

DOCKET No. 6

Number

2

Term

Feb

Year

1926

Petition of Simon Moyer for private
road. Cooper Twp

Versus

SIMON MOYER

JOSEPH
DWELLING

BORBORICH

PRIVATE ROAD 17'6" WIDE.
S. 81° 30' E. 230'-
S. 85° E. 232'-

PUBLIC ROAD
TO LANSE

PRIVATE ROAD IN COOPERTOWNSHIP
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 Quarter Sessions of Clearfield County, Pennsylvania, in re: No. 3, February Sessions, 1936, to view and survey a private road to lead from the farm or plantation of Simon Meyer in the Township of Cooper to the branch of the public road leading from Leno to Vincent, known as the New Run Road, at a point where the present line of road now existing over the land of Joseph Borborick and which said road or lane joins the terminus of said New Run 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 Simon Meyer in said Township of Cooper on Monday, the 6th day of January, A.D. 1936 at ten (10:00) o'clock A.M., to attend to the matter aforesaid; and 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 matter an opportunity to be heard will be held in the Courtroom then in the Court House in Clearfield on Monday, the 6th day of January, A.D. 1936 at ten (10:00) o'clock A.M., or as soon thereafter as occasion can be had, at which time and place all parties interested may appear and be heard.

John Scollins
Harry Reese
J. J. Michael

Witness my hand and seal, 1936

Viewers

Service of this Notice Accepted
Bill Mullin & Sons
4465 1/2 In. Street

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 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 Scallin
Harry Reese
J. D. Michaels

Viewers

Dated, December 21st, 1925

Clearfield County, SS:

Now, this 23rd day of December, A.D. 1925, service of the above notice is accepted for the petitioner, Simon Moyer.

W. D. Downing
Attorney for Petitioner

tyl... one
... ..

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 hold 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.

Harry Reese
J. P. 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. B. Manning
ATTORNEY FOR THE PETITIONER.

Witness my hand and seal of office this 23rd day of December 1925.

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 Borberich, 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. 192 6.

Am. Poccia Seal
W. A. Reese Seal
J. S. Michael Seal
Seal

No. 2 Feb Sessions, 1926

ORDER

To view for Simon Moyer a
road for private use in the
township of Cooper
Clearfield County

May Sessions, 1926

read and confirmed Ni. Si. Road to be
opened ~~21~~ 17 1/2 feet wide, except where there
is side hill cutting or embankment and
bridging there to be 16 feet wide.

By the court
A. H. Hume

Now Sept Session
1926. Confirmed
absolutely.

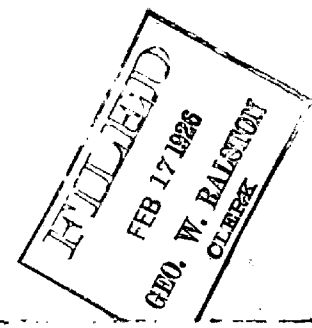
By the court.
J. H. Hume
P. J.

Filed _____ 19____
Fees \$1.25 paid by _____

M Ward Fleming, atty

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.
John Scollins	4	132	\$37.92
H. A. Reese	3	132	\$30.42
J. S. Michaels	3	134	\$30.54



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

Clearfield County, ss:

Filed
17th Dec
1898

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 ~~subscri~~ Cooper 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 ^{personal} 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, E. 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, Barborich 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 provate 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 -----

Save The Cant of 2 SS of Office

Pet of Dunnington } #2 Feb. 28 26
for a private Recd
in Cooper Twp

May 28 1926 Received open
Cant. and confirm in it

Sept. 28, 1926 Confirmation of
absolutely, By The Court
A R Chace
Pf

Certified from the record
This — day of Nov 28
1926

Geo W Ralston
11/22/26 Certificate issued Clerk

LAW OFFICES OF
M. WARD FLEMING
PHILPSBURG, 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:RC*

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

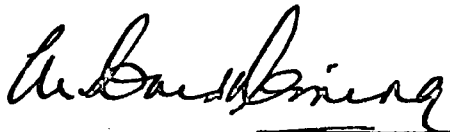
I have omitted the item of \$22.00 for damages to Joseph Borborich for the reason that it was agreed at the time of the hearing that such damages would be waived and I have a letter from Bell, Boulton & Forsythe, under date of October 6th, 1926 in which they state, in part, as follows:-

"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,



MWF:RC
Encl*

IN THE COURT OF Quarter Sessions OF CLEARFIELD COUNTY.

In Private Road
in

Of February 27 Term, 1926
No. 2 Road

Verstus
Cooper Township

Laud Diner Bill of Costs
At Henry Lyon Weaver Term, 1926

			Dollars	Cents
<u>Charles Durney</u>	1	Days in attendance <u>23</u> 46	<u>3</u>	<u>38</u>
<u>Andrew Butler</u>	1	Days in attendance <u>27</u> 47	<u>3</u>	<u>62</u>
<u>Mr Augusta Anderson</u>	1	Days in attendance <u>27</u>	<u>3</u>	<u>62</u>
<u>Joseph Barborich</u>	1	Days in attendance <u>27</u>	<u>3</u>	<u>62</u>
		Days in attendance.....		
		Days in attendance.....		
		Days in attendance.....		
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		Days in attendance.....		
		Days in attendance.....		
		Days in attendance.....		
		Days in attendance.....		
		Days in attendance.....		
		Serving subpoenas.....		
		Miles distance.....		
Whole amount of bill.....			<u>14</u>	<u>24</u>

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.

Sworn to and subscribed before me this
21 day of January, A. D. 1926.
John C. Bell,
Notary Public

J. M. Barborich

MY COMMISSION EXPIRES MARCH 5, 1927

Road

No. 2 Feb'y 58 Term 1906

In Re Private Road

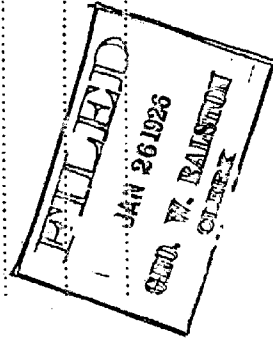
Versus

Chambers 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. Hiviney
NOTARY PUBLIC.

My commission expires:

My Commission Expires
in January 1926

My Commission Expires
in January 1926

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

2 Feb. 11. 1926

In the matter of the petition of

SIMON MOYER,

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.

Dec 14 to 1826
Simon Moyer, Petitioner
has and has procured
one affidavit sworn to
to show right
to the same
W. W. Ralston

PETITION FOR APPOINTMENT OF VIEWERS.

M. WARD FLEMING, ATTORNEY AT LAW

DEC 17 1925
WOSHANNON NATIONAL BANK BUILDING
PHILIPSBURG, PENNA.

EO. W. RALSTON
CLERK