

DOCKET No. 6

Number	Term	Year
8	May	1926

Petition to vacate road in

CHEST TWP

**Versus**

In the Court of Quarter Sessions of Clearfield County, Pennsylvania  
In Re. Petition to vacate road) No. 8 May Sessions, 1926.  
in Chest Township. ) Exceptions to Viewers Report.

The exceptions to the Report of Viewers recommending vacation of road in this case set out: First, that the road accommodates two families who have children who go to public schools; second, that by vacation of the road that the mail will not be delivered to, the premises of the exceptants; third, that the termini is in a cul-de-sac.

From the statement of the various Counsel involved in this matter as to the first and second contention, it appears that the families living along the road which is vacated are a very short distance from the main highway and there will be no burden whatever placed upon these families either to have this road vacated by reason of the short distance the children must travel to the public road or by the fact they would have to go this short distance to secure their mail from a mail box which would be placed on the public highway. The Report of the Viewers indicated and their findings from the testimony and examination and a great number of citizens who signed the petition asking for the vacation because the road had become practically useless, inconvenient and burdensome, would clearly indicate that the objections here raised and under discussion are not of a serious enough nature to justify a Court in not affirming the Report of Viewers in this case. If there were any burden of any consequence placed upon the party adversely affected by a vacation, the Court would not permit the vacation.

As to the objection raised that the road has a termini in a cul-de-sac, in the judgment of the Court the conditions are such governing this particular road in question that there is a very

good reason for vacation of the road while there is no sound reason why the same should not be vacated because the termini happens to be in a cul-de-sac. Although the lower Courts have frequently held that a road could not be vacated which had a termini running to a cul-de-sac, the upper Courts have clearly indicated that that fact alone does not prevent vacation. It is only when in the judgment of the Court that such a condition under the circumstances should prevent because of some hardship the vacation. Big Run road; 47 Superior Court 166.

Now, January 15th, 1927, exceptions dismissed and Report of the Viewers affirmed absolutely. Expenses in this proceedings on exceptions to be paid by the Exceptant. Exception noted and bill sealed for the Exceptant.

By the Court,

A. R. Blaile

P. J.

MO. CITY SESSIONS, 1930.

Re. petition to vacate road  
in Chest. Cornish.

C.L.T.C. and C.M.C.

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

In Re Petition to vacate Road )  
in Chest Township, Clearfield )      No. 8 May Sessions, 1926.  
County.                                      )

EXCEPTIONS TO VIEWERS' REPORT.

Now, September 6th, 1926, Perry L. Kitchen except to the viewers' report in the above case for the following reasons:

FIRST, That the vacation of said road will deprive two dwellings and several farms of a public road.

SECOND, That the vacation of said road will deprive that section of mail delivery and leave no public highway by which exceptant's children may attend public school.

THIRD, That exceptant was induced to sign the petition to vacate said road by the promise of the Supervisors to provide for him a private road, which promise he now learns they have no legal power to fulfill. Exceptant believes that most of the signers affixed their signatures under misapprehensions arising from the presence of his name upon the petition.

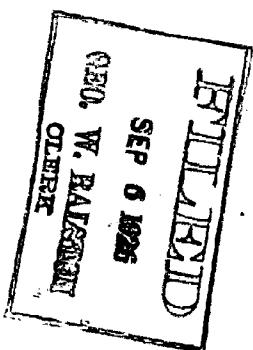
FOURTH, Other irregularities.

Sworn to and subscribed before me  
this 6th day of September, 1926.

*Perry L. Kitchen*  
\_\_\_\_\_  
*Geo. H. Ralston*  
\_\_\_\_\_  
*Bookbinder & Clerk & S.*

no 8 May 5 1926

Enclosed is the  
Miners Report.



Howard Warner

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNSYLVANIA

In Re Petition to vacate road in )  
Chest Township ) No. 8 May Session, 1926

EXCEPTANT'S BRIEF

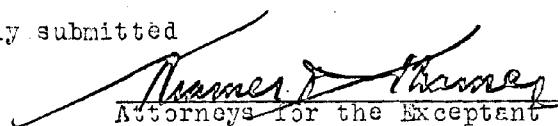
A public road will not be vacated unless the unvacated part terminates at a public place.

Susquehanna river road, 1. Pears. 59  
Upper Hanover Township, 5. Mont. 174  
Frost Vs. Scott, 12. D. R. 339  
Lehman Township road, 7. Kulp. 404  
Penn Township road, 24. C. C. 526

Where it appears that the public road is the only public highway by which a considerable proportion of the people of a school district can conveniently reach the school house to which they must send their children, it ought not to be vacated.

Exeter Township road, 1. Kulp. 363

Respectfully submitted

  
Thomas J. Haney  
Attorneys for the Exceptant

Perri Kitchen	J. B. Walker
Belle Kitchen	distressed
Strong Kitchen	C. D. Stiles
Gertrude Kitchen	Gabrielle Neff
Emmie Kitchen	Blair Smith
Frances Kitchen	Edith Gray
Mrs. Sarah Kitchen	G. I. Neff
Elizabeth M. Brickley	Mrs. A. B. (Jeff)
Wm. Lumbur	John White
Luthorne Lumbur	W. M. White
S. A. Neff	W. M. McCammy
George Snedas	R. T. McCammy
Mrs. Jones & wife	John J. Kitchen
Mrs. Esther Kinnaman	Robert Kitchen
Mrs. Raymond Kinnaman,	H. B. Rainey
Wm. Kitchen	Merry Ramsey
Joseph R. Kitchen	John Ramsey
C. R. Kitchen	Earnie Richards
Mr. Joseph R. Kitchen	Brissie Dennisick
Henry Fisher	John Fisher
Orezell Fisher	Wm. Fisher
Bliss Fisher	R. H. Fisher
Malvin Fisher	Mary Fisher
H. George Canning	E. T. McColley
James G. Canning	Mrs. E. T. McColley
Aaron Canning	David Lloyd
George Pennington	Mrs. George Lloyd
Nathie Pennington	Daisy Lloyd
Socie Fisher	H. H. Westover
D. C. McColley	Mrs. George Westover
Samuel McColley	Clara Westover
Dol Dumbur	Martha Westover
Lizabell Dumbur	Kate Ramsey
Margie Dumbur	Clair Ramsey
W. S. McColley	J. C. McColley
W. S. McColley	Frank McColley
W. S. McColley	H. H. Adcock
W. S. McColley	John Adcock
W. S. McColley	Melvin Dicht
Emma Lightner	
Carrie Lightner	

8 May 20 1926

FILED
MAR 22 1926
GEO. W. RALSTON
CLERK

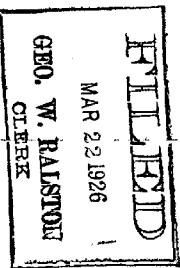
Portland, 22nd, 1926

John Nichols, L. S.  
Harry Rose, and  
Francis Blaigle  
are appointed to  
new and other  
offices  
by the County  
of Multnomah

O. J.

Perry Kitchen	J. S. White
Belle Hileman	Verdine
Strong T. T. Jr.	C. D. Hiles
Verneal P. White	Golde Nef
Jannie Kitchen	Blair S. Knapp
Frances Kitchen	E. Edith Knapp
Mrs. Sarah Kitchen	G. J. Nef
Elizabeth M. Brickley	Mrs. C. B. Jeff
Wm. Dunbar	John Whiti
Catherine Dunbar	M. M. White
S. A. Jeff	Irvin M. Gandy
George Singold	R. H. McCarney
Mrs. John. E. Gandy	John Z. Kitchen
Mrs. Esther Koeneman	Robert Kitchen
Mrs. Raymond Koeneman	E. H. Rainnery
W. M. Kitchen	Merry Passansky
Joseph R. Kitchen	John Rainnery
A. R. Kitchen	Earn Michaels
Mr. Joseph R. Kitchen	Grissie Derryck
Henry F. Singold	John F. A. Miller
Oakdale Finsbury	Maria Roberts
Bear Finsbury	R. H. Ballou
Madison Finsbury	Mary E. Fairley
H. R. Gandy	E. T. McCarley
James Weston	Mrs. E. T. McCarley
Stanton Weston	David Lloyd
Charles Pennington	Mrs. Edmund Lloyd
Walter Pennington	Daisy Lloyd
Socie Finsbury	H. H. Weston
D. C. McCarley	Mrs. H. H. Weston
Seneca Finsbury	Clara Weston
Sal Dunbar	Martha Weston
Elizabeth Dunbar	Eliza Rainnery
Maryne Dunbar	Eliza Penny
W. S. McCarney	F. C. McCarney
C. H. McCarney	Frank McCarney
W. H. McCarney	H. H. McCarney
W. G. Finsbury	John H. Ditch
Emma Lightner	Melvin Ditch
Carrie Lightner	

8 May 20 1926



Received 22nd 1926  
John Ladd's Log  
Harry Rose, and  
James Gangle  
are appointed to  
new and important  
positions  
by the County  
of Spokane

J. J.

To the Hon.A.R.Chase, Judge of Clearfield County, Penna.

The Petition of the Subscribers Respectfully represent that a road was formerly laid out by order of the court leading from the State Highway leading from La Jose to Westover. The said road beginning at the Hurd School house running in a southeasterly direction to McGarvey Ridge connecting with the Ansonville and Westover road at a point known as the William McGarvey Farm. Beginning at a point on the aforsaid road where it connects with what is known as the J.E.Spaide road on the Thomas Russell farm including all of said road from the above named point to the John McMasters road including in this petition all of the road known as the John McMasters road leading from the above named road west to the Neff Store at Five Points where it now intersects with the North Camp road. Your petitioners conceive that these roads have become useless, inconveniend and burdensome. Your Petitioners therefore Pray the Court that the same may be vacated.

July 15  
1870

Mast  
Derry



County Commissioners of Clearfield County, Pennsylvania:-

*John Scallion  
Harry Reese  
James Spangle*

Clearfield County, SS:

Now, this 12 day of April, A.D. 1926, service of the  
above Notice is accepted for the Commissioners of Clearfield County.

*L. C. Morris*

To: John Diehl, F. M. Wood and John Stephens, Supervisors of Chest  
Township, Clearfield County, Pennsylvania :-

*John Scallion  
Harry Reese  
James Spangle*

Clearfield County, SS:

Now, this 12 day of April, A.D. 1926, service of the above  
Notice is accepted for the Supervisors of Chest Township.

*John Stephens  
Frank M. Wood  
John Diehl*

CLEARFIELD COUNTY, SS.:

At a Court of Quarter Sessions of the Peace of the County of Clearfield, Pa., held at Clearfield, Pa., in and for said County, on the 22nd day of March in the year of our Lord, one thousand nine hundred and twenty six

A. R. CHASE

By the Honorable ~~Stratton~~, President Judge of the said Court: Upon the petition of sundry

inhabitants of the Township of Chest, in the County aforesaid setting forth that a road

was formerly laid out by order of the Court leading from the State Highway leading from LaJoss to Westover. The said road beginning at the Hurd School House running in a southeasterly direction to McGarvey Ridge connecting with the Ansonville and Westover road at a point known as the William McGarvey Farm. Beginning at a point on the aforesaid road where it connects with what is known as the J.E. Spade road on the Thomas Russell Farm, including all of said road from the above named point to the John McMasters road including in this petition all of the road known as the John McMasters road leading from the above named road west to the Neff Store at Five Points where it now intersects with the North Camp Road

and, therefore, praying the Court to appoint proper persons to view and vacate said road between the points mentioned, whereupon the said 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 James Spangle who have been duly appointed by the said Court on the County Board of Viewers, and filed their oaths of office in the office of the Court of Common Pleas of the County aforesaid, as required by law and are, therefore, duly qualified to perform the duties of their appointment, with impartiality and according to the best of their judgment; are to view the said road, and after having viewed the same, if they, or a majority of them, do agree that there is no necessity for said road, they shall proceed to vacate the same as agreeably to the desire of the petitioners as may be, and make report thereof to the next Court of Quarter Sessions to be held in and for said County, stating particularly whether there is any necessity for said road, or whether the same should be vacated; and the reason why, together with a plot, or draft, thereof showing the courses and distances with reference to the improvements through which said road passes.

And in case the viewers aforesaid shall decide in favor of vacating said road, they shall obtain from the persons through whose lands the said road passes, or otherwise affected, or damaged, by the vacating of said road, releases from whatever damage they may sustain by the vacation of said road; and in case the owners of such lands, or persons affected, thereby refuse to release their claim to damages, the said Viewers shall assess the same, taking into consideration the advantages, as well as the disadvantages, arising from the vacation of said road; and make report of such assessment; 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 the place where they would meet, to view 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 QUARTER SESSIONS OF THE PEACE, IN AND FOR THE COUNTY OF CLEARFIELD, PA.

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, beg leave to report as follows:

That notice of the time of the 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 Chest, and that three notices thereof were posted along the route of the said road to be vacated, that the said view would be held on the

29th day of April, A. D. 1926, and that the public hearing, as required by the Act of Assembly, and the Rules of Court, would be held in the Arbitration Room in the Court House, in Clearfield.

Pa., on the 30th day of April A. D., 1926, at ten o'clock A. M., and that said Viewers, appointed by the said order, viewed the road desired to be vacated, and that there were present at the view John Z. Kitchin, Mart Connally, Edward Pounds, Thomas Russell, Samuel Guthrie, F. M. Woods, J. C. Diehl, John Stephens,

parties interested, either in favor of or against vacating said road. And that the aforesaid hearing was held in the Arbitration Room in the Court House, in Clearfield, Pa., on the 30th day of April, A. D. 1926, when the parties interested in the said road were in attendance: W. A. Hagerty, Esq., Attorney for petitioners; Frank M. Wood and John C. Diehl, sworn, examined and cross-examined by counsel and your Board.

And that after the view and hearing above mentioned, the undersigned Viewers do agree that said road has become useless, inconvenient and burdensome to wit: Beginning at the point of intersection with the J. E. Spade Road on the Thomas Russell Farm (which said Road leads from the Hurd School House on the LaJose-Jestover improved State Highway): thence South 89 degrees East 172 feet to a post; thence South 69 degrees East 549 feet to a post; thence North 55 degrees East 456 feet to a post; thence North 41 degrees East 492 feet to a post; thence North 73 degrees East 48 feet to a post; thence North 54 degrees East 615 feet to a post; thence South 60 degrees East 58 feet to a post; thence South 40 degrees East 1480 feet to a post; thence South 31 degrees East 1040 feet to a post; thence South 56 degrees East 178 feet to post on McGarvey Ridge Road; thence South 54 degrees West 489 feet to post; thence South 53 degrees West 900 feet to post; thence South 48 degrees West 278 feet to post; thence South 61 degrees West 265 feet to post; thence South 75 degrees West 335 feet to post; thence South 84 degrees West 430 feet to post; thence South 89 degrees West 397 feet to post; thence South 69 degrees West 314 feet to post; thence South 65 degrees West 118 feet to post; thence North 52 degrees West 96 feet to post; thence North 44 degrees West 268 feet to post; thence North 52 degrees West 158 feet to post; thence South 33 degrees West 171 feet to post; thence South 71 degrees West 354 feet to post; thence South 79 degrees West 384 feet to post; thence South 89 degrees West 250 feet to

post; thence North 81 degrees West 240 feet to post; thence North 70 degrees West 421 feet to post; thence North 83 degrees West 685 feet to post; thence South 82 degrees West 287 feet to post; thence South 73 degrees West 193 feet to post; thence South 45 degrees West 339 feet to post; thence South 58 degrees West 920 feet to post; thence South 64 degrees West 355 feet to post; thence South 68 degrees West 367 feet to post; thence North 85 degrees West 965 feet to post on North Camp Road at Five Points, near the Improved State Highway leading from LaJose to Westover.

and that a plan, or draft, of said road to be vacated showing the courses and distances, and over whose property the said road passes, is hereto attached and made a part hereof.

The undersigned Viewers further report that they endeavored to procure from all parties affected by the vacation of said road, or over whose properties said road passes, or in any way damaged by the vacationing of said road, a release in writing of all claims to damages that may arise from the vacation thereof, and that they procured such release from:

And that the following persons having, in the opinion of the Viewers, been damaged by the vacation of said road, and having refused to release the damages to which they may be respectively entitled to by reason of the vacation, and closing up 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:

No damages assessed.

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

Witness our hands and seals this

3rd day of May, A. D. 1926.

*John Scelina* [SEAL]

*H. A. Reese* [SEAL]

*James W. Spangle* [SEAL]

Viewers.

