

DOCKET No. 6

Number
8

Term
May

Year
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 terminus 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 terminus 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,



P. J.

Mo. S. ey sessions, 1920.

It is petition to vacate road
in West Township.

OPTION and OPTION.

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.

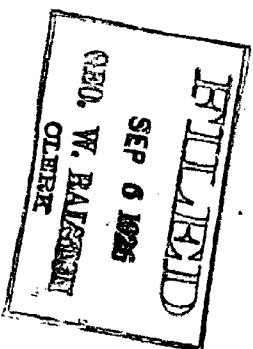
FOURTH, Other irregularities.

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

Perry L. Kitchen
Geo. H. Palstog
Doct. H. & Clerk & S.

no 8 May 55 1926

Exhibition to
Wilson Report



Harriet Moore

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

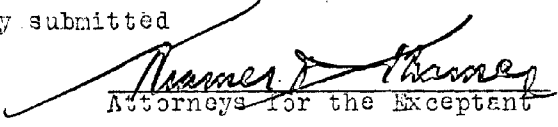
A public road will not be vacated unless the unvacated part terminates at a public place.

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


Attorneys for the Exceptant

Jerry Kitchen
Belle Kitchen
Strong Kitchen
Gertrude Kitchen
Dennie Kitchen

Frances Kitchen
Mrs Sarah Kitchen
Elizabeth M. Brickley
Helen Dunbar

Catherine Dunbar
S. A. Neff
George Sniedes
Mrs. Jones & Lillie

Mrs. Oliver Korman
Mrs Raymond Korman
W. M. Kitchen

Joseph R. Kitchen
A. R. Kitchen
Mr Joseph R. Kitchen
Henry Fishap

Credell Fishap
Blair Fishap
Malvin Fishap

H. Roy Carrington
James W. L. L. L.
David L. L. L.

Clarence Pennington
Hattie Pennington
Socle Fishap

D. C. Smith
Senat. Smith
J. L. Dumbear

Elizabeth Dumbear
Mayme Dumbear
W. S. M. L. L.

W. S. M. L. L.
W. S. M. L. L.
W. S. M. L. L.

W. S. M. L. L.
Emma Lighter
Carrie Lighter

J. B. M. L.
J. B. M. L.
C. D. Holes

John Neff
Blair S. Neff
Edith Neff
A. J. Neff

Mrs A. B. Neff
John White
M. M. White

John M. L. L.
R. H. M. L. L.
John J. L. L.

Robert Kitchen
H. M. Ramsey
Morry Ramsey

John Ramsey
Earn Michael
Grissie Demmick

John J. L. L.
W. M. L. L.
R. H. L. L.

Mary L. L.
E. F. McCutley
Mrs E. F. McCutley

David Lloyd
Mrs. L. L. L.
L. L. L.

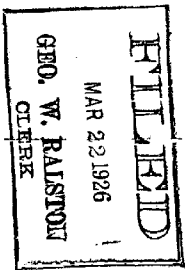
L. L. L.
H. H. Westover
Mrs Geo Westover

Clara Westover
Martha Westover
Kate Ramsey

John Ramsey
J. C. M. L. L.
George M. L. L.

H. M. L. L.
John J. L. L.
Melvin D. L. L.

8 May 20 1926



Rebrowed 22nd 1926

File under Log,
Harry Kane, and
James H. Langley,
are appointed to
lead and assist
by the court
of the

P. J.

Perry Kitchen
Bill Kitchen
Frank Kitchen
Gertrude Kitchen
Hannie Kitchen

Frances Kitchen
Mrs Sarah Kitchen
Elizabeth M. Brickley

Wm. Dunbar
Catherine Dunbar

S. A. Neff
George Sniedes

Mrs. Sarah F. Die
Mrs. Elmer Korman

Mrs. Raymond Korman
W. M. Kitchen

Joseph R. Kitchen
A. R. Kitchen

Mr. Joseph R. Kitchen
Henry Fishel

Orville Fishel
Blair Fishel

Madison Fishel
H. Roy Canning

James W. Canning
Hanson Canning

Clarence Canning
Katherine Pennington

Loche Fishel
D. C. Smith

Senati Smith
Ed. Dunbar

Elizabeth Dunbar
Mazine Dunbar

W. S. Canning
Ed. Canning

Ed. Canning
Ed. Canning

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Ed. Canning
Ed. Canning

Ed. Canning
Ed. Canning

J. H. Canning
Ed. Canning
C. D. Canning

Ed. Canning
Blair Canning

Edith Canning
A. J. Canning

Mrs. A. B. Canning
John White

M. M. White
John M. Canning

R. H. M. Canning
John F. Canning

Robert Canning
H. M. Canning

Mary Canning
John Canning

Earn Canning
Erissie Canning

John Canning
Wm. Canning

R. H. Canning
Mary Canning

E. F. Canning
Mrs. E. F. Canning

David Lloyd
Mrs. Canning

Daisy Lloyd
H. H. Westover

Mrs. Geo. Westover
Chas. Westover

Martha Westover
Kate Canning

Ed. Canning
T. C. Canning

George Canning
H. M. Canning

John Canning
Melvin Canning

Melvin Canning
Melvin Canning

Melvin Canning
Melvin Canning

8 May 20 1926

FILED
MAR 22 1926
GEO. W. BALSTON
CLERK

Received 22nd 1926

The Justice's Log,
Henry Bone, and
James H. Langley,
are appointed to
read and report
by the Court
at 10 o'clock

P. 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 aforesaid 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, inconvenient and burdensome. Your Petitioners therefore Pray the Court that they may be vacated.

James H. Masters
Prayer

Public Road in Chestnut
Crenshaw County Pa
Newfound Gap Rd
April 29-1922 By
John Scollins Esq
H. M. Reese
J. M. Spangle

County Commissioners of Clearfield County, Pennsylvania:-

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 :-

Wm. Scollin
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 Wood
John C. 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 ~~Seigriston Bell~~, 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 LaJose 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. 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 inteseects 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 ap-

point 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 appoint-
ment, 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 trans-
mit 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. Palston
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 Connelly, 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. Spaide Road on the Thomas Russell Farm (which said Road leads from the Hurd School House on the LaJose-Westover improved State Highway): thence South 89 degrees East 172 feet to a post; thence South 69 degrees East 549 feet to a post; thence 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 vacation 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 2nd day of May, A. D. 1926.

John Scaccia [SEAL]

W. A. Reese [SEAL]

James W. Spangle [SEAL]

Viewers.

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	Am't

No. 8 May Term 19

ORDER TO VACATE

To view and vacate road situate
in the Township of CHEST
Clearfield County.

Now May Sessions 19 26
read and confirmed Ni. Si.

By the Court.
Now Feb Sessions 19 28
confirmed absolute.

By the Court.

Filed _____ 19

Atty, _____

Fees \$1.25 paid by

W. A. HAGERTY, ATTY.

