

Road

DOCKET No. 6

Number Term Year

4

Dec ss 1926

Petition of Nancy Thurston for Appt

of viewers to Assess damages in Chest

Twp

Versus

X

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

NANCY THURSTON :  
vs : No. December Session, 1926  
CLEARFIELD COUNTY. :

TO THE HONORABLE A. R. CHASE, PRESIDENT JUDGE OF SAID COURT:

The Petition of Nancy Thurston respectfully presents:

FIRST, that she is a resident of Chest Township, Clearfield County, Pennsylvania, but now residing in the State of Ohio.

SECOND, that she is the owner of the following tract of land, all that certain tract of land situate in Chest Township, Clearfield, Pennsylvania bounded and described as follows:

Beginning at a hemlock corner of lands of John Hurd and James Stephenson; thence, by Stephenson lands, South 84 degrees and 18 minutes, east 82.5 perches to post; thence, North 11 degrees and 55 minutes, east 36.7 perches to post; thence, North 19.5 degrees east, 34.2 perches to post; thence, by lands of Mrs. McMurray North 10 degrees and 30 minutes east, 65.4 perches to post; thence, by lands of John Leonard South 44 degrees east 122.3 perches to post; thence, by lands of A. C. Hopkins South 28 degrees west 83.2 perches to stone pike; thence, North 70 degrees west 46.5 perches to a post; thence, West 27.8 perches to a post; thence, South 24.1 degree west, 53.4 perches to post; thence, North 86.1 degrees west, 48.8 perches to a post; thence, North 2.6 degrees east, 17.5 perches to post; thence, North 83.5 degrees west, 31.2 perches to post; thence, North 5 degrees 42 minutes east, 46.7 perches to place of beginning.

Being a part of the same tract of land the undivided one-half of which was conveyed by Thomas Reilley, and wife by deed dated the 28th day of April, A. D., 1879 recorded in Deed Book No. 14 at page 62 in the Recorder's Office of Clearfield County, Pennsylvania, to John Patton.

THIRD, that there exists State Highway Route No. 221 running between the village of Westover and Newburg, Clearfield County.

FOURTH, that the Commonwealth of Pennsylvania according to its agents employees have caused a portion of said road to be improved and made changes in the lines and location of said Highway on the property of your petitioners.

FIFTH, that as a result of the construction of said Highway through the property of your petitioners has been damaged and the market value materially lessened, access to the building thereon rendered difficult, the fields and fruit trees damaged ditches and sewers placed along said highway and through said fields all of which has caused damage to the property of your petitioners and

WHEREFORE your petitioners pray the Honorable Court that viewers may be appointed to ascertain her damage and such other proceedings as provided by the Acts of the Assembly relating thereto and she will ever pray.

M. T. Nancy Charstons

STATE OF <sup>Ohio</sup> ~~PENNSYLVANIA~~ )  
COUNTY OF <sup>Summit</sup> ~~CLARKE~~ ) SS:

Before me the subscriber hereto came Mrs. Nancy Thurston, who, being duly sworn according to law deposes and says, that the facts set forth in the above petition are true and correct to the best of her knowledge and belief.

Nancy Thurston

Sworn and subscribed to before  
me this <sup>25<sup>th</sup></sup> day of October, A. D.  
1926

Pearl M. DeLauro

ORDER

Now, October 27<sup>th</sup>, 1926 the above petition having been read and considered, A. S. Kramer Esq., Harry Reese and James Spangler viewers to assess the damages in this case and to proceed as required by the Acts of Assembly relating thereto.

BY THE COURT.

A. R. Chase  
P. J.

No. *4* December Session, 1926

NANCY THURSTON

-VS-

CLEARFIELD COUNTY...

PETITION TO APPOINT  
VIEWERS TO ASSESS DAMAGES.

*Howell*

FILED  
OCT 23 1926  
CLEARFIELD  
V. ALBERT REMEY,  
Attorney at law,  
Clearfield, Pa.

4.00

Beginning at a hemlock corner of lands of John Hurd and James Stephenson; thence by Stephenson lands S. 84° 18' East. 82.5 Perches to post; thence N. 11° 55' E. 36.7 per. to post; thence N. 19.5° E. 34.2 Per. to post; thence by lands of Mrs. McMurray N. 10° 30' E. 65.4 per. to post; thence by lands of John Leonard S. 44° east 122.3 Per. to post; thence by lands of A. C. Hopkins S. 28° W. 83.2 per. to stone pike; thence N. 70° W. 46.5 per. to a post; thence W. 27.8 per. to a post; thence S. 24.1° W. 53.4 per. to post; thence N. 86.1° W. 48.8 per. to a post; thence N. 2.6° East. 17.5 Per. to post; thence N. 83.5° West 31.2 Per. to post; thence N. 5° 42' east. 46.7 per. to place of beginning

TO:- JESSE. E. DALE, T. R. WEIMER, AND B. W. MCCracken:-  
COUNTY COMMISSIONERS OF CLEARFIELD COUNTY, PENNSYLVANIA.

Sirs: 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 if any that Nancy Thurston by the construction of the State Highway through her property situate in Chest Township in the county and State aforesaid containinf                      acres . Through which through which the State Highway Department has lately constructed a state e leading from the Borough of Westover to the borough of La Jose in said county on route number (221 )     foe which damages if any the County of C Clearfield is liable.

You are therefore hereby notified, that the said viewers will meet on the said premises of the said Nancy Thurston in Chest Township in the County and State aforesaid on Tuesday November the sixteenth (16th) 1926, at nine (9) O'clock A. M. to view and inspect the said premises of which time and place you will please take notice.

And that the hearing 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 the claimant with his witnesses, as also the county Commissioners with their witnesses if any a chance a chance to be heard by the viewers before disposing of the matter; will be held in the Arbitration Room in the Court House in Clearfield Pa, on Wednesday November the seventeenth (17th) 1926 at nine thirty (9.30) - O'clock A. M. at which time and place, you with your witnesses may attend and be heard

A. G. Kramer

H. J. Rees

J. W. Spencer  
VIEWERS.

Now November 5 1926 service accepted for the county Commissioners of Clearfield Pa.

L. C. Morris  
Clerk.

TO:- NANCY, THURSTON.

MADAM.

You are hereby notified, that the undersig-  
-ned viewers appointed by the Court of Quarter Sessions of Clearfield  
County Pennsylvania, to view and assess the damages you sustained by the  
construction of the State Highway through your land consisting of

acres, situate in Chest township Clearfield County Pennsylvania  
which said State Highway leading from Westover to La, Jose in the county  
and State aforesaid on State Highway Route number 221, for which damages  
if any the county of Clearfield is liable.

You are therefore hereby notified, that the said viewers will  
meet on your said premises in Chest Township, County and State aforesaid  
on Tuesday November the sixteenth (16th) 1926 at nine o'clock A. M. to  
view and inspect the said premises of which time and place you will please  
take notice.

And that the hearing 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 the claimant with his witnesses, as also the Coun-  
-ty Commissioners with their witnesses if any a chance to be heard by the  
viewers before disposing of the matter will be held in the Arbitration  
Room in the Court House in Clearfield Pa; on Wednesday November the sev-  
enteenth (17th) 1926 at nine thirty (9,30) o'clock A. M. at which time an-  
-d place, you with your witnesses may attend and be heard.

J. G. Kramer  
H. A. Reel  
J. W. Simpson  
VIEWERS.

Now November 6<sup>th</sup> 1926 service accepted for Nancy Thirston the  
claimant and personal service waived.

W. Albert Sawyer  
Atty for Nancy Thirston



maintenance of said drain along the front and side of the barn to drain the overflow of the water from the State Highway in time of heavy rains to prevent the flooding of the lower floor and the stalls of her barn the cost and expense of the construction and maintenance of said drain can in the opinion of the viewers be constructed and maintained at a cost of twenty five (\$25.00) dollars. They therefore assess the damages for the construction of the said drain at the barn at the sum of twenty five (\$25.00) dollars.

As to the damages claimed for the destruction of the two apple trees located along the township road cut down and destroyed by the increase of the width of the road would seem by the testimony produced were only of the common ordinary ungrafted wild fruit and of no particular value such as frequently grow along the side of the road and the fruit thereof of no great value. The viewers therefore ten dollars a piece a fair value for said trees. They therefore assess the value or the damages sustained by the destruction of the said trees at twenty (\$20.00) dollars.

These cover all the claims for the different items of damages presented or claimed and all that in the opinion of the viewers the claimant suffered or sustained ; they therefore assess the aggregate amount of damages the claimant sustained at one hundred and seventy (\$170.00) dollars.

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 28th day of October in the year of our Lord one thousand nine hundred twenty six

Nancy Thurston

Judge of the same Court: Upon the petition of ~~standixia~~ habitants of the Township of Chest

in said County, setting forth that she is the owner of the following tract of land situate in Chest Township bounded and described as follows:

assess damages

and therefore, praying the Court to appoint proper persons to view and ~~lay out the road~~ between the points mentioned, whereupon the Court upon due consideration had of the premises, do order and appoint from and among the County Board of Viewers A.G. Kramer, Esq Harry Reese and James Spangle

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

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

By order of the Court.

Geo. W. 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 said notice was duly posted along the route of the proposed road.

And the hearing to be held in the Arbitration Room, at the Court House in Clearfield, Pa. on the

day of

viewers appointed by the said order viewed the ground proposed for the above

mentioned road, and that there were present at the view no one but the viewers:---

That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the 23d day of November A. D. 1926, when the following appearances were noted: W. L. Thurston, Dutra, Paul, Hazleton,

and M. J. Hurd as witnesses and with W. Albert Ramey Esq Attorney

for the Claimant and Frank Woods one of the Supervisors of Chest

Township who were the parties in the damages in the said claim

with W. A. Hagerty Attorney for the Supervisors of Chest Township

After the view and hearing above mentioned, the undersigned, the majority of the said viewers, do agree that there is no reason to be made as desired by the petitioner, and that

it is necessary for a road. And having had respect to the shortest distance and the most convenient road we have decided that the road should be made as follows: from the State Highway to the barn floor to enable her to haul her grain and hay from the fields into the barn that on account of the filling of the road past her barn it is impossible to drive in on to the barn floor with a load of grain or hay or to back out from the barn floor onto the road the filling of the road along the front of barn is too high and steep to drive down over it into the barn or to back out of the barn onto the road.

That the claimant Nancy Thurston is the owner of about seventy six (76) of land in Chest Township Clearfield County Pennsylvania through which the State Highway Commissioner has lately constructed a State Highway leading from the Borough of Westover to the Borough of Newburg in Clearfield County Pa on Route Number (221) by which the claimant claims to have been greatly damaged By the amount of her land taken for the road bed of the new or improved road. By the filling necessary at the side of or front of the barn to enable her to drive in from the State road onto the barn floor to enable her to haul her grain and hay from the fields into the barn that on account of the filling of the road past her barn it is impossible to drive in on to the barn floor with a load of grain or hay or to back out from the barn floor onto the road the filling of the road along the front of barn is too high and steep to drive down over it into the barn or to back out of the barn onto the road.

She also claims the cost of the construction of a bridge or culvert across the drain of the Highway at the upper side of the road near the front of the house to enable her to drive from the State road up to her house and orchard and fields on the upper side of the road.

Also the cost or expense of the rection and maintenance of a drain along the front and side of her barn to drain the water flowing down from the State Highway down to her barn which flows onto the lower floor of the barn and the stalls of the barn.

Also the value of two apple trees that were along the side of the township which by the widening of the Highway were destroyed.

The entire length of the road through the claimant's land is ten hundred and eighty two (1082) feet and the width of it including the bern, and drains along both sides of the road the slopes of the fills and the excavations is forty eight (48) feet covering near one and a half (1,  $\frac{1}{2}$ ) acres of land but from all the information the viewers could get at least one half is on the old road bed of the former township road for which the claimant is not entitled to any damages so that all the land she is entitled to any damages is about three fourth of an acre which in the opinion of the viewers was not worth over fifty (\$50.00) dollars they therefore assess the damages for the land taken at fifty (\$50.00) dollars.

As to the filling necessary to be done between the barn and the highway past her barn so as to make easy access from the Highway into her barn the viewers are fully convinced can be done for fifty (\$50.00) dollars They therefore assess the damages for the filling from the Highway to the barn at fifty (\$50.00) dollars.

As to the damages claimed for the cost of the erection of a culvert or bridge across the drain on the upper side of the Highway near the front of the house to enable her to cross over the drain from the Highway to the house, orchard, and fields on the upper side of the road, the viewers assess the damages at the real or actual cost including the necessary material at twenty five (\$25.00) dollars.

They also assess the cost or damages for the erection and

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:

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

WITNESS our hands and seals this first day of December; -----

A. D. 1926.

*Seal*

*A. L. Brown* *Seal*

*H. A. P.* *Seal*

*James M. Manigle* *Seal*

No. 4 Dec Sessions, 19 26

## ORDER

To view and Assess damages to a  
road for EANCY THURSTON ~~use in the~~  
township of CHE T  
Clearfield County

Sessions, 19  
read and confirmed Ni. Si. Road to be  
opened 33 feet wide, except where there  
is side hill cutting or embankment and  
bridging, there to be 16 feet wide.

Now Jan 4<sup>th</sup> 1927,  
confirmed in so  
absolutely in thirty  
days, unless exception  
filed.

By the Court  
FILED  
JAN 4 1927  
W. W. RALSTON  
Filed OCT 1927  
Fees \$1.25 paid by

W. Albert Ramey, 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.
A. C. Thurston	6	77	\$48.80
H. A. Reese	12	113	\$25.75
James W. Thompson	1	183	\$45.95

Now Jan 4<sup>th</sup> 1927.  
Permit accepted for  
County Commissioner  
L. C. Morris  
Care

FILED  
DEC 4 1926  
SEC. W. RALSTON  
OTTER

## 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. 192\_\_\_\_\_.

Seal  
Seal  
Seal  
Seal