

ROAD

DOCKET No. 6

Number	Term	Year
4	Sept.	1939

Petition of ARTHUR G. PETERS for
damages to property in Bradford Twp.

Versus

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNSYLVANIA

In re: Petition of ARTHUR :
G. PETERS for appointment :
of viewers to assess damages :
in the construction of State : No. 4 Sept. Sessions, 1939
Highway Route No. 57, Section :
5, in Bradford Township, :
Clearfield County, Penna. :
:

To Honorable W. Wallace Smith, President Judge of said Court:-

The petition of Arthur G. Peters, a resident of Bradford Township, Clearfield County, Pennsylvania, respectfully represents:

1. That your petitioner is the owner of a farm, containing approximately eighteen (18) Acres, situate in Bradford Township, aforesaid, a description of which is as follows:

Beginning at a point in center of Township road on line of S. L. Roberts tract, this point being north $7-3/4^{\circ}$ east 161.5 feet from the northwest corner of the J. Henry Gearhart tract; thence along center of Township road north 82° east 292 feet; thence along said Township road north $85^{\circ} 55$ minutes east 264 feet; thence by said road north $65^{\circ} 5$ minutes east 206 feet; thence by said road north $33^{\circ} 12$ minutes east 187 feet; thence by said road north $21^{\circ} 28$ minutes east 455.3 feet; thence by said road north $1/2^{\circ}$ west 413.1 feet; thence by said road north $14^{\circ} 55$ minutes west 620 feet; thence along said road north $17^{\circ} 5$ minutes west 263.5 feet; thence along said road north 409.9 feet; thence along land of Mrs. Leavy north $83^{\circ} 10$ minutes west 879 feet to post corner of S. L. Roberts and Mrs. Leavy; thence south $5^{\circ} 55$ minutes west 435 feet to dead chestnut snag; thence south $1^{\circ} 20$ minutes west 1109.1 feet to post; thence south $15^{\circ} 41$ minutes east 593 feet to post; thence south 7° west 219 feet to post at corner of land to be sold to G. W. Mason; thence along land of said Mason south $8^{\circ} 45$ minutes east 183 feet to place of beginning. CONTAINING fifty-two and nine-tenths (52.9) Acres more or less.

Excepting and reserving out of the same, however, all the fire clay, coal and other minerals in, under or upon the aforesaid piece or tract of land, together with all mining rights.

Said premises being conveyed to Arthur G. Peters by Samuel L. Roberts by deed dated September 14, 1916 as recorded in Deed Book No. 216 at page 309.

Reserving therefrom also that portion thereof as was conveyed by Arthur G. Peters et ux to James Edward Lewis by deed dated June

4, 1918 as recorded in deed book No. 230 at page 257, which is bounded and described as follows:

Beginning at post corner of Mrs. Jennie Leavy tract and S. L. Roberts, thence south $5^{\circ} 55$ minutes West along land of S. L. Roberts 435 feet to post; thence by same South $1^{\circ} 20$ minutes West, 1109.1 feet to post; thence South $83^{\circ} 30$ minutes East, 1210 feet to center of Township road; thence along Township road North 30 minutes West, 363.1 feet; thence by same North $14^{\circ} 55$ minutes West 620 feet; thence by same North $17^{\circ} 5$ minutes West 263.5 feet; thence by same North 409.9 feet to land of Mrs. Jennie Leavy; thence by land of Mrs. Jennie Leavy North 83° , 10 minutes West, 879 feet, more or less, to the place of beginning. CONTAINING thirty-five (35) Acres more or less.

Excepting and reserving from the above described premises all the fire clay, coal and other minerals in, under and upon the said piece of land together with usual mining rights.

2. That said remaining portion of said farm, consisting of approximately eighteen (18) Acres, was rectangular in shape, and all of said farm prior to the date hereinafter mentioned was in good state of cultivation and farmed regularly by your petitioner who derived therefrom annually a large source of his income.

3. That since acquiring title to said farm, petitioner erected thereon a dwelling house and barn and other outbuildings necessary and incident to farming purposes. In addition thereto, the petitioner planted thereon a large number of fruit trees, berry bushes and grape vines, and at the time of the damage herein complained of, all of said trees, bushes and vines were of bearing age and did provide the petitioner with a considerable source of his income.

4. That said above described premises abut on what is known as the Lakes-to-Sea Highway, being United States Route No. 322 and State Highway Route No. 57, Section 5, as now constructed or in the process of construction, and prior to the damage herein complained of, the only source of water supply therefor was a well or spring located on said premises and piped to the dwelling house from said well or spring.

5. That ingress and egress to and from the dwelling house and outbuildings by motor vehicle for coal and other purposes was had by way of a driveway constructed by the petitioner from a point at or beyond his barn, and free and easy access was had by the petitioner by walks and foot paths as well as by driveway between his dwelling house and barn and other outbuildings.

6. That in the month of 1938, the Secretary of Highways of the Commonwealth of Pennsylvania undertook to construct and/or reconstruct said highway and did construct and/or reconstruct the same in Bradford Township, Clearfield County, Pennsylvania from Station 783 $\frac{1}{4}$ to Station 793 $\frac{1}{4}$ as approved by the Secretary of Highways on April 22, 1938 and by the Governor of the Commonwealth of Pennsylvania on June 25, 1938, which construction and/or reconstruction of said State Highway resulting in the taking and appropriating of a strip of land out of the middle of the petitioner's farm and the full length thereof, a distance of approximately eleven hundred (1100) feet, more or less, and of a width varying from sixty (60) feet to eighty-five (85) feet depending upon the height of fill and cut.

7. That as a result of said construction and/or reconstruction of said State Highway, the petitioner's farm was divided into two parts. The front portions thereof are divided by a cut fourteen (14) feet deep, which cut separates the barn from the house and the rear portions thereof are separated, being a fill approximately six to eight feet high. Due to said division of said farm, access from one part thereof to the other part with ordinary farm machinery and for pasturing cattle is rendered almost impossible.

8. Prior to the taking and appropriating of the petitioner's land, the well or spring on said premises furnished said petitioner with a sufficient supply of pure water during all seasons of the year, and when his land was excavated for road purposes, the said

well or spring was completely damaged and destroyed, it having been located at a point where the road is now constructed. As a result thereof, the petitioner is completely and entirely deprived of a water supply and has been completely deprived of a water supply since October 21, 1938, since which date he has carried water uphill for domestic and farm use from a well or spring on a neighbor's property approximately fifty (50) yards away and across an improved State Highway known as 57 Spur.

9. Also as a result of the construction and/or reconstruction of said State Highway, the driveway to the petitioner's house was destroyed and all access thereto by vehicle has been rendered impossible. Because of petitioner's inability to gain access to his house by vehicle, it is necessary for him to carry all of his coal uphill to the house from a point where the same is dumped near the side of State Highway known as 57 Spur. Also the foot paths and driveways between the house and the barn were destroyed due to the separation of the house from the barn by a fourteen (14) foot cut, making it necessary for the petitioner to take a circuitous course from the house to the intersection of two well-traveled and improved highways and thence to the barn.

10. As a result of the taking and appropriating of the petitioner's land, seven (7) apple trees, eleven (11) plum trees, two (2) grape vines and a lot of berry bushes of various types as well as petitioner's entire garden of sixty (60) by eighty (80) feet and outbuildings were all completely destroyed and rendered valueless to the petitioner.

11. As a result of the taking and appropriating of the petitioner's land as aforesaid in the construction and/or reconstruction of said State Highway for the purposes aforesaid, the petitioner has suffered a great loss and said property has been completely destroyed for practical farm purposes and greatly reduced in value.

12. That before proceeding with the construction and/or reconstruction of said State Highway, the Secretary of Highways of the Commonwealth of Pennsylvania notified the County Commissioners of Clearfield County thereof and furnished them with a copy of the plans thereof showing the same and the land to be taken and appropriated for highway purposes, and on May 6, 1938, the County Commissioners of Clearfield County agreed in writing that the County of Clearfield would assume liability for any or all property damages resulting from the construction of the highway as contemplated by said plans as appears from a resolution adopted at a meeting of said County Commissioners held on said date, a copy of which resolution is hereto attached, marked Petitioner's Exhibit "A", and made a part of this petition.

13. It is averred that the resolution of the County Commissioners of Clearfield County has become binding upon Clearfield County and that said Clearfield County is liable for the payment to the petitioner of such damages as he has sustained for the reasons aforesaid.

14. It is averred that the County Commissioners of Clearfield County have failed, neglected and/or refused to enter into an agreement with the petitioner as to the amount of damages to be paid in accordance with the Acts of Assembly pertaining thereto.

WHEREFORE, your petitioner prays your Honorable Court to appoint viewers to view the premises of the petitioner and to assess such damages as they find that the petitioner has suffered, and report the same to this Honorable Court as in such cases made and provided.

And your petitioner will ever pray,

Arthur G Peters

STATE OF PENNSYLVANIA:
: SS:
COUNTY OF CLEARFIELD :

Before me, the undersigned, personally appeared ARTHUR G. PETERS, who, being duly sworn, according to law, deposes and says that the facts contained in the foregoing petition are true and correct.

Sworn to and subscribed before :
me this 1st day of July : Arthur G. Peters
A. D., 1939. :

W. P. Gallagher :
Notary

ORDER OF COURT

AND NOW, July 3, 1939, the within petition having been presented, read and considered, A. B. Shaw, Esq., and H. A. Peters, and H. A. Gilis, are appointed viewers to view and assess the damages of the within named petitioner and make report to the Court as provided by law.

By the Court,

R. Mallon Litz

P. J.

PETITIONER'S EXHIBIT "A".

Meeting May 6, 1938.

County Commissioners J. C. Gatehouse, T. R. Weimer and W. V. Carr present. On motion duly made and seconded, it was unanimously decided to adopt the following resolution:

BE IT RESOLVED by the County Commissioners of Clearfield County, that the plans submitted by the Department of Highways for the changing of State Highway Route 57, in Boggs and Bradford Townships and Wallaceton Borough, between Stations 480~~4~~00 and 855~~4~~86, have been examined and the County Commissioners agree that, except as hereinafter expressly provided, the county of Clearfield will assume liability for any or all property damages resulting from the construction of the highway as contemplated by these plans, and also all damages arising out of any change or alteration of drainage resulting from the construction of the highway; provided however no such liability or responsibility for property damages, or damages incidental thereto is assumed by Clearfield County in respect to coal or clay mine drifts at Station 642~~4~~62, Station 765~~4~~19.5 or Station 849~~4~~68.5; or railroad grade crossings at Station 588~~4~~25.90, Station 624~~4~~35.28 or Station 782~~4~~35.

Meeting adjourned,

RE:-RESOLUTION IN CONNECTION
WITH DAMAGES IN RECONSTRUCTION
OF STATE HIGHWAY ROUTE 57, IN
BOGGS AND BRADFORD TOWNSHIPS
AND WALLACETON BOROUGH.

Chief Clerk.

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 4 September SS, 1939

In re: Petition of ARTHUR G. PETERS for appointment of viewers to assess damages in the construction of State Highway Route No. 57, Section 5, in Bradford Township, Clearfield County, Penna.

5/9
JUL 3 1939

W. R. LAGHER

C. L. LAGHER

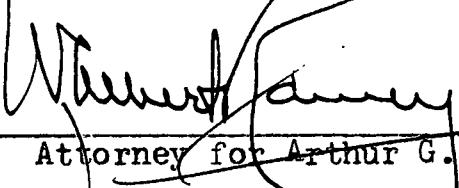
W. ALBERT RAMEY
ATTORNEY AT LAW
CLEARFIELD, PA.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

IN RE: PETITION OF ARTHUR G. :
PETERS FOR APPOINTMENT OF :
VIEWERS TO ASSESS DAMAGES IN :
THE RECONSTRUCTION OF STATE : No. 7, December Term, 1939
HIGHWAY ROUTE NO. 57, SECTION :
5 :
5

STIPULATION AS TO WITHDRAWAL OF APPEAL AND THAT THE VIEWERS'
REPORT SHALL BE CONFIRMED

Now, the 17 day of October, 1939, Arthur G. Peters,
by his attorney, W. Albert Ramey, hereby withdraws the appeal
filed on September 5, 1939, to the Viewers' report previously
filed on August 9, 1939, to No. 4, September Sessions, 1939, in
the Court of Quarter Sessions of Clearfield County, Pennsylvania,
and agrees that the said Viewers' report shall be confirmed
absolutely; it is further stipulated that the said Arthur G.
Peters has received payment in full for the damages described in
the petition for appointment of Viewers and in the Viewers'
report.



Attorney for Arthur G. Peters

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 three notices thereof were posted along the route of the proposed road, that the said view would be held on the 19th day of July

A. D. 19239, and the hearing to be held in the ~~Examination~~ ^{Grand Jury} Room, at the Court House, in Clearfield, Pa., on the 21st day of July, 19239, at 10:30 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 W. Albert Ramey, Esq., Attorney for Petitioner, together with Arthur G. Peters, the Petitioner.

parties in interest. That the hearing was held in the ~~Examination~~ ^{Grand Jury} Room, in the Court House, at Clearfield, Pa., on the 21st day of July A. D. 19239, when the following appearances were noted: W. Albert Ramey, Esq., Attorney for Petitioner, together with Arthur G. Peters, Petitioner, and the following witnesses for the claimant: John Maines, C. D. Johnson, J. V. Knepp and Paul Milson, Robert V. Maine, Esq. of the Law Firm of Smith & Maine, appeared as Solicitor for Clearfield County.

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 described by the petitioner, and that the same is not necessary for a road and driving had respect to the shortest distance and the best ground for such road we have laid out in such manner as shall be the least injury to private property and as far as practicable agreeable to the desire of the petitioner, and to return for~~ ~~the following described road, to wit~~ ~~Beginning~~ damages have been sustained by Arthur G. Peters of Bradford Township, the Petitioner, by reason of the construction and relocation of State Highway Route #57, Section 5, through his premises, that approximately 1.7 acres of land of the said Arthur G. Peters has been taken and appropriated in the construction and relocation of said Highway, which said Highway divides the farm into two parts; seven (7) acres of which is on one side of the highway and ten (10) acres on the other. That in the construction and relocation of said highway, and do to the grade thereof, the Petitioner's farm, as well as his house and farm buildings, have been separated by a deep declivity; his house being situate on top of the slope on the south side of said highway, whereas his barn is situate on top of the slope on the north side of said highway, which condition has necessitated the removal of some of the smaller buildings from their former locations on the Petitioner's property. That the spring and chief water supply of the Petitioner, and which he had piped to his house and buildings, has been destroyed by the construction and relocation of said highway, which will in all probability require the digging or drilling of a well on the Petitioner's premises in order that the loss of his water supply might be replenished. In addition to the damages herein enumerated, the Petitioner's garden adjacent to his house has been destroyed, as well as a number of bearing fruit trees. The Petitioner's private driveway to and from his home and buildings has also been destroyed which will necessitate the construction of a new driveway in order that the Petitioner might have free access to and from his home and buildings.

The amount of damage claimed by Arthur G. Peters, the Petitioner, and as testified to by his witnesses, ranges from \$2000.00 to \$3500.00. After viewing the premises and taking into consideration the special benefits accruing thereto by reason of the cons-

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 3rd day of July in the year of our Lord one thousand nine hundred and thirty-nine

Judge of the same Court: Upon the petition of ~~xxxviii~~ Arthur G. Peters
~~xxxix~~ of the Township of Bradford in said County, setting forth that

See copy of Petition attached.

and therefore, praying the Court to appoint proper persons to view and ~~xxxix~~ assess damages 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 A. B. Shaw, Esq., H. A. Reese and H. A. Giles

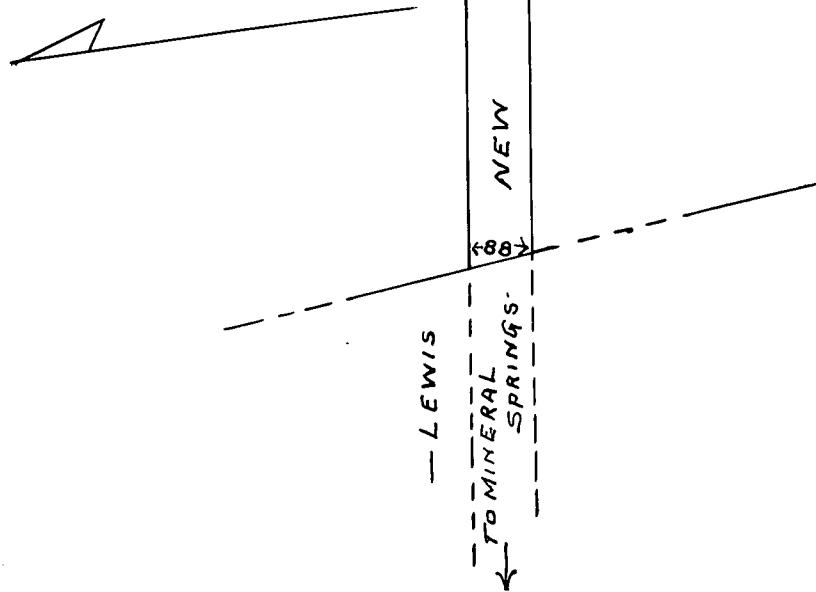
who have been duly appointed by the Court and filed their oaths of office and are duly qualified to perform the duties of their appointment with impartiality and according to the best of their judgement, are to view the ground ~~proposed for the said road~~ and assess damages, and if they view the same, 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.

W. R. Gallagher, Clerk.

PROPERTY OF ARTHUR G. PETERS
IN BRADFORD TOWNSHIP, CLEARFIELD COUNTY, PA.
VIEWED ON A QUESTION OF DAMAGE
JULY 19-1939 BY A. B. SHAW, ESQ.
SCALE 1 INCH = 200 FEET. A. REESE
H. A. GILES



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 benefits, if any, by reason of the construction and relocation of State Highway Route #57, Section 5, through the premises of ARTHUR G. PETERS SITUATE

in Township

in BRADFORD Township, in the County aforesaid, will meet at the house of ARTHUR G. PETERS
in BRADFORD Township, on WEDNESDAY
the 19TH day of JULY, A. D. 1929, at 10:30 .
o'clock A. M., to attend to the duty assigned them, of which time and place aforesaid, all parties interested will take notice.

AND THAT THE PUBLIC HEARING AS REQUIRED BY ACT OF ASSEMBLY AND RULES OF COURT TO BE HELD BY THE VIEWERS BEFORE THE FILING OF THEIR REPORT IN 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 FRIDAY THE 21ST DAY OF JULY, A.D., 1929 AT 10:30 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. GILES

H. A. REESE

V I E W E R S

JULY 7, 1929

TO THE COUNTY COMMISSIONERS OF CLEARFIELD COUNTY, PENNSYLVANIA:

NOTICE OF VIEW

You are hereby notified that the undersigned Viewers, appointed by the Court of Quarter Sessions of Clearfield County on the 3rd day of July 1939 to assess the damages and benefits, if any, by reason of the construction and relocation of State Highway Route #57, Section 5, through the premises of Arthur G. Peters, situate in the Township of Bradford, Clearfield County, Pennsylvania, will meet on the premises on Wednesday the 19th day of July, A.D., 1939 at 10:30 o'clock A.M. to attend the duties assigned them and that the public hearing as required by Act of Assembly and Rules of Court to be held by the Viewers before the filing of their report in 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 Friday the 21st day of July, A.D., 1939 at 10:30 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. Giles

H. A. Reese

Viewers

NOW, THIS 7th day of July, A.D., 1939, service of the above notice is accepted for the County Commissioners of Clearfield County, Pennsylvania.

Myra E. Lucas
Clerk

tion of an improved highway through the premises of the said Arthur G. Peters, true viewers are of the opinion that the foregoing estimates are excessive but that you said Arthur G. Peters should be compensated for the land taken and occupied and the damages and inconvenience caused him in the construction and relocation of said highway and do assess to the said Arthur G. Peters, damages in the amount of \$625.00.

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, ~~and not being at an elevation not exceeding five degrees, excepting~~

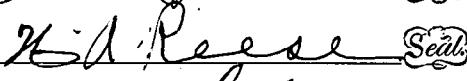
~~when it was not practical to do so except within that limit~~

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 procure such releases of any

the following persons having refused to release the damages to which they respectively may be entitled by reason of the location and opening of the said road; we, the undersigned do now release after having considered the advantages to be derived to them to assess their damages and make a report thereof as follows:

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

WITNESS our hands and seals this _____ day of _____ August,
A. D. 192 39.

 Seal
 Seal
 Seal
 Seal

No. 4 Sept. Sessions, 19 39

ORDER

To view and assess damages ~~xx~~
to property of ARTHUR G. PETERS
~~xx~~
~~xx~~

township of Bradford
Clearfield County

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.

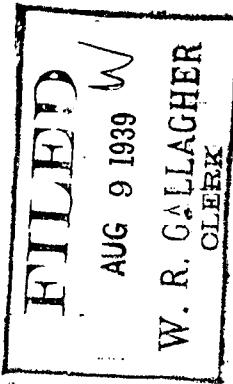
N. B.—If the viewers believe the parties are not entitled to damages, taking into consideration the advantages as well as the disadvantages of the road, they will report to that effect.

	Days	Miles	A.M.T.	Sessions, 19
A. B. Shaw	3	16	30.80	
H. A. Giles	2	24	21.20	
H. A. Reese	3	84	34.20	

To view and assess damages ~~xx~~
to property of ARTHUR G. PETERS
~~xx~~
~~xx~~

19
Filed
Fees \$1.25 paid by

W. J. Ramey, Attorney



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. 192 _____.

Seal

Seal

Seal

Seal