ROAD.

George W. Ralston, Esq.,  
Clearfield, Penna.

Dear Mr. Ralston:

Please send me a certificate showing that the private road has been granted in the above matter.

Very truly yours,

M. Ward Fleming

MWF:RCK\*

M. WARD FLEMING  
ATTORNEY AT LAW  
PHILIPSBURG, PENNA.

October 19th, 1926.

FILE: SIMON MOYER, PETITION FOR ROAD.

George W. Ralston, Esq.,  
Clearfield, Penna.

Dear Mr. Ralston:

Enclosed herewith you will please find my check to your order in the sum of \$113.12 covering the following items in the matter of the application of Simon Moyer for a private road in Cooper Township being No. 2 February Sessions, 1926:-

Witness bill	\$ 14.24
John Scollins, viewer	37.92
H. A. Reese, viewer	30.42
J. S. Michaels, viewer	30.54

I have omitted the item of \$22.00 for damages to Joseph Borborich for the reason that it was agreed at the time of the hearing that such damages would be waived and I have a letter from Bell, Boulton & Forsythe, under date of October 6th, 1926 in which they state, in part, as follows:-

"We have in our file a release from the payment of damages, which we will file, when ever you are ready to close the matter".

I am advising Bell, Boulton & Forsythe in this mail that we have forwarded the costs and have asked them to file the release with you.

I would aslo ask you to kindly write me a letter stating that these costs have been paid and that the road was confirmed absolutely at the September Sessions. Mr. Moyer seems quite anxious to have some written evidence from you to this effect.

Very truly yours,

M. Ward Fleming

MWF:RC  
Encl\*

IN THE COURT OF Quarter Sessions OF CLEARFIELD COUNTY,  
 In Private Road  
 m  
 Verus  
 Cooper Township

Of February 21, Term, 1926.

No. 2 Road

Land Owner Bill of Costs

At Harry Lyon, Clearfield, 1926.

		Dollars	Cents
Charles Drury	1 Days in attendance 23 46 Miles direct travel	3	38
Andrew Bokler	1 Days in attendance 24 27 Miles direct travel	3	62
Mr. Augustus Auduston	1 Days in attendance 27 Miles direct travel	3	62
Joseph Barborich	1 Days in attendance 27 Miles direct travel	3	62
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	Days in attendance Miles direct travel		
	Serving subpoenas Witness		
	Miles distance		
Whole amount of bill		14	24

CLEARFIELD COUNTY, SS:

Personally appeared before me Joseph M. Barborich, 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.

Sicorn to and subscribed before me this  
 21<sup>st</sup> day of January, A. D. 1926. }  
 J. M. Barborich  
 F. C. Bell, Prothonotary  
 Notary Public

MY COMMISSION EXPIRES MARCH 5, 1927

Rowd

No. 2 Feb'y 8th 1906

In Re: Rowd

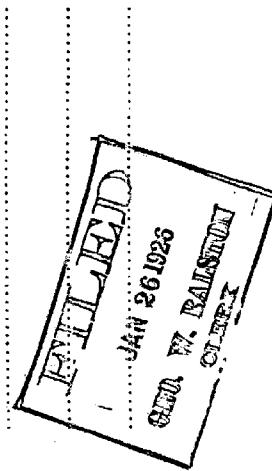
Versus

*Commons* Bill of Costs

For ..... Term 190 .....

Date ..... 190 .....

Amount - - - \$ .....



STATE OF PENNSYLVANIA )  
: SS  
COUNTY OF CLEARFIELD )

SIMON MOYER, the above named petitioner, being duly sworn according to law, deposes and says; that the facts set forth in the foregoing petition are true and correct according to the best of his knowledge, information and belief.

Sworn to and subscribed before me )  
this 7 day of December A.D. 1925.) Simon Moyer  
Chas. Oliviney ;  
NOTARY PUBLIC.

My commission expires:

My Commission Expires Dec 7 1925  
Commission Expires Dec 7 1925

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

2 Feb. 1926

In the matter of the petition of

SIMON MOYIR,

for a private road, leading from his  
farm or plantation to the Township  
Road in the Township of Cooper,  
County of Clearfield and State of  
Pennsylvania and over the lands of  
Joseph Borborich.

Now see 14 & 1536  
John H. Chisholm, Harry...  
These and Jacob Grindell...  
are affiantly return  
PETITION FOR APPOINTMENT OF VIEWERS  
to view before... submit...

W. Ward Fleming

W. Ward Fleming  
ATTORNEY AT LAW  
17 Moshannon National Bank Building  
PHILIPSBURG, PENNA.  
W. RALSTON  
CLERK