

Read

DOCKET No. <sup>6</sup>

Number      Term      Year

10              Sept              1928

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Petition to vacate road

in Penn Twp.

versus

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

In Re: Road in the Township of Penn, Clearfield County, Penna. : No. : September Sessions 1928

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

The petition of William Helper, James E. Rafferty and E. C. Everett, Supervisors of the Township of Penn, Clearfield County, Pennsylvania, respectfully sets forth;

That the said William Helper, James E. Rafferty and E. C. Everett are duly qualified Supervisors of the said Township of Penn, Clearfield County, Pennsylvania.

That in the said Township of Penn there is a certain public road which begins at a public road leading from Lumber City to Bells Landing, at a point near the Ellery Coal Co. tipple, and extends through Lumber City Borough and continues through the Township of Penn to where it is intersected by a road leading to Bells Landing, at or near the farm of Lester Spencer and Wrigglesworth, all being in the County of Clearfield and Commonwealth of Pennsylvania.

That all of said road lying in the township of Penn has become useless, inconvenient and burdensome.

Wherefore your petitioners pray that that portion of said road which lies within the Township of Penn be vacated, and that viewers be appointed for that purpose. And they will ever pray

Wm Helper  
James Rafferty  
E.C. Everett

CLEARFIELD COUNTY, SS:

Personally appeared before me the subscriber,  
William Helper, James E. Rafferty and J. J. Everett, who being  
duly sworn according to law doth depose and say that they are the  
Supervisors of the Township of Penn, that the facts set forth in  
the foregoing petition are true and correct.

Wm Helper  
Jas E Rafferty  
E.C. Everett

Sworn to Subscribed before me :  
this 31 day of July 1928 :

*John J. Rafferty -  
J. J. Rafferty*  
MY COMMISSION EXPIRES  
JANUARY 1st, 1934

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PA.  
No. 10 Sept. Sessions 1928

In Re; Road in the Township  
of Penn, Clearfield  
County, Penna.

PETITION TO VACATE

Now August 20<sup>th</sup> 1928

Frank Hartman Esq.,  
or Villotte and  
Jack Mease and  
affiliates herein  
to claim and report

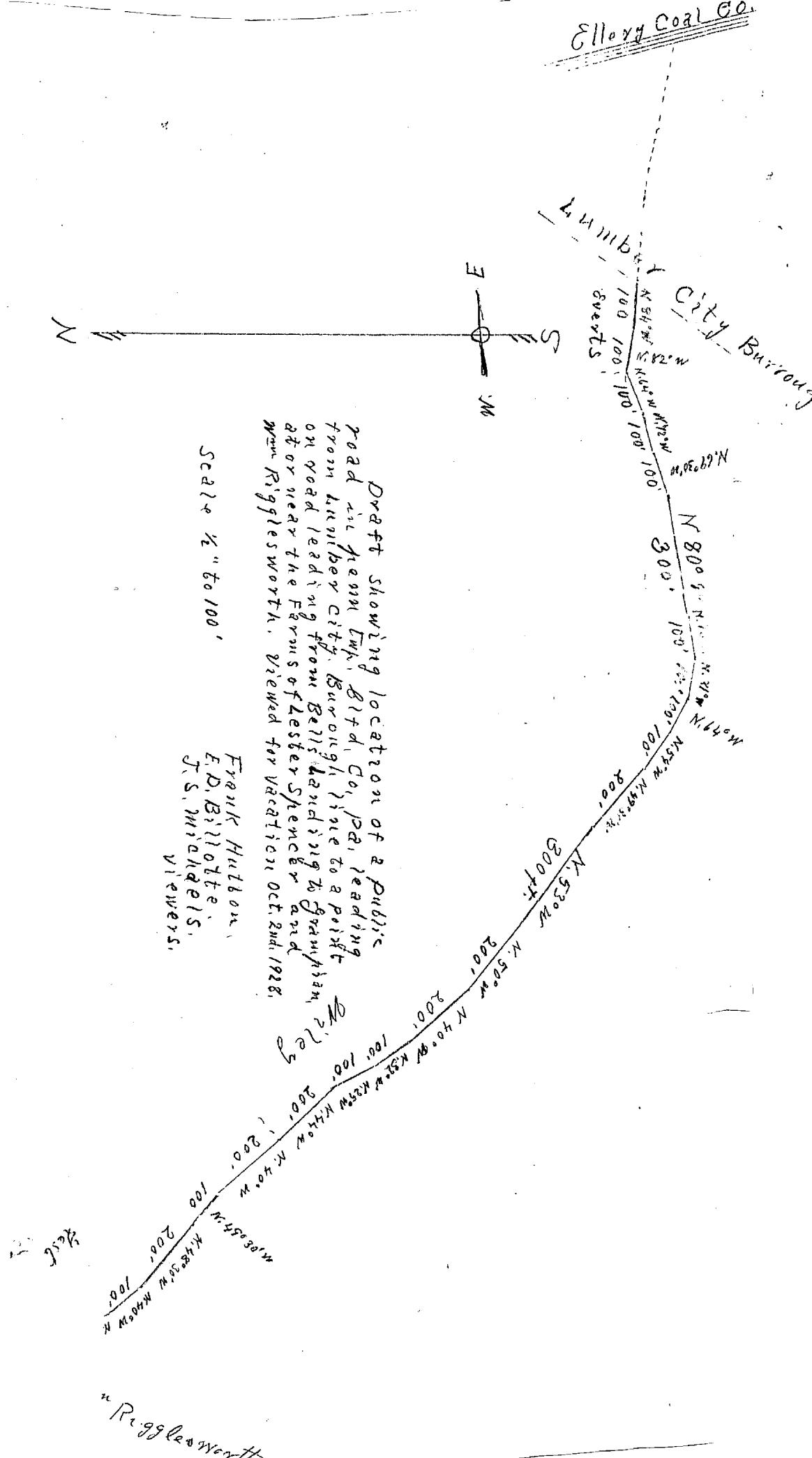
to the court

AUG 20 1928  
P. J. McNamee

AT NEW OFFICES  
JOHN C. ARNOLD  
CLEARFIELD, PA.

*He is the attorney.*

Elroy Coal Co.



Draft showing location of a public road in Green Lp., Bldg. Co., Pa., leading from Lumber City, Burdickville to a point on road leading from Bell's Landing to Grinnell, at or near the farms of Lester Spencer and Wm. Rigglesworth. Viewed for vacation Oct. 2nd, 1928.

Scale 1/2 " to 100'  
Frank Huntington  
E. D. Billotte  
T. S. Michael's  
viewers.

Frank Huntington  
E. D. Billotte,  
J. S. Michaelis,  
viewer.

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 20th day of August in the year of our Lord, one thousand nine hundred and twenty eight

A. R. CHASE

By the Honorable ~~W. H. Chase~~, President Judge of the said Court: Upon the petition of sundry supervisors

~~of the Township of Penn~~, in the County aforesaid setting forth that .....

~~in the said township of Penn there is a certain public road which begins at a public road leading from Lumber City to Bells Landing, at a point near the Ellery Coal Co Tipple, and extends through Lumber City Borough and continues through the Township of Penn to where it is intersected by a road leading to Bells Landing, at or near the farm of Lester Spence and Wrigglesworth, all being in the County of Clearfield.~~

~~That all of said road lying in the Twp. of Penn has become useless, inconvenient and burdensome~~

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 Frank Hutton, Esq., Ed Billotte and

Jack Michaels 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.

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 PENN, 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

second day of October, A. D. 1928, 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 fourth day of Octyober A. D., 19 28, at 9:30 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 J.E.Rafferty and William Helper Supervisors of Penn Twp. Road District and G.M.Passmore, citizen and taxpayer,

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 fourth day of October, A. D. 1928, when the parties interested in the said road were in attendance:

J.E.Rafferty and William Helper, Supervisors who were each swfirmed and examined

And that after the view and hearing above mentioned, the undersigned Viewers do agree that said road has , become useless, inconvenient and burdensome and your Viewers unanimously agree that the road as petitioned for be vacated from the Pike Twp line to where said road intersects with a public road at the farm of G.M.Passmore as shown by draft of survey attached hereto and made part hereof. the said road runs entirely through unimproved land and shows no visible marks of any use being made of it whatever. A bridge across what is designated as Passmore Run is extremely unsafe and to rebuild said bridge would involve very considerable and unnecessary expense to the Penn Twp Road District.

The Order in this case directed that a road to supply the above road recommended for vacation, be viewed and your viewers report that they made such view on the same date and after being on the ground from their own observation and from the evidence adduced before them that they find that the the route suggested by interested parties, had been at one time a Public Road which had been vacated some three or four years ago which action is now deemed to have been a mistake; that the said road is necessary for the Convenience and use of certain sections of both Penn and Pike Townships.

Neither of the Supervisors who were at the view could definitely locate the

To the Commissioners of Clearfield County

You and each of you are hereby notified that the undersigned Viewers, appointed by the Court of Quarter Session of Clearfield County, Pennsylvania, to view for vacation a which begins at a public road leading from Lumber City to Bells Landing, at a point near The Ellery Coal Tipple and extends through Lumber City Borough and continues through the Township of Penn in Penn Township to where it is intersected by a road leading to Bells Landing, at or near the farm of Lester Spencer and Wrigglesworth in Penn Township, in the County aforesaid, will meet at the intersection of the State Highways in the Borough of Grampian on Tuesday the 2nd day of October 1928 at 9 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, Pa. on Thursday the 4th day of October 1928 at 9:30 o'clock A.M. when and where all interested parties may attend and be heard.

Mark Hallin  
Ed. Bellotte  
Jack McChall  
Viewers.

DuBois, Pa. Sept. 12th 1928.

Now, Sept. 13, 1928, service of the above notice of view is accepted for the Commissioners of Clearfield County.

L. C. Morris  
Clerk.

Pike Penn Township line. Your Viewers began the view at the point of intersection with the road to be vacated herein and run the following courses and distances: S. 71 degrees 45' W. 357 feet; S. 66 degrees W. 100 feet; S. 72 degrees W. 600 feet; S. 75 degrees W. 250 feet; N. 88 deg. 50 feet; N. 72 deg. W. 100 feet; N. 61 W. 300 feet, N. 68 deg. 30' W. 100 ft.; N. 63 deg. W. 100 feet; N. 62 deg. W. 200 feet; N. 63 W. 500 feet; N. 73 deg. 30' W. 300 feet; N. 68 deg. W. 100 feet; N. 63 deg. W. 100 feet; N. 57 W. 200 ft; N. 59 deg. 30' W. 200 feet (to intersection with a road extending from Grampian to Lumber City at or near the Haag farm, now owned by Claude Freeman.

This road is opened and can be put in fair travelling condition without much expense to Penn Twp. The Viewers report in favor of Supplying the road hereinbefore vacated with that portion of the above described road which is found to be within the boundaries of Penn Township.

Your Viewers find the road asked to be vacated to extend from the Lumbe City Borough line to the properties of Lester Spencer and Wm. Wrigglesworth to be entirely through unimproved lands, very heavy grade, and gives no evidence of any use whatever for many yrs passed. There can be no question of its uselessness for public purposes and your Viewers unanimously agree that it should be vacated.

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 vacating 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: No releases

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:

Land Freeman \$1.00; G.M. Passmore \$1.00 each for land taken by the Supply road, no damages whatever for the vacated road.

No damages to assess.

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

Witness our hands and seals this fifth day of October A. D. 19 28

*Mick Shattan* ..... [SEAL.]

*E. Billotto* ..... [SEAL.]

*J. S. Michaeli* ..... [SEAL.]

Viewers.

No. 10 Sept Term 19 28

**ORDER TO VACATE**

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	Now	Sessions 19 28
J. S. Michaels	3	104	27.70		read and confirmed Ni. Si.
J. D. Billotte	4	98	34.90		By the Court,
Frank Hutton	4	98	34.90	Now	Sessions 19 28

confirmed absolute.

By the Court,

*A. McNamee*  
*P. J.*

Filed 19

Atty, John C. Arnold

Fees \$1.25 paid by *E*  
**FILED**  
OCT 6 1928  
GEO. W. RALESTON  
RECEIVED