

Road

DOCKET No. 6

Number Term Year

5 MAY SS 1928

Petition of D.A. Walker for Appt. of  
viewers to assess damages in Knox Twp

Versus

X

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNSYLVANIA

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

The petition of D. A. Walker respectfully represents:

1. That he is a resident and citizen of Knox Township, Clearfield County.
2. That he is the owner of a farm situated in said Township.
3. That in the year 1922, a public road was laid out opened and concreted through the lands of your petitioner.
4. That by the opening of said road, your petitioner has sustained great injury and damage by their taking of land, by the intersecting of his farm diagonally, by the inconvenient division of his farm. Thereby petitioners premises have been greatly damaged, injured and depreciated.

Wherefor your petitioner prays your honorable Court  
to appoint three disinterested viewers to view the premises  
and assess the damages.

D. A. Knobell

State of Pennsylvania : : SS  
County of Clearfield : :

Before me, the subscriber, *A. Prothonotary*  
personally appeared D. A. Walker, who, being duly sworn ~~and~~  
according to law, deposes and says that the facts contained  
in the foregoing petition are true and correct to the best  
of his knowledge and belief.

*D. A. Walker*

Sworn to and subscribed before  
me this 23, day of April, 1928.

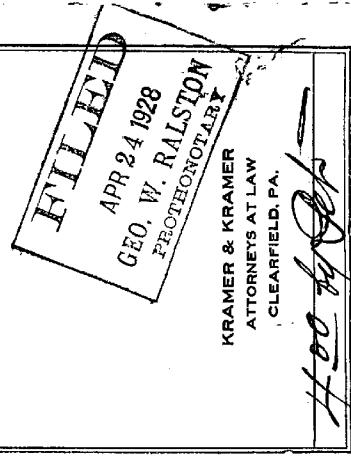
*Geo W. Palster*  
*Prothonotary*

IN THE COURT OF QUARTER  
SESSIONS OF CLEARFIELD CO.  
No. 5 May Session 1928.

In Re Petition of D. A.

Walker to assess damages,  
in Knox Township.

*John & John Walker*



Now April 24<sup>th</sup> 1928, rule issued  
to show cause why witness should not  
be appointed to view and determine damages  
Ref to <sup>June</sup> argument court.

By the court

*A. R. Blaauw*

26 April 1928 service of rule  
accepted.

*A. M. Sweright  
County Solicitor*

*P. J.*

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

In Re Petition of D. A. Walker : : No. May Sessions, 1928.  
to assess damages in Knox Township.:

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

FIRST, The petition of D. A. Walker respectfully represents that on the 24th day of April, 1928 he presented to the Honorable Court a petition for the appointment of viewers to assess damages to a farm situate in Knox Township, Clearfield County, Pennsylvania.

SECOND, A rule having been granted thereon, a motion to strike off said petition was filed by A. M. Liveright, Esq., representing the County Commissioners of Clearfield County on the 10th day of May 1928.

THIRD, That your petitioner now seeks to file an amended petition in the following form.

1. That D. A. Walker, the petitioner, is a resident and citizen of Knox Township, Clearfield County, Pennsylvania.
2. That he is the owner of a farm situate in said Township title to which vested in him by deed of Harvey J. Walker and Sarah, his wife, dated the 13th day of February, 1917 and recorded at Clearfield, Pennsylvania in Deed Book, Number 220, Page 180, the premises being described as follows:

All that certain tract or parcel of land situate in Knox Township, Clearfield County, Pennsylvania, bounded and described as follows:

Beginning at a hemlock corner of Abraham Walker; thence North 52 degrees east 87.8 perches to a post; thence by land of D. A. Cathcart North  $36\frac{3}{4}$  degrees West 96.6 perches to a post; thence by lands of Wallace & Company south 52 degrees West 87.8 perches to a post; thence by land of Abraham Walker South  $36\frac{3}{4}$  degrees East 96.6 perches to a hemlock and place of beginning, containing 50 Acres and allowance.

Said farm is located on the Public Highway running from Bloomington in Pike Township via Olanta to Kelleytown in Knox Township, Clearfield County, Pennsylvania.

3.. That on August 9, 1921 application was made by the Supervisors of the Township of Knox to the County Commissioners of Clearfield County for the construction of an improved Highway as a State Aid Highway from the Iron Bridge across Little Clearfield Creek, at Olanta to the Jordan and Knox Township line, near McCartney. The application was approved by resolution of the County Commissioners on August 9, 1921 and the proposed letting of the contract was advertised on February 28, 1922. Pursuant thereto the contract was duly signed and executed on March 15, 1922 for the construction and the completion of a State Aid Highway 16,812.4 feet in length leading from the Iron Bridge aforesaid to the village of Kelleytown in Knox Township.

4. That following the execution of said contract and subsequent to May, 1922 the said State Aid Highway was laid out, opened and improved through the farm of petitioner and was finally completed on August 13, 1923, according to the County Commissioner's records.

5. That the record of the proceedings thereon is found in the Commissioners Office in State Road Docket 1904-  
Page 84 and bears the designation "application number 84, State  
Number 1787-3."

6. That your petitioner believes and expects to be able to prove that the actual commencement of work upon his farm was subsequent to May 20, 1922 and the actual completion of the Highway through his farm was in the month of October 1922.

7. That the laying out, opening and construction of said road has inflicted upon petitioner great injury and damage by the taking of land; by the intersecting and crossing his farm diagonally; by the inconvenient division of the farm whereby petitioner's premises have been greatly damaged, injured and depreciated.

Wherefore your petitioner prays your Honorable Court to appoint three disinterested viewers to view the premises and assess the damages.

*W. S. Walker  
By Thamer & Thamer  
his attorneys*

6  
State of Pennsylvania : : SS:  
County of Clearfield : :

Before me, the subscriber, the Prothonotary,  
personally appeared D. A. Walker, who, being duly sworn  
according to law, deposes and says that the facts contained in  
the foregoing petition are true and correct to the best of his  
knowledge and belief.

D. A. Walker

Sworn to and subscribed before  
me this 19 day of May, 1928.

Geo W Ralston  
Prothonotary  


IN THE COURT OF QUARTER SESSIONS  
OF CLEARFIELD COUNTY, PENNA.  
No. 5 May Sessions, 1928.

IN RE PETITION OF  
D. A. WALKER TO ASSESS  
DAMAGES IN KNOW TOWIN-  
SHIP.

1928

PETITION TO AMEND

Now May 20 1928  
I understand to amend  
as follows:  
by the court  
as much as

FILED

MAY 21 1928

GEO. W. RALSTON  
PROTHONOTARY

KRAMER & KRAMER  
ATTORNEYS AT LAW  
CLEARFIELD, PA.

105

Now May 21 1928 I understand to amend as follows: by the court as much as	FILED MAY 21 1928 GEO. W. RALSTON PROTHONOTARY	KRAMER & KRAMER ATTORNEYS AT LAW CLEARFIELD, PA.
---	---	--

Now May 21 1928  
I understand to amend  
as follows:  
by the court  
as much as

In the Court of Quarter Sessions of Clearfield County, Pennsylvania  
In Re. Petition of D. A. Walker ) No. 5 May Sessions, 1928.  
to assess damages in Knox Town- )  
ship. )

Petition having been presented to the Court to appoint viewers to assess damages alleged to have been caused by the building of improved highway and a petition having been presented to strike off petition for appointment of viewers on the grounds that the petition was presented almost six years after the alleged damages were committed. This matter having been called for argument and it being admitted that the petition was presented within the time provided by the law, the Court will make the following order:

Now, June 20th, 1928, motion to strike off petition for appointment of Viewers is refused, and ~~Frank Huffin Esq.~~ ~~Asst. Commr., Esq.~~ Harry Reese and Jesse E. Dale are appointed Viewers to view and report.

By the Court,

  
H. J. Chase  
P. J.

No. 5 May Sessions, 1928.

In Re. Petition of D. A. Walker  
to assess damages in Knox Town-  
ship

DECRETE.

FILED  
JUN 20 1928  
GEO. W. RALSTON  
CLERK

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENN-SYLVANIA.

In Re Petition of D. A. Walker : No. , Term, 1928.  
for appointment of viewers :

Clearfield County, acting by the County Commissioners thereof, moves to strike off the petition of D. A. Walker filed in the above case for the following reasons:

1. That the location and the size of the farm that the petitioner claims to own are not stated with a sufficient degree of accuracy.

2. That the date in the year 1922 when the alleged public road was laid out, opened and concreted through the lands of the petitioner is not set forth with any particularity.

3. That it is not averred whether the road was a Township road, a State highway, a State aid highway, or what character of highway or road is referred to by the petition.

4. There is nothing in the petition to indicate how the petitioner acquired title, if he did acquire, and whether he is a legal owner or an equitable owner.

CLEARFIELD COUNTY?

By

George Minns  
J.C. Gatehouse  
W.E. Tobias

County Commissioners.

State of Pennsylvania : : SS.  
County of Clearfield : :

George Minns Jr., J. C. Gatehouse and W. E. Tobias, County Commissioners of Clearfield County, being duly sworn, depose and say that the facts averred in the foregoing motion are true and correct to the best of their knowledge, information and belief.

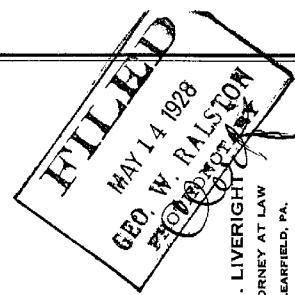
Sworn and subscribed before me on the 14 day of May, A.D. 1928.

Geo W. Ralston Protho George Minns  
J.C. Gatehouse W.E. Tobias

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY  
PENNSYLVANIA.  
MO. 5 May term 1928.

In Re: Petition of D. A.  
Walker for Appointent of  
Viewers. *These are*

MOTION TO STRIKE OFF PETITION  
FOR APPOINTMENT OF VIEWERS.



Now May 14 1928 served on us by copy  
*Thamer Thamer*  
*atty*

To THE COMMISSIONERS OF CLEARFIELD COUNTY, PENNSYLVANIA.

You are hereby notified that the undersigned Viewers appointed by the Court of Quarter Sessions for the County of Clearfield, State of Pennsylvania to view and assess the damages alleged to have been done the property of D.A.Walker, in the construction of the Public Road leading from Bloomington, in Pike Township, via Olanta, to Kellytown in Knox Township, in the County aforesaid, will meet on the premises of D.A.Walker in Knox Township on Tuesday the 31st day of July 1928, at nine o'clock A.M. to attend to the duty assigned them.

And that the required Public Hearing will be held in the Court House in the Borough of Clearfield, on Thursday the 2nd day of August 1928, at 9:30 o'clock A.M., when and where all interested parties may attend and be heard.

Frank Kuyler  
Harry Reese  
Jesse E. Dale  
Viewers.

DuBois, Pa. July 13th 1928.

Now, July 14, 1928, service of the above notice is accepted for the Commissioners of Clearfield County, Pennsylvania.

L. C. Morris, Clerk

CATHCART

D.A. WALKER

OLD ROAD - BOUND

NEW LOCATION 1300'  
STATE HIGHWAY CONCRETE

D.A. WALKER

33

TO KENT

8'

TO CANTER

801 Y OF DAWALKER

JULY 31 1928 BY

FRANK HUTTONS  
111 H.

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 21st day of May in the year of our Lord one thousand nine hundred twenty eight

H. A. Walker

Judge of the same Court: Upon the petition of ~~sandryxxix-x~~  
~~habitants~~ of the Township of Knox

in said County, setting forth that he is the owner of a farm situate in said township title to which vested in him by deed of Harvey J. Walker and Sarah, his wife, dated the 13th day of Feb, 1917 and recorded at Clearfield in deed book, No 220, page 180, the premises described as follows;

Beginning at a hemlock corner of Abraham Walker; thence north 52 degrees east 87.8 perches to a post; thence by land of D. A. Cathcart north  $36\frac{2}{4}$  degrees West 96.6 perches to a post; thence by lands of Wallace & Company south 52 degrees West 87.8 perches to a post; thence by land of Abraham Walker south  $36\frac{2}{4}$  degrees east 96.6 perches to a hemlock and place of beginning, containing 50 acres and allowance. Said farm is located on the public highway running from Bloomington in Pike Township via Olanta to Kelleytown 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 Frank Hutton, Esq., Harry Reese and Jesse E. Dale

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 Board of Supervisors of the Township of

Knox and that three notices thereof were posted along the route of the proposed road, that the said view would be held on the 31st day of July A. D. 1928, and the hearing to be held in the Arbitration Room, at the Court House, in Clearfield, Pa., on the second day of August, 1928, at 9:30 o'clock A. M. That all viewers appointed by the said order viewed the ground proposed for the above mentioned road, and that there were present at the view A.M. Rowels Supervisor, D.A. Walker, petitioner, F.W. Baughman, M.C. Gwens, & F.L. High

parties in interest. That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the second day of August A. D. 1928, when the following appearances were noted: Walter Welsh, Esq Atty, for Supervisors of Knox Twp., Clarence Kramer, Esq. Counsel for the Claimant, D.A. Walker, Claimant, F.W.Baughman, E.S.Hoover, F.L.High, and Mary Walker, witnesses in behalf of claimant and Maywood Rowles Supervisor, G.W. Robbins, Joseph Bloom Supervisor, John Fleck, Supervisor and Matthew Gwens witnesses on part of Knox Twp all of whom were sworn or Affirmed 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 new 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 the use the following described road, to wit Beginning Your Viewers find on the ground that the State Highway in question runs through the property of D.A.Walker, in Knox Twp some 1300 feet on a new location; That the land over which it is located had been at one time cleared and under cultivation, but that it now practically covered with a second growth and from the testimony taken has not been under cultivation for some 15 yrs and upwards; That about 1.04 acres of land of D.A.Walker is occupied by the new location; that the old road is not vacated by any action of Court.

There was much diversity of opinion in the testimony offered some claiming the damages to be from \$350.00 to \$600.00, others claiming the property is more valuable because of the concrete road than it was before the road was built. The viewers concur in the latter opinion, but agree that Mr Walker should be allowed damages for the amount of land appropriated by the new location of the road and fix this value at \$45.00. The Viewers therefore unite in fixing the damage sustained by D.A.Walker in or caused by the construction of this Highway at Forty Five (\$45.00) dollars

✓

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 \_\_\_\_\_

No releases required

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 D.A.Walker, Forty Five (#45.00) dollars damage

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

WITNESS our hands and seals this third day of August  
A. D. 1928.

Paul Sutton Seal  
W.A. Reese Seal  
J. E. Dale Seal  
+

## ORDER

To view and assess damages  
~~W. A. Walker~~ D. A. Walker use in the  
 township of Knox  
 Clearfield County  
 Penn

Sessions, 19  
 read and confirmed Ni. Si. ~~Reese~~  
 opened 33 feet wide except where there  
 is side hill cutting or embankment and  
 bridging, there to be 10 feet wide.

Now Left 5<sup>th</sup> 1928  
 Confirmed 8<sup>th</sup> - Si  
 absolutely damages  
 except hills - thirty  
 days.

Kramer & Kramer, Atty's.  
 Kramer & Kramer, Atty's.

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.

Viewers cannot interfere with the damages assessed by the original viewers, except so far as the location may be changed by the viewers.

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.
H. A. Reese	4	.66	36.60
J. E. Dale	2	1.5	16.50
Frank Hutton	3	.56	28.10
McNees & Neff	1	.16	3.96
Ed. H. James	1	.05	3.96
John H. Neff	1	.16	3.96
John Neff	1	.10	3.96
John Neff	1	.10	3.96
John Neff	1	.16	3.96
John Neff	1	.16	3.96
McNees & Neff	1	.16	3.96
McNees & Neff	1	.16	3.96

AUG 3 - 1928  
 GEO. W. RALSTON  
 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 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. 1928.

Seal  
 Seal  
 Seal  
 Seal