

ROAD

DOCKET No. 6

Number

Term

Year

8

Dec. SS

1936

William M. Utzinger

Versus

Clearfield County

135

~~COMMONWEALTH~~

vs.

WILLIAM UTZINGER

Road view account damages

In the Court of Quarter Sessions of Clearfield County

No. 8 December Sessions, A. D. 19 36

Indictment

Verdict

Disposition

Clerk

County

Sheriff

Justice

Wit. before J. P.

Constable on Trans.

" Sub.

Fine

Certified from the Record

Clerk

John Potter	1	Days in court at \$2.00 per day				2.00
P. O. DuBois, Pa.	28	Miles at 6c per mile				1.68
N. C. Ashenfelter	1	Days in court at \$2.00 per day				2.00
P. O. DuBois, Pa.	28	Miles at 6c per mile				1.68
Mrs. Anna Vosburg	1	Days in court at \$2.00 per day				2.00
P. O. DuBois, Pa.	28	Miles at 6c per mile				1.68
John Shaffer	1	Days in court at \$2.00 per day				2.00
P. O. DuBois, Pa.	28	Miles at 6c per mile				1.68
Frank DeLarme	1	Days in court at \$2.00 per day				2.00
P. O. DuBois, Pa.	28	Miles at 6c per mile				1.68
		Days in court at \$2.00 per day				
P. O.		Miles at 6c per mile				
		Days in court at \$2.00 per day				
P. O.		Miles at 6c per mile				
						18.40

CLEARFIELD COUNTY, ss:

Personally appeared WILLIAM UTZINGER, who being duly sworn according to law doth depose and say that the above bill of costs is correct; that the witnesses named were present and material, and the miles actually traveled as above stated.

Sworn and subscribed before me this 19th

day of December, 19 36.

Charles B. Bause  
Notary Public

Clerk

William Utzinger

My Commission Expires April 12-1939.

# CERTIFICATE

I, ..... District Attorney of Clearfield County, hereby certify that the witnesses above named were subpoenaed by me and were in attendance, and were necessary for the trial of this case.

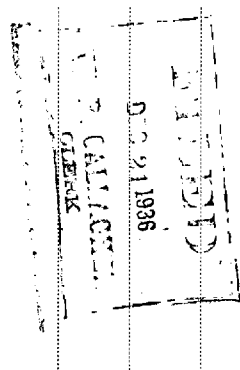
.....  
DISTRICT ATTORNEY

No. *8* *Alle* Sessions, 19*26*

**COMMONWEALTH**

**VERSUS**

**Commonwealth Bill of Costs**



2

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TO THE HONORABLE W. WALLACE SMITH, PRESIDENT AND  
SOLE JUDGE OF SAID COURT:

The Petition of William M. Utzinger respectfully shows:

FIRST: That a public road has been paid out and opened within the past three months through lands of your petitioner, under a statutory right conferred upon and by the Secretary of Highways of the Commonwealth of Pennsylvania, and the construction and improvement of a certain state highway hereinafter referred to involving a change in width, courses, and location has begun.

SECOND: The County Commissioners of Clearfield County have agreed in writing to such changes, re-location and appropriation of a portion of the lands of your petitioner in connection with the construction and improvement of said state highway.

THIRD: Said state highway is known as Legislative Route 59 on the plan of state highways of the Commonwealth of Pennsylvania, and Section 9 is situate in the Township of Brady ~~and Township of Brady~~ in Clearfield County aforesaid.

FOURTH: The lands involved consist of a strip of land through your petitioner's farm in a course partly curved and partly straight, about 640 feet long and of an irregular width, varying from fifty feet to ninety feet. The entire lands of your petitioner are used by him for farming purposes, and are described as follows, to wit: ALL that piece of land with improvements, situate in the Township of Brady, Clearfield County, Pennsylvania, bounded and described as follows:

BEGINNING at the north-east corner of the tract at a stone in line of lands now or formerly of Jacob Pentz; thence west, partly by lands of the said Jacob Pentz and partly by lands of Bell, seventy-eight and four-tenths (78.4) perches, more or less, to a stone corner; thence south by lands now or formerly of John Lenkard a distance of seventy-five (75) perches, more or less, to a post, in the Waterford and Erie Turnpike (said highway having been improved several years ago by a concrete highway by the Commonwealth of Pennsylvania, and known as Legislative Route #59); thence south  $76^{\circ}$  e. in said turnpike a distance of seventeen and four-tenths (17.4) perches, to a stone; thence south  $60-1/2^{\circ}$  east in said turnpike a distance of Twenty-eight (28) perches to a stone corner; thence south  $15^{\circ}$  west by lands of A. H. Dunlap a distance of nine (9) perches, more or less, to a stone corner; thence south  $68^{\circ}$  east a distance of nine (9) perches, more or less, to a post; thence north  $15^{\circ}$  east a distance of nine (9) perches, more or less, to a post in the said Waterford & Erie Turnpike; thence south  $83^{\circ}$  east in said Turnpike a distance of twenty-nine and four-tenths (29.4) perches, more or less, to a post in line of lands formerly of Elijah Ashenfelter; thence north by the said Ashenfelter lands a distance of ninety-six and two-tenths (96.2) perches, more or less, to a stone corner, and place of beginning.

EXCEPTING about three (3) acres of said land conveyed from the above described to various persons.

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Wherefore, your petitioner prays the court to appoint three disinterested persons to view the premises and assess the damages which your petitioner may have sustained, as aforesaid.

And he will ever pray.

*William Witzinger*  
PETITIONER.

STATE OF PENNSYLVANIA )  
                              : SS.  
COUNTY OF CLEARFIELD )

WILLIAM M. UTZINGER, being duly sworn according to  
law, deposes and says that the facts set forth in the fore-  
going Petition are true and correct.

William Utzinger

Sworn and subscribed to )  
                              :  
before me this 31st. day )  
                              :  
of October, A.D., 1936. )

Dorsey D. Ness  
Alderman

My Commission expires January 3d. 1938

IN THE COURT OF QUARTER SES-  
SIONS OF CLEARFIELD COUNTY,  
PENNSYLVANIA.  
NO. 8 *dec* SESSIONS, 1936

WILLIAM M. UTZINGER  
VS.  
CLEARFIELD COUNTY

*passed*

PETITION FOR THE APPOINT-  
MENT OF VIEWERS.

*Nov. 2, 1936*  
*I concur with the*  
*viewers, H. E. Davis &*  
*H. M. Barnard are*  
*appointed viewers &*  
*viewers & assessors of property*  
*to be assessed for*  
*the year 1937*  
*L. D. McColl*  
LISLE D. MCCALL  
ATTORNEY AT LAW  
DUBOIS, PA.

NOV 9 1936  
W. R. GALLAGHER  
CLERK

**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 second day of November  
in the year of our Lord one thousand nine hundred  
and thirty-six

Judge of the same Court: Upon the petition of ~~sundry~~  
~~habitants of the Township of~~ William M. Utzinger of  
Brady Township  
in said County, setting forth that

That a public road has been laid out and opened within the  
past three months through lands of your petitioner, and the  
construction and improvement of a certain state highway herein-  
after referred to involving a change in width, courses, and  
location has begun.

Said state highway is known as Legislative Route 59 on  
the plan of state highways of the Commonwealth of Pennsylvania,  
and Section 9 is situate in the Township of Brady in  
Clearfield County.

The lands involved consist of a strip of land through your  
petitioner's farm in a course partly curved and partly straight,  
about 1640 feet long and of an irregular width, varying from  
fifty feet to ninety feet. The entire lands of your petitioner  
are used by him for farming purposes, and are described as follows:  
All that piece of land with improvements, situate in the  
Township of Brady, Clearfield County, Pa., bounded and  
described as follows:

Beginning at the north-east corner of the tract at a stone  
in line of lands now or formerly of Jacob Pentz; thence west,  
partly by lands of the said Jacob Pentz and partly by lands of  
Bell, seventy-eight and four-tenths (78.4) perches, more or less,  
to a stone corner; thence south by lands now or formerly of  
John Lenkard a distance of seventy-five (75) perches, more or  
less, to a post, in the Waterford and Erie Turnpike (said high-  
way having been improved several years ago by a concrete high-  
way by the Commonwealth of Pennsylvania and known as Legislative  
Route #59); thence south 76 degrees East in said turnpike a  
distance of seventeen and four-tenths (17.4) perches, to a  
stone; thence south 60½ degrees east in said turnpike a distance  
of twenty-eight (28) perches to a stone corner; thence south  
15 degrees west by lands of A. H. Dunlap a distance of 9  
perches, more or less, to a stone corner; thence south 68 degrees  
east a distance of nine (9) perches, more or less, to a post;  
thence north 15 degrees east a distance of nine (9) perches,  
more or less, to a post in the said Waterford and Erie Turnpike;  
thence south 83 degrees east in said Turnpike a distance of  
twenty-nine and four-tenths (29.4) perches, more or less, to  
a post in line of lands formerly of Elijah Ashenfelter;  
thence north by the said Ashenfelter lands a distance of  
ninety-six and two-tenths (96.2) perches, more or less, to  
a stone corner, and place of beginning.

Excepting about three (3) acres of said land conveyed from  
the above described to various persons.

time when, and place where, and  
and place of hearing

By order of the Court.

W. R. Gallagher, 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 Brady and that three notices thereof were posted along the route of the proposed road, that the said view would be held on the 23rd day of November A. D. 1926, and the hearing to be held in the Grand Jury Arbitration Room, at the Court House, in Clearfield, Pa., on the 25th day of November, 1926, at 11:00 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 Wm Utzinger, the petitioner, together with his attorney, L.D. McCall, Esquire of DuBois, Pa.

# 2 Court  
parties in interest. That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the 8th day of December A. D. 1926, when the following appearances were noted: Wm Utzinger, the petitioner, together with his attorney, L.D. McCall and the following witnesses for the petitioner, John Shaffer, Frank A. Delarme, Mrs Anna Vosberg, N.C. Ashenfelter and John Potter. There was also present at this meeting Robert Maine, Esq., representing A.M. Liveright, Esq., County Solicitor.

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 unnecessary 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 damage has been sustained by Wm Utzinger, the petitioner, by reason of the construction and relocation of State Highway Route #59 Sec. 9 through his premises. That approximately two and one quarter acres of the choice farm land of the said Wm Utzinger has been taken and appropriated in the construction and relocation of said Highway. That by reason of the construction and relocation of State Highway Route # 59 Sec. 9 through the premises of Wm Utzinger, a strip of land, lying between the old State Highway Route #59 Sec. 9 and its new location, being approximately four acres in size, has been cut off and somewhat isolated from the remainder of the petitioners farm. It was also brought to the attention of your undersigned viewers that certain of the petitioners crops were destroyed in the construction of said Highway and in addition thereto the petitioner has been inconvenienced do to the fact that the new Highway passes between his dwelling house and spring from which source he has been accustomed to hauling water for his live stock.

The amount of damage claimed by Wm Utzinger, the petitioner, and as testified too by his witnesses, ranges from \$1000.00 to \$2000.00. After viewing the premises of Wm Utzinger and the conditions surrounding the same and taking into consideration the special benefits accruing thereto by reason of the construction of State Highway Route #59 Sec.9 through the property of the said Wm Utzinger, your viewers are of the opinion that the foregoing estimates are excessive, but that the said Wm Utzinger should be compensated for the land taken and occupied and

the damage and inconvenience caused him in the construction and re-  
location of said Highway and do assess to the said Wm Utzinger, damages  
in the amount of Nine Hundred and Twenty-five (\$925.00) 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~~

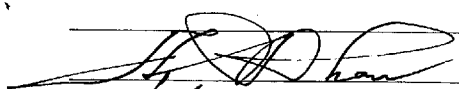
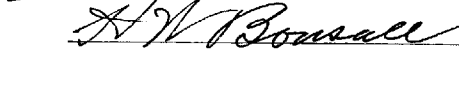
~~when it was not practical to preserve it within that limit.~~

~~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~~

~~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.

WITNESS our hands and seals this 10th day of December  
A. D. 192<sup>36</sup>.

  
  
Seal Seal Seal Seal

No. 8 Dec. Sessions, 19 36

## ORDER

To view & assess damages to a  
road for from 21/2/36 use in the  
township of Brady,  
Clearfield County

21/2/36 Sessions, 19 37.

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.

*W. R. Gallagher*  
*John J. Gallagher*  
*John J. Gallagher*  
*John J. Gallagher*  
*John J. Gallagher*

*March 15 1937*  
*viewed & assessed*  
*having elapsed, confirmed*  
*W. R. Gallagher*  
Filed 19 37

Fees \$1.25 paid by

NOTE—In case of a private road, the release  
must be executed in favor of the petitioner for  
said road.

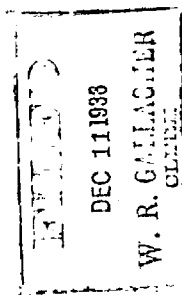
Also, viewers will carefully note the number of  
days employed and set the amount out at the foot  
of their return.

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.
A. B. Shaw	5	54	32.75
H. A. Reese	3	156	37.80
H. W. Bonsall	21	286	29.50

W



## 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 enrolling 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 \_\_\_\_\_.

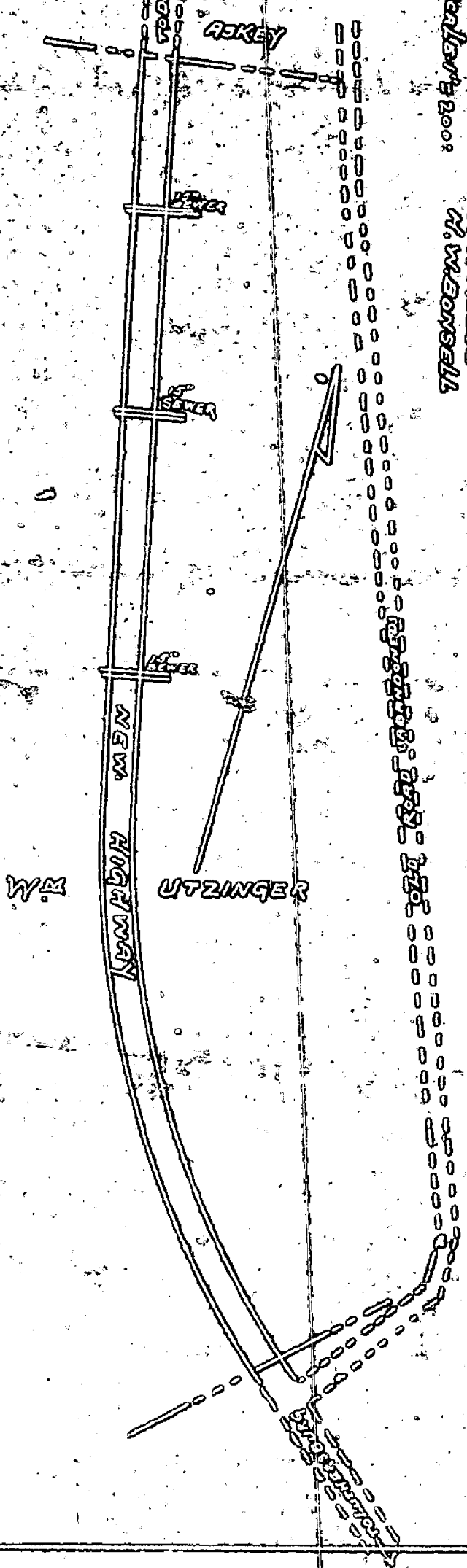
Seal

Seal

Seal

Seal

NO. DEED OF W.M. UTZINGER  
LANDS OF TOWNSHIP CLARKE COUNTY PA.  
MOVED UPON A QUESTION OF DAMAGES  
FOR 23-000 BY A. B. Shaw Esq.  
H. A. REESE  
Scale 1/2" = 100' H. W. BOWELL



# Road Viewers' Notice

NOTICE IS HEREBY GIVEN that the undersigned Viewers, appointed by the Court of Quarter Sessions of Clearfield County, Pennsylvania, to view a Road or assess damages, leading from and benefit, if any, by reason of the construction and relocation of State Highway Route 302 Sec 2 through the premises of William H. Disinger, situate

in Township to

in Brody Township, in the County aforesaid, will meet at the house of on the premises in Brody Township, on Monday the 23rd day of November, A. D. 1925, at 11:00 o'clock A. M., to attend to the duty assigned them, of which time and place aforesaid, all parties interested will take notice.

THAT A PUBLIC HEARING AS REQUIRED BY ACT OF ASSEMBLY AND RULES OF COURT, IN ORDER TO GIVE ALL PARTIES INTERESTED IN SAID ROAD AN OPPORTUNITY TO BE HEARD, WILL BE HELD IN THE GRAND JURY ROOM IN THE COURT HOUSE AT CLEARFIELD ON WEDNESDAY THE 25th DAY OF NOVEMBER A. D. 1925 AT 12:00 O'CLOCK A. M. AT WHICH TIME AND PLACE ALL PARTIES INTERESTED MAY ATTEND AND BE HEARD IF THEY SO DESIRE.

A. D. SHAW

H. A. REICH

H. W. KINGSLEY

November 18th

1925

VIEWSERS

To the County Commissioners of Clearfield County, Pennsylvania.

NOTICE OF VIEW

You are hereby notified that the undersigned Viewers, appointed by the Quarter Sessions of Clearfield County, Pennsylvania, on the 2nd day of November, A.D., 1936 to assess the damages and benefits, if any, by reason of the construction and relocation of State Highway Route #59 Sec. 9 through the premises of William M. Utzinger, situate in the Township of Brady, Clearfield County, Pennsylvania, will meet on the premises on Monday the 23rd day of November, A.D., 1936 at 11:00 o'clock A.M. to attend the duties assigned them, and that a public hearing as required by Act of Assembly and Rules of Court, in order to give all parties interested in said Road an opportunity to be heard, will be held in the Grand Jury Room in the Court House at Clearfield on Wednesday the 25th day of November, A.D., 1936, at 11:00 o'clock A.M., at which time and place all parties interested may attend and be heard, if they so desire.

A.B. Shaw.

H.A. Reese.

H.W. Bonsall.

Viewers.

Now November, 6th 1936, service of the above notice is hereby accepted by copy.

Mary E. Lucas  
Clerk.