

DOCKET No. 6

Number	Term	Year
9	Feb	1926

PETITION OF JAMES A . MARTIN FOR
APPT. OF VIEWERS TO ASSESS DAMAGES
IN BURNSIDE TWP
Versus

.....
.....
.....

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

In re: Reconstruction of :
Route No. 62 State Highway. :
Damages of James A. Martin :

PETITION.

To the Honorable A.R. Chase, President Judge of said Court.

The petition of James A. Martin respectfully represents:-

(1). That he is the owner of a farm situated in Burnside Township, Clearfield County, Pennsylvania, consisting of two pieces, one of which was conveyed to him by James Dowler, Jr., by deed dated December 19, 1907, recorded in Clearfield County in Deed Book 168, page 97, containing 97 acres more or less; the other thereof containing 25 acres, more or less, and being the same premises which James Dowler and wife, by deed dated April 16, 1890, recorded in Clearfield County in Deed Book 111, page 39, conveyed to the said James A. Martin.

(2). That the State Highway Commissioner of the State of Pennsylvania has undertaken and proceeded with the construction of an improved State Highway, being Route No. 62, particularly the portion thereof between Burnside Borough and the junction of said State Highway Route No. 62 and State Highway Route No. 262 leading to Glen Campbell, and said junction of said two roads being near the Pennsylvania Railroad Station known as Cush Creek Junction; and that said construction of the State Highway has passed through the farm of the petitioner aforesaid.

(3). That a change has been made to some extent in the location and by widening said road passing through the land of your petitioner by reason of the changing of the flow of water, the destruction of trees, inconvenience to your petitioner in his use of said lands, the actual taking of the land aforesaid and in various other ways.

(4). That the construction of said State Highway through the lands of your petitioner has proceeded so that the grading

and laying of concrete thereon has been completed at least in part.

(5). That your petitioner has been unable to agree with the County Commissioners of Clearfield County on the amount of damages to be paid to your petitioner for the land appropriated and for the other injuries resulting to your petitioner from the construction of said improved Highway aforesaid.

WHEREFORE your petitioner prays your Honorable Court to appoint viewers to appear upon the premises and to view and assess the damages and injury for which your petitioner is entitled to receive compensation, by reason of the appropriation of his land and the other injury to his property occasioned by the reconstruction and relocation of said State Highway.

James A. Martin

STATE OF PENNSYLVANIA :
 :SS
COUNTY OF CLEARFIELD :

James A. Martin, being duly sworn according to law, deposes and says that the facts set forth in the foregoing Petition are true and correct.

Sworn and subscribed before
me this 20 day of January,
A.D. 1926.

James A. Martin

Wesley R. Ralston
Prothonotary

AND NOW January _____, 1926, upon presentation of the
foregoing petition, the Court appoints _____

_____ and _____
viewers to view and assess the damages to the premises of
James A. Martin mentioned in the foregoing petition.

By the Court,

President Judge.

Now Febry Session 1926 the power of the viewers
enlarged to May Session 1926

By the Court
A. H. Brown
P. J.

9 Feb 20 1926

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

In re: Reconstruction of
Route No. 62 State Highway.
Damages of James A. Martin

PETITION.

Now Jan 21st 1926
James A. Martin Esq.
Henry Reed Esq.
Local mediators are
appointed viewers
to view the property
By the Court
A. H. Brown
P. J.

FILED
JAN 22 1926
W. W. RALPH
CLERK

W. WALLACE SMITH
ATTORNEY AT LAW
CLEARFIELD, PENNSYLVANIA

400 By atty

IN THE COURT OF Quarter Sessions OF CLEARFIELD COUNTY.

James A. Martin

Of Prufrievens Term, 190...

No. Claimant's Bill of Costs

Versus

Clearfield County

At _____ Term, 190...

		Dollars	Cents
<u>Harry Conroy</u>	1 Days in attendance	36	416
<u>Clas C. McLean</u>	1 Days in attendance	36	416
<u>D. E. Brand</u>	1 Days in attendance	32	392
	Days in attendance	Miles direct travel	
	Days in attendance	Miles direct travel	
	Days in attendance	Miles direct travel	
	Days in attendance	Miles direct travel	
	Days in attendance	Miles direct travel	
	Days in attendance	Miles direct travel	
	Days in attendance	Miles direct travel	
	Days in attendance	Miles direct travel	
	Days in attendance	Miles direct travel	
	Days in attendance	Miles direct travel	
	Days in attendance	Miles direct travel	
	Days in attendance	Miles direct travel	
	Days in attendance	Miles direct travel	
	Days in attendance	Miles direct travel	
	Days in attendance	Miles direct travel	
	Days in attendance	Miles direct travel	
	Days in attendance	Miles direct travel	
	Days in attendance	Miles direct travel	
	Days in attendance	Miles direct travel	
	Days in attendance	Miles direct travel	
	Days in attendance	Miles direct travel	
	Days in attendance	Miles direct travel	
	Days in attendance	Miles direct travel	
	Serving subpoenas	Witness	
	Miles distance		
Whole amount of bill			832

CLEARFIELD COUNTY, SS:

Personally appeared before me James A. Martin, 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 10th day of March, A. D. 1906.
Geo. W. Raletan, Prothonotary } J. A. Martin

No. Term 190.....

Versus

Bill of Costs

For Term 190 ...

Date 190.....

Amount - - - \$.....

TO: JESSE. E. DALE. T, R, WEIMER AND B, W, McCracken.

County Commissioners of Clearfield County Pennsylvania.

Gentlemen.

You are hereby notified; that the undersigned viewers appointed by the Court of Quarter Sessions of Clearfield County and State of Pennsylvania, to view and assess the damages that James A, Martin of Burnside Township county and State aforesaid sustained by the construction of an improved State Highway through his property; situate in Burnside Township County and State aforesaid by the State Highway Commissioner on Route Number 62, leading from the Borough of Burnside to the village of McGees in Bell Township county and State aforesaid; will meet at the intersection of Route Number 62, with Route Number 262 which latter Route leading from the said junction or intersection in Burnside Township to Glen Campbell in Indiana County Pa on Tuesday the ninth (9.) day of March A. D. 1926 at nine (9) o'clock A. M. to attend to the duty assigned them of which time and place you will please take notice.

And that the public hearing as 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 all parties interested a chance to be heard by the viewers; will be held by the viewers in the Arbitration Room in the Court House in Clearfield Pa on Wednesday March tenth (10th) A. D. 1926 at nine (9) o'clock A. M. at which time and place all parties interested with their witnesses may attend and be heard.

A. G. Kramer,

H. A. Reese,

J. S. Michaels,

VIEWERS.

Now February 27 A. D. 1926 service accepted for the County Commissioners of Clearfield. County. Pa.

L. C. Morris,
Clerk.

TO: James. A. Martin.

Dear, Sir.

You are hereby notified; that the undersigned viewers appointed by the Court of Quarter Sessions of Clearfield County and State of Pennsylvania, to view and assess the damages that you sustained on your Real Estate situate in Burnside Township County and State aforesaid by the construction of an improved Highway through the same leading from the Borough of Burnside in the County and State aforesaid to the village of McGees in Bell Township County and State aforesaid by the State Highway Commissioner on Route Number 62, will meet at the intersection of the said Route Number 62, with Route Number 262, which said latter Route leads from the said junction or intersection in Burnside Township to Glen Campbell in Indiana County Pa on Tuesday the ninth (9th) day of March A. D. 1926, at nine (9) o'clock A. M. to attend to the duty assigned them of which time and place you will please take notice.

And that the public hearing as 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 all parties interested a chance to be heard by the viewers, will be held by the viewers in the Arbitration Room in the Court House in Clearfield Pa; on Wednesday March the (10th) tenth A. D. 1926 at nine (9) o'clock A. M. at which time and place all parties interested with their witnesses may attend and be heard

A. G. Kramer.

H. P. Reese.

J. S. Michals.

VIEWERS.

Now Feby 27, 1926 service accepted for James A Martin and personal service waived. on the above named claimant.

W. Neller Smith

That the claimant James A Martin is the owner of a certain tract of land consisting of two pieces of land the one containing ninety seven (97) acres more or less; The other containing twenty five (25) acres more or less a total of one hundred and twenty three (123) acres situate in Burnside Township Clearfield County and State of Pennsylvania which is mostly improved and under state of cultivation;

That during the year 1925 the State Highway Commissioner by his contractor and employees constructed a State Highway through the farm land of the said petitioner on the State Highway Route number sixty two (62) leading from the Borough of Burnside to the village of McGees in Bell township in the county and State aforesaid. That the State Highway Commission by exercising the authority conferred upon him by the act of Assembly of May 31st 1911 P. L. 468 and the supplements and amendments thereto has located the bed of the road or highway so laid out through the land of the petitioner on the bed of the township road, and by so doing has taken a strip of the claimant's land thirteen (13) feet in width increasing the width from thirty three feet the lawful width of the township road to forty six (46) feet the width of the State road as now laid out including the slopes of the fills the distance or length of the road through the claimants land of nineteen hundred and sixty two (1962) feet taking one and a fourth acre of his land for which the county is liable also for other damages as herein-after stated, But as to the damages claimed for the overflow of part of his low land by the incapacity of the channel through under the bridge across Cush creel for the reason that the new bridge recently erected by the county to replace the old bridge there which had become unsafe having been there for a number of years which new bridge was erected on the old foundation no changes were made in the water channel through under the bridge so that the abutments and water channel remained the same as it had been for years which over-flow only occurs in case of a high flood in the river and the backing of the water up from the river on account of not much fall in the creek from the bridge to the river and low banks along the creek through Mr Martins land.

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 22nd day of January in the year of our Lord one thousand nine hundred twenty six

JAMES A. MARTIN

Judge of the same Court: Upon the petition of ~~xxxxxx~~ ~~habitants~~ of the Township of BURNSIDE

in said County, setting forth that he is the owner of a farm consisting of two pieces, containing 97 acres more or less, the other containing 25 acres, more or less. That the State Commissioner has undertaken the construction of an improved State Highway, being Route 62, particularly the portion thereof between Burnside Boro and the junction of said State Highway Route #62 and Route #262 leading to Glen Campbell said junction being near the Penna RR Station known as Cush Creek Junction; and the said construction of the State Highway has passed through the farm of the petitioner aforesaid.

That your petitioner has been unable to agree with the County Commissioners of Clearfield County on the amount of damages to be paid to your petitioner for the land appropriated and for the other injuries resulting from the construction and therefore, praying the Court to appoint proper persons to view and ~~lay out the road~~ assess damages ~~between the points mentioned~~, whereupon the Court upon due consideration had of the premises, to the petitioner do order and appoint from and among the County Board of Viewers AARON G. KRAMER, 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~~

~~and that~~ notices thereof were posted along the route of the ~~proposed road~~, that the said view would be held on the ninth day of March

A. D. 1926, and the hearing to be held in the Arbitration Room, at the Court House, in Clearfield, Pa., on the tenth day of March, 1926, at nine o'clock A.M. That

the ~~viewers~~ appointed by the said order viewed the ground ~~proposed for the above mentioned road~~, and that there were present at the view James A. Martin the petitioner besides the viewers

parties in interest. That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the tenth day of March A. D. 1926, when the following appearances were noted: James A Martin the petitioner and H. C. Conner and C. C. McGee as witnesses in the case who were dyly sworn and examined

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~~ ~~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~~ use the following described road, to-wit: Beginning ~~There was no evidence produced at the hearing showing any increase in the overflow~~ ^{by} the construction of the new bridge or the construction of the State road except by the elevation of the road bed from four to six feet in heights by the holding back of the water from draining from the claimant's land which can be remedied by the opening of the drain from the low land of claimant's farm down to the railroad crossing which will also make drainage for his celler, which he claimed will have to be opened and which in the opinion of the viewers will carry all the water from his land deposited thereon by the overflow down to the run at the railroad crossing and leave his property as far as pertains to the backing of the water from the creek onto his farm and held back by the elevation or raising of the road. The viewers therefore assess the damages assessed to James A Martin the claimant as follows; to wit:

For the one and a fourth (1-1/4) acre of land taken by the widening of the bed of the road including the slope of the fills \$125.00

For the opening and enlarging of the drain at the upper side of the road the overflow of the water from the low land down to down to the run at the railroad crossing and also make a drain to carry off the drainage from his celler \$200.00

For filling up around his house to carry the waste from and around his house into the drain and the carried over to next page \$325.00

Brought over

\$328.00

construction of steps up onto the State road to get up onto
 and across the State road to his barn and his fields on the
 lower side of the road \$50.00
 As to the six maple trees cut down and destroyed growing
 along the side of the road being of no value except for the
 shading of the road and owing to the number of trees along
 the both sides of the road still remaining leave in the
 opinion of the viewers sufficient for said purpose and
 were therefore of very little value they therefore or
 assess the six trees at \$50.00
 The Black walnut tree cut down and destroyed they assess
 the value thereof at 20.00
 The cost of the changes and repairs necessary to make
 to the barn caused by the fill to the road 125.00
 The cost of the construction of the two crossings
 by the filling to get up onto and down from the State
 road to enable the claimant to get from one to the
 other side of the state road on his farm 100.00
 Total amount of damages assessec \$670.00

Bill of cost witnesses attending hearing as per
 bill attached \$8.32

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 view-
 ers, 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. served.

WITNESS our hands and seals this 13th day of March, -----

A. D. 1926

A. G. Kramer Seal
 W. A. Reese Seal
 J. S. Michael Seal
 Seal

ORDER

To view and assess damages to a
~~road~~ for James A. Martin use in the
township of Burnside
Clearfield County
New March 25th 1826
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.

By the Court
A. H. Albright
P. J.

New April 26th 1826

Confirmed also by
P. J. Albright
P. J.

Filed _____ 19
Fees \$1.25 paid by _____

W. Wallace Smith, 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.

FILED
MAR 18 1826
GEO. W. RAJSTON
CLERK

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