

Quarter Sessions

In the Court of ~~Common Pleas~~
of Cambria County, Pa.

In re Road

in
Stony creek Twp.

of James Less Form, A. D. 1896, No. 7 R2D

Remembrance

And now, to-wit, the 5th day of April, A. D. 1897, Rule
on part of petitioners to take depositions of witnesses
to be read on the hearing of the above stated case.

CAMBRIA COUNTY, SS:

Extract from the Record of said Court. Certified the

5 of April 1897

P. W. Davis Prothonotary
Clerk

To D. L. Parson Esq. Atty for Exeplants

TAKE NOTICE, That in pursuance of the above Rule the depositions of witnesses to be read in evi-
dence on the Argument of the above stated Case on part of

the Petitioners will be taken at the Office of William

Williams Esq. in the Woolly Block Johnson Pa. on Saturday

the Seventeenth day of April, A. D. 1897, between the hours

of 10 o'clock A. M., and 10 o'clock P. M., before William

Williams Esq. Commissioner in and for said County

or by some other person of competent authority, at the time and place aforesaid, when and where you may
attend if you think proper.

James Orrattus
Atty for Petitioners

207 June Sess 1894 Red

Dr. W. L. Baird

m

Stuyvesant Inf.

and from April 17, 1894

to 1894

Dr. L. J. Mason

RULE ON PART OF Spectator

to the Legislature

Walter

in re road in

Stony Creek township.

in the Court of Quarter Sessions of Cambria

County.

no. 7 June Sessions, A. D. 1896, R. D.

Depositions of witnesses produced, sworn or affirmed and examined by me at my office room No. 3 Woolf block, Johnstown, Pa., on Saturday the seventeenth day of April, A. D. 1897, between the hours of ten o'clock, A. M. and one o'clock, P. M. of said day by virtue of the annexed rule of Court of Quarter Sessions of Cambria County and notice thereto attached for the examination of witness in a certain cause depending in said Court and undetermined being in re road in Stony Creek township, entered to no. 7 June Sessions, Road block.

James M. Walters, Esq., appeared for the petitioners.

Daniel L. Parsons and C. C. Greer, Esqrs. appeared for the respondents.

A. D. Griffin being duly affirmed testifies as follows:

Q. State where you live?

A. In Stony Creek township, near where this road is going through.

Q. State whether or not you own property in Stony Creek Township.

A. Yes sir, I do.

Q. What is your business?

A. I run a milk wagon.

Q. Do you have occasion to come to Johnstown every day?

A. Yes, except Sunday.

Q. State whether or not you are one of the petitioners for this road?

A. I am.

Q. State whether or not the proposed new road would in your opinion make a better road than now exists by which to reach the terminus at Walnut Grove as well also for the parties going to Walnut Grove to the Catholic Cemetery and also be of a better grade.

A. Well, it is a little hard question to answer, as I don't know the grade

myself.

Q. State whether or not you are acquainted with the natural lay of the land?

A. Yes sir, I am.

Q. And knowing that, would it not make a better grade, natural grade, than the present road?

A. Well, I think so.

Q. State whether or not the proposed road would save to a number of the inhabitants and taxpayers of Stony Creek township the payment of toll which they are now required to pay.

A. Yes, it would.

Q. State whether or not there is quite a number of persons living in the township that can't get to the City without using the turnpike, therefore required to pay toll?

A. Yes sir.

Q. State whether or not the short space of the Turnpike or township road which the proposed road would supply for those who desire to use it ~~becomes~~ becomes obstructed with snowdrifts every winter so that the road is impassable?

A. It would for those that can use it in that way, and it becomes obstructed with snow.

Q. State whether or not there is an unusually high grade on the turnpike between Walnut Grove and Gedstown which could be avoided by the new proposed road?

A. Well, it is pretty steep, and I suppose the new road would be a less ~~steep~~ grade. I have no other road to get to the City but by the pike.

Cross-examined by Mr. Greer.

Q. How near to the Johnstown Turnpike do you live?

A. About two stones throw; if you throw right hard, you might throw it in one.

Q. How far is it from your residence to Walnut Grove by way of the turnpike?

A. About a mile.

Q. How far would it be by the proposed new road?

A. Well, it would run about two mile.

Q. How far from your residence is it to the beginning of the proposed new road?

A. It is not more than a quarter of a mile.

Q. Would you go towards ^{Johns} town or away from it starting from your place to the beginning of the new road?

Objected to for the reason that the question is not a proper cross examination, misleading and irrelevant.

A. Of course it would take me from it a little distance.

Q. You say that the proposed road would save a number of the taxpayers the payment of toll, now how many would it save?

A. I can't at present.

Q. Name who it would save?

A. Well there would be any amount out through there that would travel it, but I don't know who they might be.

Q. You state there are quite a number of people living in the township that can't get to the City without using the ~~pike~~ ^{pike} and therefore are required to pay toll, how many and who are they?

A. There might be a good many in the township that might want to take a drive around there to save toll, but I don't know who they might be.

Q. On reflection, are there not other roads than the turnpike by which you can get to the City?

A. Oh, there is, but it would be out of the way for some few parties.

Q. You have stated here that a certain road becomes impassable during the winter on account of snowdrifts, do you mean by that, the turnpike become impassable by snowdrifts?

A. No, I mean the township road where I live.

Q. Does the Township road leading to Moxham ever become impassable by reason of snowdrifts?

Objected to by Mr. Walters as not material.

A. I think a part of it does sometimes.

Q. Is it not true that all turnpike roads occasionally become impassa-

A. I would.

Deuben S Griffith

Samuel B. Smith being duly affirmed testifies as follows:

I live in Stone Creek Township: I am a property holder and tax payer in Stone Creek Township

Q. State whether or not you are acquainted with the proposed new road out there?

A. I am.

Q. State what advantage you think it would be to the inhabitants of the township to have a new road from where this proposed road starts and ends?

A. Well, it would be an advantage to a good many people.

Q. In what way?

A. It would cut off a distance to reach points that cannot be reached without the proposed route.

Q. State whether or not in your opinion it would be a better grade than the turnpike now used which this would supply?

A. Yes it would be.

Q. State whether or not it would shorten the distance from Geistown in to Walnut Grove?

A. I couldn't tell that exactly.

Q. State whether or not it would shorten the distance from the point where the proposed new road is to start for many of the inhabitants of the township as well as the adjoining townships? to where it would end in Walnut Grove?

A. It would shorten the distance for some.

Q. State whether or not the turnpike as it now is becomes obstructed with snowdrifts and makes the road impassible every winter?

A. Not the turnpike as far as that point reaches, but the township ^{road} ~~does~~.

Q. State ~~state~~ whether or not the township road does?

A. It does at certain points.

Q. State whether or not the opening of this new road would shorten the

distance for the people living along and near the proposed road and obviate the necessity for their using the township road or the turnpike to get into Walnut Grove?

A. Well, I don't know that it would shorten the distance very much, but it would make a more convenient road in winter, and also in summer.

Cross-examined by Mr. Grear.

Q. Would you use this proposed new road in coming to Jonnstown?

A. No, I would have no occasion to use the new road to come to Jonnstown, but I would use it to go out to another piece of land I have out in Richland township.

Q. ~~What points are~~ Name what points are inaccessible by the present roads in Stony Creek township?

A. Well, they can all be reached by going a great distance around.

Q. State who can reach Jonnstown more readily by the proposed new road than by existing roads?

A. There is ^{Harman} Mr. ~~Harman~~ Miller and Andrew Miller, Mr. Jerry Walters, Amos Hoffman, and perhaps a number of other people.

Q. In what township does Andrew Miller, Amos Hoffman and Jeremiah Walter live.

Objected to as it is not a proper cross-examination

A. I know Mr. Walters lives in Richland, but I don't know about the others.

Q. How far does ^{Harman} ~~Harman~~ Miller live from the present township road?

Objected to as not a proper cross-examination.

A. I suppose between a quarter and a half a mile.

Q. Is it nearer for ^{Harman} ~~Harman~~ Miller to get to Jonnstown by the proposed new road than by the present road?

A. I think it is.

Q. How are you able to compare ~~Harman~~ the grade of the new road with the present turnpike?

A. Well, I have been along the route more than once, and it is a more natural grade, not as heavy a grade, in my estimation, as the turnpike.

Q. You have stated here that for some it would shorten the distance from the proposed new roads beginning to where it would end in Walnut Grove?

State who could get to Walnut Grove more readily by the proposed new

road than by the present road?

A. Mr. Walters, Mr. Miller, ^{Harman} and Andy.

Q. What difference is there in your estimation in the distance from the beginning of the proposed new road in Walnut Grove and the existing turnpike?

A. I don't believe there is a great deal of ^{difference} ~~difference~~, but there is a distance between the beginning: but I think the new road is the shortest.

Samuel B. Smith

~~John Harley being duly sworn testifies as follows:~~

Louis Von Lunen being duly affirmed testifies as follows:

Q. State whether or not you are a property holder in Stony Creek Township?

A. Yes sir.

Q. State whether or not you are also a property holder in the adjoining townships or the City?

A. I am in the City.

Q. State if you are in that portion of the City, seventeenth ward, that was taken from Stony Creek Township, so that for years you were a resident of Stony Creek Township?

A. Yes sir.

Q. State whether or not you are acquainted with the route of the proposed new road?

A. Only part of it.

Q. Also whether or not in your judgment the road is necessary?

A. It is necessary for me to get to part of my property.

Q. State whether or not you have been a large taxpayer for a number of years in this township?

A. Some time ago I was.

Cross-examined by Mr. Parsons?

Q. How far is your property from the present township road?

A. Half a mile to the part that I said.

Q. How do you reach the property you own in Stony Creek Township now?

A. By ~~xxxx~~ road I can't reach it at all, that part of it.

Q. What part of your property is it that you cannot reach now?

A. The part that lays in the hollow along the proposed road.

Q. As your property now lies is it surrounded entirely by other properties?

A. No, but I can't get down over the hill to the part in the hollow.

Q. Then there is a road along side of your property that you can reach Walnut Grove by?

A. A private road to the hill property but none to the hollow.

Q. Does your hill property adjoin the property in the hollow?

A. Yes sir.

Q. Then you can reach the township road by this private road?

A. No, the private road leads to the Turnpike.

Q. Is your hollow property improved and unimproved?

A. It is unimproved now, but it is waiting for the road to be improved.

Q. Are you not privileged to use this private road for the use of your coal bank?

A. I have no road to where I expect to open the coal bank, it is down over the hill.

Q. Adjoining your land is there any improved land?

A. Not very much.

Q. Please state what improved land there is?

A. Norman Miller's, Uriah Griffiths and George Myers, and the heirs of William Griffith.

Q. Is there any part of these lands that you say are improved, unimproved?

A. None that I know of.

Q. State whether or not in your opinion the distance from the beginning of the proposed road in Walnut Grove is greater than the distance over the Turnpike?

A. I don't know, I have never been over the lower part of the proposed road.

Louis Ross Linn

A. Yes sir.

Q. State whether or not you have been over the proposed route of this new road and what you think of its grade as compared with either the township road or the turnpike?

A. I have been over it and worked on it pretty often as far as it is open; as far as I know anything about it the grade is a good bit less than the Pike

Q. State whether or not it would make a better road than now exists by which to reach the Catholic cemetery from people living in the western end of the township and those living in the City.

A. It would make a good six-less grade and a better road. 7

Q. State whether or not the township road leading to the turnpike becomes obstructed with snowdrifts every winter so that the road is impassable, and what teamsters have to do in order to get by?

A. It does, and they have to throw down fenses and go through the fields.

Q. How close do you live to this Road?

A. My house stands one hundred and twenty-five yards from where the road would pass.

State whether or not there are many of the inhabitants along the new proposed road and adjoin farms or lands that are now compelled to go out of their way to get on the pike in order to get to the City that would be overcome by reason of the opening of this new road? by giving them at once a shorter route?

A. I have about a quarter of a mile ^{or} ~~and~~ half a mile going direct away from town ^{oneway} and the other way ^{about} ~~about~~ the same ~~whether~~ ~~can~~ to get on the township road; there are others in the same way; messenger along side of me, Louis Von Lunen was ground laying there in front of me.

Q. State whether or not Mr. Miller you are ^{ac}quainted with the petitioners that oppose the new road? and whether or not the majority of them are non-property holders?

A. I can't just say how many are non-property holders, but there are some of them that are non-property holders.

Q. State whether or not you believe it would be a hardship therefore to have the opening of this road denied or refused by the Court?

A.

A. It would.

Q. How many bridges will the new road require to complete it as the road is laid out, and has not part of it been opened?

A. To the best of my idea it will only take two bridges. I have worked on that road for nine years, through the summer whenever I had time.

~~Question: What in your opinion would less than a mile of road such as is proposed here cost to construct the same, and put it in order and open the same?~~ Question: What in your opinion would less than a mile of road such as is proposed here cost to construct the same, and put it *in order and open the same?*

A. I can't answer that.

Cross-examined by Mr. Parsons.

Q. You state in your examination in chief that this road would make a better road, do you mean to say it would make a better road than the turnpike?

A. It would make a better road to get up the hill, on account of it being away from the snowdrifts and a lighter grade.

Q. Does the snow drift on the turnpike?

A. It drifts between the turnpike and where this road connects. I have seen it drift on the turnpike?

Q. When and how often?

A. To the best of my knowledge it was this winter a year ago. That is the only *time* ~~time~~ I ever paid any attention to it.

Q. State in your opinion how many Catholics in Stony Creek township bury their dead in the Catholic Cemetery in the township?

A. I don't know.

Q. Is not the Catholic cemetery used almost exclusively by families outside of Stony Creek township?

A. I can't answer that.

Q. Please state who are property owners and who are not property owners of the inhabitants living along the proposed road?

A. I live there, Andy Miller and Amos Hoffman. Berkey and Sam Smith lives at the bottom.

Q. State how many of these persons you have named live in Richland township?

A. As near as I can find out, if the assessor would look them up there is none.

Q. How many dwell along this proposed new road?

A. I do, Berkey, Andy Miller Sam Smith and Amos Hoffman lives a short way off.

Q. Have these people a road by which they can get out?

A. Yes, the same road that I have to travel, is drifts saw.

Q. Is it a township road?

A. Yes.

Q. Do their properties adjoin the township road?

A. Andy Millers and Berkeys do.

Q. Does Mr. Messenger ~~xxxx~~ and Mr. Von Lunen live near you?

A. No sir.

Q. Are there any buildings on their properties?

A. No sir.

Q. Is the land improved?

A. Both of them have cleared land, Von Lunen has cleared land on the top of the hill.

Q. Does not Mr. Samuel Smith ~~not~~ live on the bottom road?

A. Yes, right close to this road.

Harman A. Miller

I hereby certify that the above witnesses were duly qualified and examined at the time and place stated in the above caption and subscribed their depositions in my presence.

Wm. Williams

Commissioner and Notary Public.

*Casts 5⁰⁰
Paid by Jerry Watten
Wm. Williams*

The June Sessions 1896
In Re Road
Stony Brook Township
Depositions taken
before Wm. Williams
April 17, 1897, on the
part of the petitioners

Filed 21 Apr 1897

WM. WILLIAMS,
ATTORNEY AT LAW,
JOHNSTOWN, PA.

HENRY HALL, PRINTER, INDIANA, PA.

To the Honorable A. O. Barker, Circuit Judge
of the Court of Common Pleas of Cambria
County;

The petition of Frank Borkey of the Township of
Stony Creek, County of Cambria, State of Pennsylvania, respectfully represents

1. That on the 17th day of August A.D. 1896, a petition
was presented the Court of Quailed Jurors of Cambria
County aforesaid for the appointment of viewers to view
and lay out a public road in Stony Creek Township,
Cambria County to lead from a point on the public
road near Samuel Smith on Solomon's Run in
said Township of Stony Creek and ending at a point or
post on public road leading up near Jerry Walter's
at the edge of Richland Township in Township of Stony
Creek: That the same day viewers were appointed
and on 7th day of December, 1896, said viewers filed
a report laying out a public road between said points,
said report having a plot or plan of said road as propo-
sed.

That on January 20th 1897, said report of viewers was
approved and middle of road fixed by Court at thirty feet.

That on 1st day of March A.D. 1897, a Remonstrance was filed
against granting said road, and on 21st day of April
A.D. 1897 said remonstrance was argued and on same
day report of viewers as aforesaid was confirmed absolutely,
said proceedings entered on Road Docket, Vol 4
page 415 in said County of Cambria in the
office of the Prothonotary.

2. That the public road or highway laid out, approved, and entered of record as aforesaid, runs through a piece of land in Stoughton Township aforesaid belonging to your petitioner a distance of six tenth or more linear feet or more and at the place where said proposed Township road joins the public road aforesaid the width of strip so taken is five feet three inches. Said strip averaging 15 feet in width and 272 1/2 ft. in length or nearly as much as is contained.

That the view aforesaid gave no notice to your petitioner of said view, nor did they obtain from him any release of damages nor did they award him any damages for his land so taken, nor give him security for the same nor in any way make provision for recompense for damages sustained by reason of their view and report as aforesaid.

3. That your petitioner by reason of the foregoing view, report, confirmation, and proceeding as aforesaid has suffered damage to his aforesaid property to the extent of twenty five Dollars (\$25⁰⁰). No part of which has ever been paid or secured to your petitioner,

Your petitioner therefore prays you humbly call to rescind the aforesaid decree of confirmation for opening the road and award a trial of the question of damages by jury according to the course of the common law in this behalf.

Frank Berkey

Commonwealth of Tenn.
Lambton County Va.

Before me, the undersigned, a Notary Public, in and for said County and State personally came the above named Frank Berkeley, who being duly sworn according to laws said the facts set forth in the foregoing petition of appeal are correct and true to the best of his knowledge and belief and that the same is not taken for the purpose of delay but because applicant firmly believes injustice has been done.

Witness my hand this

13th day of May A.D. 1897.

Frank Berkeley

Alex. H. Hunt

Notary Public

107 June 25 1896

Appeal

Frank Buehler

re

Stony Creek Trp. Road

Filed 20 May 1897

MAY 20th 1897

petition read and
rule to show cause
granted returnable
to next term, this
order not to interfere
with opening the road
in the meantime.

A. V. Parker
P. J.

Other copy

Petition for road from front on public
road near Samuel Smiths on Solomons
Run in said Township of Story Creek & ending
at a front on part of public road said
road leading up near Jerry Walters at edge
of Rideland Prop. in the Prop. of Story Creek

In the Court of Quarter Sessions of Columbia Co
No. 7, June Term, 1886 R.S.

Exceptions to the allowance of damages to Frank
Berkey, Abner Griffith & John Raymond & further to a consider-
ation of their appeals or exceptions for the reasons:

- First, That the appeals were filed too late to comply with the
Act of Assembly, the report having been confirmed more than 30 days
Second, That the exceptions were filed too late to comply
with the Act of Assembly
Third, That the above named appellants & exceptants
are not entitled to consideration by the Court
they having failed to appear in Court with the required
time & set forth in the Act of Assembly.

Wm. Davis,
Commissioner of Council

No. 7 June Session 1896 R.D.

In re road in Stony Creek
& Richland Townships

Exceptions to appeals
for Damages

Filed 23 July 1897

Lewis

Quarter Sessions

In the Court of ~~Common Pleas~~
of Cambria County, Pa.

In re Road

in

Stony Creek Twp

of June Term, A. D. 1896, No. 7

And now, to-wit, the first day of October, A. D. 1897, Rule on part of Petitioner to take depositions of witnesses to be read on the hearing of the above stated case.

CAMBRIA COUNTY, SS:

Extract from the Record of said Court. Certified the

first of October 1897.
W. H. Davis Clerk - Prothonotary.

To John D. Raymond & Charles W. Fox Supervisors of Stony-Creek Twp. or C. C. Green, Esq. their Attorney

TAKE NOTICE, That in pursuance of the above Rule the depositions of witnesses to be read in evidence on the Argument of the above stated Case on part of

the Petitioner will be taken at the Office of J. J. Stoll Esq.

Room #2 Alma Hall on Friday

the 29th day of October, A. D. 1897, between the hours

of 10 o'clock A. M., and 10 o'clock P. M., before J. J. Stoll

Esq. Commissioner agreed upon by Council in and for said County.

or by some other person of competent authority, at the time and place aforesaid, when and where you may attend if you think proper.

James W. [Signature]
Atty for Petitioner

No 7 June 1896 R.W.

In re Road

vs

Stonybrook Turn

RULE ON PART OF

Justice Depositions

Walters

Admitted 23rd 1897
service of writs made
accepted of R. Walters
at 4 Sub. Depositions

1896 1300

In Re. Road : In the Court of Quarter Sessions
in : of Cambria County, Pa.
Stonycreek Twp. : Of June Term, A. D., 1896, No. 7

Rule to take Depositions on part of Petitioners.

Depositions of witnesses, produced and sworn or affirmed, and examined before me, the undersigned, a notary public of the State of Pennsylvania residing at Johnstown, in said county, sitting according to agreement of counsel as commissioner to take depositions in the above-stated case, at my office Room No. 2, Alma Hall, Johnstown, Pa. on Friday the 29th day of October, A. D., 1897, between the hours of 10 o'clock A. M. and 10 o'clock P. M., of said day, by virtue of the annexed rule of the Court of Quarter Sessions of Cambria County, and notice thereto attached, for the examination of witnesses in a certain cause depending in said court and undetermined, being in re. road in Stonycreek Township No. 7, June Sessions, 1896, in the Court of Quarter Sessions of Cambria County.

Thomas J. Still
Notary Public, sitting as Commissioner to take testimony.

Jas. M. Walters, Esq., appeared for petitioner, and conducts all examination, direct and re-direct in behalf of petitioner.

Charles C. Greer, Esq., appeared for Chas. A. Vore and John D. Raymond, Supervisors of Stonycreek Township.

Mr. Greer makes the following statement:--

That as the record does not show any citation to have been awarded, against the Supervisors of Stonycreek Township, and as respondents are unable to get a rule for that reason the testimony taken on the rule of petitioner is improperly taken and is objected to for the reason given, viz.; That the record shows no citation to have been awarded; but should it appear that the same has been awarded in reality, although no record of it is to be found in the Prothonotary's Office, then this objection will be withdrawn

Mr. Walters, replies to the foregoing statement of respondent:--

First--That it is perfectly understood that a petition was presented to his Honor Judge Barker, signed and sworn to by Harman Miller, praying for Rule on the Supervisors of Stonycreek Township to show cause why they should not be committed for contempt; that other proceedings pending in court at that time, the Court upon motion of Mr. Greer, who afterwards learned of the presentation of this petition directed that the same remain filed but that no further action be had upon it until the other proceedings relative to the opening of the road in Stonycreek Township and appeal taken by Abner Griffith and Franklin Berkey as presented by Mr. Greer, as well also the exceptions of the supervisors to the absolute confirmation to said road, which exceptions the Court had permitted upon Mr. Greer's motion to be filed nunc pro tunc and that after the determination of said suits that then the said rule upon said supervisors for contempt, could regularly be proceeded with; that notwithstanding all of this has been determined by the Court save the making absolute of said rule for contempt, and the procuring by council of the petitioner of said rule, of rules on petitioners

part to take testimony in order to show that a copy of the order of Court as confirmed absolutely, April, 21, 1897, commanding the supervisors to open the road described therein, said rule to take testimony having already been issued by the clerk of said court and service of the rule accepted by the attorney for the supervisors as shown on the back of said original rule, which is attached to these papers, and also the fact that the council for the petitioner to the road after learning from the clerk of the court that the court itself omitted or failed to return with the other papers connected with the three other several suits in relation to this road in his dismissing of their petitions and the final confirmation of his former final confirmation failed to file the petition of said Harman Miller, and that for the reason that the same did not appear among the court papers, although requested to do so in ample time prior to the publication of the argument list, the Prothonotary of said Court has neglected and refused to insert it among the cases in the Argument List for publication at the coming Argument Term of Court, and that the position of the counsel for the petitioner in said rule is of the opinion that great hardship and injustice would be wrought in sustaining the objection as made by Mr. Greer, Counsel for the Supervisors in the taking of this testimony at this time after having agreed that the same should be taken in writing and having a full knowledge of the failure of the Court to turn over said paper to the Clerk of the Court upon the final determination of the other cases relating to said road as made by his Honor Judge Barker.

Mr. Harman Miller, called and affirmed.

Q--State where you live?

A--Stonycreek Township, Cambria County.

Q--State whether or not you are a taxable property holder there?

A--Yes.

Q--State whether or not, Mr. Miller, you signed and swore to a petition which was to be presented to the court in Cambria County praying for rule to show cause on the supervisors of Stonycreek Township, why they should not be committed for contempt in not complying with the order of Court made to and directed to them for the opening of the public road beginning at Solomons Run near Samuel Smiths in Stonycreek Township, and ending ~~XXXX~~ at the road leading to Jerry Walter's?

A--I did.

Q--State whether or not that order has as yet been complied with?

A--They havn't opened it yet.

Cross Examination by Mr. Greer.

Q--Has any part of this road been opened.

A--It's been worked at.

Q--What property do you own in Stonycreek Township?

A--I own fifteen acres and a half.

Q--Do you have any personal property?

A--Horse, wagon, buggy.

Re-Direct Examination by Mr. Walters.

Q--State when and by whom this work you spoke of in your cross examination was done on the road?

A--I can't tell who it was done by, I seen one man work there one day. He was there in the morning when I cam past I don't know what whether he worked all day or not. I went up that way several

Johnstown, Pa., April 29th, 1907.

To C. A. Vere & J. D. Raymon
Supervisor of Stonycreek Township,
Cambria County Pa.

Sirs: You are hereby notified that you
passed forthwith to comply with the annexed order of court, confirmed absolutely
April 21st 1907, commanding the opening of the road described in said order.
Hereto fail not to take heed.

(Signed)

F. A. Jorg
John A. Strayer
Reuben S. Griffith

*Order referred to
Township of Stonycreek
Walton
Henry J. [unclear]*

D. 4

Bedford Mass. 3-27-97
Received by receiving
a copy of the original
middle upon Ochs &
Dove & John R.
Raymond, American
of Albany were traps.

George Walker

times and seen no one working.

Q--On what end of the road was that?

A--The lower end.

Harman Miller

Mr. Jerry Walter, called and sworn.

Q--Mr. Walter state whether or not you served, after the same had been signed, a copy of the order of court as confirmed absolutely, April, 21, 1897, afterwards re-confirmed, commanding the opening of the road spoken of in these proceedings upon C. A. Vore and J. D. Raymond, Supervisors of Stonycreek Township?

A--I did.

Q--State whether or not this is a copy of the notice which you served as signed by the citizens of Stonycreey Twp., to wit, F. A. Joy, John A. Strayer and Reuben L. Griffith, (showing notice which was offered in evidence; attached to depositions, and marked Exhibit A.) and when?

A--Yes; I gave it to them both, May 3, 1897.

Q--State whether or not that road is opened yet by the supervisors?

A--Its not open.

Cross Examination by Mr. Greer.

Q--On what date did you serve the notice after the re-confirmation?

A--I couldn't be positive about the date; it was on the Monday following the date that I got the paper.

Q--How often did you serve a notice?

A--Just the one time.

Q--Has any work been done on it?

A--They have done some work on it.

Q--About when, Mr. Walter?

A--It has been done in this month.

Re-Direct Examination by Mr. Walters.

Q--State whether or not since the Court dismissed the exceptions by the Supervisor and appeals of Griffith and Berkey and left the road as originally absolutely confirmed stand and after your seeing a copy of the Court's decree, you went and gave verbal notice to Charles Vore and Raymond to comply with the order of Court and open that road.

A--I did to Raymond.

Re-Cross Examination.

Q--When did you serve that verbal notice Mr. Walters?

A--The first part of this month.

Q--Has the work done on the road been done since you served the notice?

A--It was done before.

Q--Why then, did you serve the second notice?

A--Because I was under the impression that they didn't intend to open it.

Q--What led to that impression?

A--Well, I heard a great deal of talk about it.

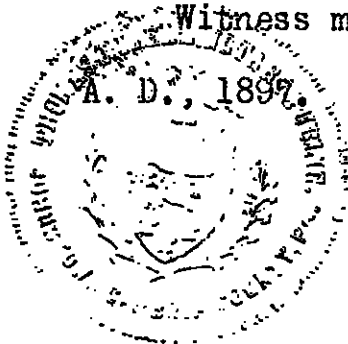
Q--Did Mr. Raymond refuse to open the road.

A--I couldn't say that he refused to open the road, but outsiders made the brags that the road would not be opened.

Jerry Walter

ined before me under and by virtue of the annexed rule of the Court of Quarter Sessions of said county, and the accompanying notice, at my office, Room 2, Alma Hall, Main Street, Johnstown, said county, on Friday October 29th, 1897, commencing at Ten o'clock in the forenoon of said day; and that each of said witnesses subscribed to his testimony in my presence.

Witness my hand and seal this Twenty-ninth day of October,



Thomas J. Still

Notary Public, sitting as Commissioner to take testimony

[Handwritten flourish]

In the Court of Quarter Sessions
No. 7 June Term, 1876, R. D.

Deposition of
Witness taken under Rule of
said Court, In Re
Road in Stonycreek Township,
Petition for Citation on
Supervisors of said Township.

Costs:
1500 words, \$3.00 Rec'd payment,

Filed 8 Nov 1877

THOMAS J. ITELL,
ATTORNEY AT LAW,
JOHNSTOWN, PA.

HENRY HALL, PRINTER, INDIANA, PA.

Quarter Sessions

In the Court of ~~Common Pleas~~
of Cambria County, Pa.

In re Road

in
Stony Creek Twp.

of *June* Term, A. D. 1896, No. 7 R.D.

Appeal of Abner Griffith

And now, to-wit, the *23rd* day of *July*, A. D. 1897, Rule
on part of *Petitioners for Road* to take depositions of witnesses
to be read on the hearing of the above stated case.

CAMBRIA COUNTY, SS:

Extract from the Record of said Court. Certified the

23rd of *July*, 1897.

J. W. Davis Prothonotary
Clerk

To *Charles C. Grant Esq. Atty for Appellant*

"TAKE" NOTICE, That in pursuance of the above Rule the depositions of witnesses to be read in evi-
dence on the *Argument* of the above stated *Case* on part of

the *Petitioners for Road &c.* will be taken at the *Office of J. J. Hill*

Room No 2 Alma Hill Johnson on *Friday, Saturday*

the *30th or* day of *July*, A. D. 1897, between the hours

of *9* o'clock A. M., and *7⁰* o'clock P. M., before *J. J. Hill*

Esq. Commissioner appointed in and for said *County*.

or by some other person of competent authority, at the time and place aforesaid, when and where you may
attend if you think proper.

Darius M. ...
Atty for Petitioners for Road

Ms 7 June Sess 1896 R-D

Low rd Road

in

Stony creek Corp

Appeal of
Abner Griffith

RULE ON PART OF ^{petitioners}

for Road to take dip
Service accepted & agree to have
same determined on ^{public} ~~public~~
before J. D. Helton ^{public} ~~public~~
Hall Johnson Pa.

Charles C. Tracy
Walters ^{as witness}

A

In Re. Road : In the Court of Quarter Sessions
: of Cambria County, Pa.
in : Of June Term, A. D. 1896.
: No. 7, A. D.
Stonycreek Twp. : Appeal of Abner Griffith.

DEPOSITIONS OF PART OF PETITIONERS FOR ROAD.

Depositions of witnesses, produced sworn or affirmed, and examined before me, the undersigned, a notary public, sitting by agreement of counsel in the above-stated case, as commissioner to take testimony on the part of said petitioner, at my office, room No. 2, Alma Hall, Main Street, Johnstown, Pa., on Saturday the 31st day of July, A. D. 1897, between the hour of 9:00 o'clock A. M. and 9:00 o'clock P. M. of said day, by virtue of the annexed rule of court and notice thereto attached, for the examination of witnesses in the cause above-mentioned as depending in said court and undetermined, being the appeal of Abner Griffith in the matter of the above mentioned road case.

Thomas J. Still, Notary Public
Sitting as Commissioner

James A. Walters, Esq., appeared for the petitioners for road, and conducted all the direct and re-direct examinations.

Charles C. Greer, Esq., appeared for Abner Griffith the exceptant, and conducted all the cross and re-cross examinations.

DAVID W. HARSHBERGER, called and sworn, and testifies as follows:

Q.--State Mr. Harshberger, where you live?

A.--I live in Richland Township, about three-quarters of a mile from Geistown.

Q.--State whether or not you were one of the viewers for the opening of the road in Stonycreek Township to view and lay out same to lead from a point on the public road near Semmel Smith's on Solomons Run in said Township of Stonycreek and ending at a point or post on public road leading up near Jerry Walter's at the edge of Richland Township in the Township of Stonycreek.

A.--Yes Sir, I was.

A

Q.--State whether or not, Mr. Hershberger, releases were obtained from all the parties who in the opinion of the viewers would sustain any damage whatever, by reason of the opening of said road, and also whether or not it was the consensus of opinion of all the viewers that no damages would be done to the Uriah Griffith or Abner Griffith land along said route or Frank Berkey's ground, but rather that they would be advantaged in the opening of the road?

A.--It was the understanding of all the viewers that there were releases signed along the line, and I think it would be an advantage instead of a damage to him. The road that is there now has been there for many years, and I don't think they can very well get along without a road there. It was the opinion of all the viewers that no damage would be done.

Q.--State whether or not the lines as now established along by Frank Berkey's property on said road would encroach upon or impinge upon Frank Berkey's property?

A.--My opinion is that the road now is right on the line of Mr. Berkey's property. I don't think it would be any damage to him. If I were living there I would rather have it there than not as it would be an advantage.

Samuel H. Hershberger

LOUIS VON LUNEN called and affirmed and testifies as follows:

Q.--State where you live?

A.--Seventeenth Ward.

Q.--State whether or not you own land along the road in the Township of Stonycreek as mentioned in these proceedings?

A.--yes Sir.

Q.--State whether or not Uriah A. Griffith owns land adjoining

your, formerly owned by Abner Griffith?

A.--Yes Sir.

Q.--State from whom did you acquire your land, Mr. Von Lunen, and also how you know that Uriah A. Griffith owns the land adjoining your land in Stonycreek Township?

A.--From Abner Griffith; Mr. Uriah Griffith bought at the same time. I know that he has bought it in the same way, because I am collector and treasurer for Abner Griffith, and Uriah Griffith pays his interest to me.

Objected to as not being the best evidence.

Q.--State Mr. Von Lunen in what way and what papers were made out and in whose possession those papers now are, and whether or not those papers transferred the interest in the land of Abner Griffith to the land now occupied by U. A. Griffith and divested Abner Griffith of his title in the same.

A.--It is his will and article of agreement, acknowledged before Ed. O. Fisher, I think, and left with the late Col. Linton. I suppose these papers are now at Ebensburg. The deeds are to be made at the death of Abner Griffith.

Q.--State whether or not ever since the making of these papers possession has been had and held by Uriah Griffith of all this land as by will and articles of agreement along this road made over to him, and also whether or not he has paid the taxes and the interest made the repairs, exercised all the rights of ownership, as well also released any damages that might accrue by the taking of any land in the opening up of the present public road.

A.--The taxes I can't say he has paid; he didn't pay them to me. The interest is paid to me. Ever since the making of these papers he has held possession. He kept up all repairs and exercised

A

B

all the rights of ownership. By papers shown he has released damages.

Cross examination by Mr. Greer.

Q.--How far does your land extend along the road in Stonycreek Township.

A.--It does not extend to the road at all.

Q.--Is your land improved, Mr. Von Lunen?

A.--No Sir.

Q.--By what title do you hold your land?

A.--By article of agreement and will of Abner Griffith.

Q.--Is Abner Griffith yet alive, Mr. Von Lunen.

A.--Yes Sir.

Q.--Has this article of agreement been delivered to you?

A.--No. Sir. Neither is it in the possession of Abner Griffith.

Q.--In whose possession is it.

A.--It was left in Col. Linton's possession.

Q.--What consideration did you pay for your land?

A.--Forty-three Dollars per acre.

Q.--Do you mean that you have paid over to Abner Griffith Forty-three dollars per acre.

A.--I am paying the interest on that amount of money.

Q.--Have you paid any on the principal?

A.--The principal is to be paid at his death.

Q.--Is this agreement with Mr. Griffith of yours, revocable?

A.--No Sir, it cannot.

Q.--State whether or not it couldn't be revoked if he didn't pay his interest and taxes?

A.--

A. -- If they do not pay their interest in two months after it is due I have a right to sell the property.

Q. -- Does that apply to Uriah Griffith?

A. -- Yes Sir.

Q. State whether or not Uriah Griffith is in arrears and if so how much?

A. -- The interest was due the first of the year and he has paid up to the first of March of 1837.

Q. -- In the release of damages dated the 28th day of Jan. 1836, between Uriah Griffith, yourself and others, and Jerry Walter of the second part, state whether or not Mr. Walter ever paid you any part of or all of the consideration in this release?

A. -- Mr. Walter paid me five dollars; I was to pay him five dollars towards working on the road in question, and he says that he has worked for it.

This testimony objected to by Mr. Walters for the reason that the cross-examination is not a proper one in that the best evidence of the payment of the consideration mentioned in the release would be the release itself.

Statement by Mr. Greer.

It is hereby understood that the release above mentioned, if offered in evidence, is objected to by Mr. Greer.

Q. -- State Mr. Von Lunen, whether any other money or valuable consideration has been paid on this release other than is herein mentioned by you?

Objected to because of its indefiniteness as the question does not single out whether he has reference to Uriah Griffith's release or the release of Mr. Von Lunen.

A.--No Sir. None that I remember of.

Louis Von Linsen

Mr. JERRY WALTER called and sworn and testifies as follows:

Q.--State Mr. Walter, what in your opinion it would cost to comply with the order of court as now made to open up this road in Stonycreek Township, and whether you would undertake to do so for the amount you think it will require to open it up and make passable to the public.

A.--I think what should be done to the road yet to make it passable for one track only, could be done for \$500.00. If any party would place in my hands that amount of cash, I will sign papers to that effect, would not undertake it with the promise of pay.

Cross examination by Mr. Greer.

Q.--Mr Walter did you ever make a road?

A.--I made some roads, yes Sir. I know what it ought to be.

Q.--When did you make the last road.

A.--Last June, in 1893.

Q.--Do you include bridges in this estimate?

A.--The whole thing; it must be passable.

Q.--How many, and what kind of bridges do you include in this estimate?

A.--I would make stone bridges.

Q.--How often do you cross Spensers Run by the proposed route.

A.--Twice.

Q.--Do you estimate any damages to property owners in this amount?

A.--I do not. They are more benefitted than damaged.

Jerry Walter

CALBERTA COUNTY, SS:

I hereby certify that the above or foregoing depositions, consisting of the caption and six pages of typewritten matter, numbered at the bottom of each page consecutively from 1 to 6 inclusive, are the full and correct testimony of all the witnesses produced, duly qualified and examined before me at the time and place set forth in the above or foregoing caption and annexed rule of the Court of Quarter Sessions of Calberta County, with notice thereto attached, and dated the 23rd day of July A. D., 1897, and that each witness subscribed his name to his depositions in my presence.

In testimony whereof, I have hereunto set my hand and notarial seal the thirty-first day of July, A. D., 1897.



Thomas J. Still
Notary Public,
Sitting as Commissioner

No. 7 June Session 1896 R. D.
In the Court of Quarter Sessions

In Re Road in Stony
Creek Twp.

Appeal of Abner
Griffith

Depositions on part of the
Petitioners for Road.

Costs 1800 words,
\$3.60

Rec'd payment,
Thomas J. Itell,

Filed 2 Aug 1897

THOMAS J. ITELL,
ATTORNEY AT LAW,
JOHNSTOWN, PA.

HENRY HALL, PRINTER, INDIANA, PA.

Quarter Sessions

In the Court of ~~Common Pleas~~
of Cambria County, Pa.

Dave Road

in

Stony creek Twp

of *James* Term, A. D. 1896, No. *7* *Pa*

Exceptions

And now, to-wit, the *23* day of *July*, A. D. 189*7*, Rule
on part of *petitioners* to take depositions of witnesses
to be read on the hearing of the above stated case.

CAMBRIA COUNTY, SS:

Extract from the Record of said Court. Certified the

23 of *July* 189*7*.

S. W. Davis Prothonotary
Clerk

To *Charles E. Greiner & S. Parsons Esqrs*

TAKE NOTICE, That in pursuance of the above Rule the depositions of witnesses to be read in evi-
dence on the *Argument* of the above stated *Case* on part of

the *Petitioners* will be taken at the *Office of F. J. Stett*

Esq. #2 Alma Hall, Johnstown Pa. on *Friday & Saturday*

the *30 & 31* day of *July*, A. D. 189*7* between the hours

of *9* o'clock A. M., and *10* o'clock P. M., before *F. J. Stett*

Esq. Commissioner of said in and for said *County*

or by some other person of competent authority, at the time and place aforesaid, when and where you may
attend if you think proper.

James M. Roberts
Att. for Petitioners

No 7 pencil Dec 11 1896 P.S.

Dear Mr. Parcell

in

Stimpson's draft

Enclosed

RULE ON PART OF *Stimpson's*

To take order

By your order I have to send
the testimony in my case to the
Honorable J. W. Wells, U.S. District
Court, Stimpson's P.S.
Charles Street
Wilmington

(Exception)

In Re. Road : In the Court of Quarter Sessions
in : of Cambria County, Pa.
Stonycreek Twp. : Of June Term, A. D., 1896.
: Co. V. R. D.
: Exceptions.

DEPOSITIONS OF PART OF PETITIONERS FOR ROAD.

Depositions of witnesses, produced, sworn or affirmed, and examined before us, the undersigned, a notary public, sitting by appointment of counsel in the above-stated case, as commissioner to take testimony on the part of said petitioner, at my office Room No. 2, Alma Hall, Main Street, Johnstown, Pa., on Saturday, the 31st day of July, A. D., 1897, between the hour of 9:00 o'clock A. M. and 9:00 o'clock P. M. of said day, by virtue of the annexed rule of court and notice thereto attached, for the examination of witnesses in the cause above-mentioned as depending in said court and undetermined, being the exceptions to the confirmation of report of viewers in above case.

Thomas J. Still, notary public
sitting as Commissioner

James L. Walters, Esq., appeared for the petitioners for road and conducted all the direct and redirect examinations.

Charles C. Greer, Esq., appeared for Abner Griffith, the respondent, and conducted all the cross and re-cross examinations:

DAVID W. HARSHBERGER, called and sworn, and testifies as follows:

Q.--State Mr. Harshberger, where you live?

A.--I live in Richland Township, about three quarters of a mile from Geistown.

Q.--State whether or not you were one of the viewers for the opening of the road in Stonycreek Township to view and lay out same to lead from a point on the public road near Samuel Smith's on Solomons Run in said Township of Stonycreek and ending at a point or post on public road leading up near Jerry Walter's at the edge of Richland Township in the Township of Stonycreek?

A.--yes Sir, I was.

B

2

10

Q.--State whether or not, Mr. Harshberger, releases were obtained from all the parties who in the opinion of the viewers would sustain any damage whatever, by reason of the opening of said road, and also whether or not it was the consensus of opinion of all the viewers that no damages would be done to the Uriah Griffith or Abner Griffith land along said route or Frank Berkey's ground, but rather that they would be advantaged in the opening of the road?

A.--It was the understanding of all the viewers that there were releases signed along the line, and I think it would be an advantage instead of a damage to him. The road that is there now has been there for many years, and I don't think they can very well get along without a road there. It was the opinion of all the viewers that no damage would be done.

Q.--State whether or not the lines as now established along by Frank Berkey's property on said road would encroach upon or impinge upon Frank Berkey's property?

A.--My opinion is that the road now is right on the line of Mr. Berkey's property. I don't think it would be any damage to him. If I were living there I would rather have it there than not as it would be an advantage.

Q.--State, Mr. Harshberger, what in your opinion it would cost to open the road as now laid out and confirmed by the Court, considering of course, the fact of the work already done gratuitously by parties interested in the road, to open up the same and have it in a fair condition for travelling over by the public?

A.--I believe it can be done for say somewhere between \$300.00 and \$600.00 I heard Mr. Blough say that he would do it for \$300. and he is a responsible party. That is Mr. John S. Blough. (2)

Q.--State whether or not all the parties along said route or road were given due and public notice according to the legal requirement prior to the viewing of said road?

A.--I saw two of the notices; one at walnut Grove and one along the road leading to Jerry Walter's; they were put up by Squire Slick the surveyor on the view together with the other notices as required by law.

David W. Hershberger

LOUIS VON LUNEN called and affirmed and testifies as follows:

Q.--State where you live?

A.--Seventeenth Ward.

Q.--State whether or not you own land along the road in the Township of Stonycreek as mentioned in these proceedings?

A.--Yes Sir.

Q.--State whether or not Uriah A. Griffith owns land adjoining yours, formerly owned by Abner Griffith?

A.--Yes Sir.

Q.--State from whom did you acquire your land, Mr. Von Lunen, and also how you know that Uriah A. Griffith owns the land adjoining your land in Stonycreek Township?

A.--From Abner Griffith; Mr. Uriah Griffith bought at the same time. I know that he has bought it in the same way, because I am collector and treasurer for Abner Griffith, and Uriah Griffith pays his interest to me.

Objected to as not being the best evidence.

Q.--State Mr. Von Lunen in what way and what papers were made out and in whose possession those papers now are, and whether or not

those papers transferred the interest in the land of Abner Griffith to the land now occupied by U. A. Griffith and divested Abner Griffith of his title in the same.

A.--It is his will and article of agreement, acknowledged before Ed. O. Fisher, I think, and left with the late Col. Linton. I suppose these papers are now at Ebensburg. The deeds are to be made at the death of Abner Griffith.

Q.--State whether or not ever since the making of these papers possession has been had and held by Uriah Griffith of all this land as by will and articles of agreement along this road made over to him, and also whether or not he has paid the taxes and the interest made the repairs, exercised all the rights of ownership, as well also released any damages that might accrue by the taking of any land in the opening up of the present public road.

A.--The taxes I can't say he has paid; he didn't pay them to me. The interest is paid to me. Ever since the making of these papers he has hold possession. He kept up all repairs and exercised all the rights of ownership. By papers shown he has released damages.

Cross-examination by Mr. Greer.

Q.--How far does your land extend along the road in Stonycreek Township?

A.--It does not extend to the road at all.

Q.--Is your land improved, Mr. Von Lunen?

A.--No Sir.

Q.--By what title do you hold your land?

A.--By article of agreement and will of Abner Griffith.

Q.--Is Abner Griffith yet alive Mr. Von Lunen?

A.--yes Sir.

Q.--Has this article of agreement been delivered to you?

A.--No Sir. Neither is it in the possession of Abner Griffith.

Q.--In whose possession is it?

A.--It was left in Col. Linton's possession.

Q.--What consideration did you pay for the land?

A.--Forty-three Dollars per acre.

Q.--Do you mean that you have paid over to Abner Griffith Forty-three Dollars per acre.

A.--I am paying the interest on that amount of money.

Q.--Have you paid any on the principal?

A.--The principal is to be paid at his death.

Q.--Is this agreement with Mr. Griffith of yours, revocable?

A.--No Sir; it cannot.

Q.--State whether or not it couldn't be revoked if he didn't pay his interest and taxes?

A.--If they do not pay their interest in two months after it is due I have a right to sell the property.

Q.--Does that apply to Uriah Griffith?

A.--Yes Sir.

Q.--State whether or not Uriah Griffith is in arrears and if so how much?

A.--The interest was due the first of the year and he has paid up to the first of March of 1897.

Q.--In the release of Damages dated the 26th day of Jan. 1896, between Uriah Griffith, yourself and others, and Jerry Walter of the second part, state whether or not Mr. Walter ever paid you any part of or all of the consideration in this release?

6

A.--Mr. Walter paid me Five dollars; I was to pay him five dollars towards working on the road in question, and he says that he has worked for it.

This testimony objected to by Mr. Walters for the reason that the cross-examination is not a proper one in that the best evidence of the payment of the consideration mentioned in the release would be the release itself.

Statement by Mr. Greer.

It is hereby understood that the release above mentioned, if offered in evidence, is objected to by Mr. Greer.

Q.--State, Mr. Von Lunen, whether any other money or valuable consideration has been paid on this release other than is herein mentioned by you?

Objected to because of its indefiniteness as the question does not single out whether he has a reference to Uriah Griffith's release or the release of Mr. Von Lunen.

A.--No Sir; none that I remember of.

Louis Von Lunen.

Mr. JERRY WALTER called and sworn and testifies as follows:

Q.--State Mr. Walter, what in your opinion it would cost to comply with the order of the court as now made to open this road in Stonycreek Township, and whether you would undertake to do so for the amount you think it will require to open it up and make passable to the public.

A.--I think what should be done to the road yet to make it passable for one track only, could be done for \$600.00. If any party would place in my hands that amount of cash, I will sign papers to that effect; would not undertake it with the promise to pay.

Cross examination by Mr. Greer.

Q.--Mr Walter, did you ever make a road?

A.--I MAKE SOME ROADS, YES SIR. I KNOW WHAT IT OUGHT TO BE.

Q.--When did you make the last road?

A.--Last June, in 1896.

Q.--Do you include bridges in this estimate?

A.--The whole thing; it must be passable.

Q.--How many, and what kind of bridges do you include in this estimate?

A.--I would make stone bridges.

Q.--How often do you cross Spencer's Run by the proposed route?

A.--Twice.

Q.--Do you estimate any damages to property owners in this amount?

A.--I do not. They are more benefited than damaged.

Jerry Walter

CAMBERIA COUNTY, SS:

I hereby certify that the above or foregoing depositions, consisting of the caption and seven pages of typewritten matter, numbered at the bottom of each page consecutively from 1 to seven inclusive, are the full and correct testimony of all the witnesses produced, duly qualified and examined before me at the time and place set forth in the above or foregoing caption and annexed rule of this Court of Quarter Sessions of Cambria County, with notice thereto attached, and dated the 23rd day of July A. D. 1897; and that each witness subscribed his name to his depositions in my presence, excepting Louis Von Lunen and Jerry Walter, who with the consent of counsel on both sides authorized and directed me to attach their names to their respective depositions.

In testimony whereof, I have hereunto set my hand and notarial seal, this 31st day of July, A. D., 1897.

Thomas J. Still, Notary Public,
Pittsburgh, Pennsylvania.



No. 7 June Session, 1896, R.D.
In the Court of Quarter Sessions,

In Re Road in
Stonybrook Twp.
Exceptions,

Dispositions taken on Rule
in part of Petitioners for Road.

Costs, 2.00 ~~and~~
\$ 4.00

Rec'd payment,
Thomas J. Itell,

Filed Aug 2 Aug 1896

THOMAS J. ITELL,
ATTORNEY AT LAW,
JOHNSTOWN, PA.

HENRY HALL, PRINTER, INDIANA, PA.

to Joneses 1896

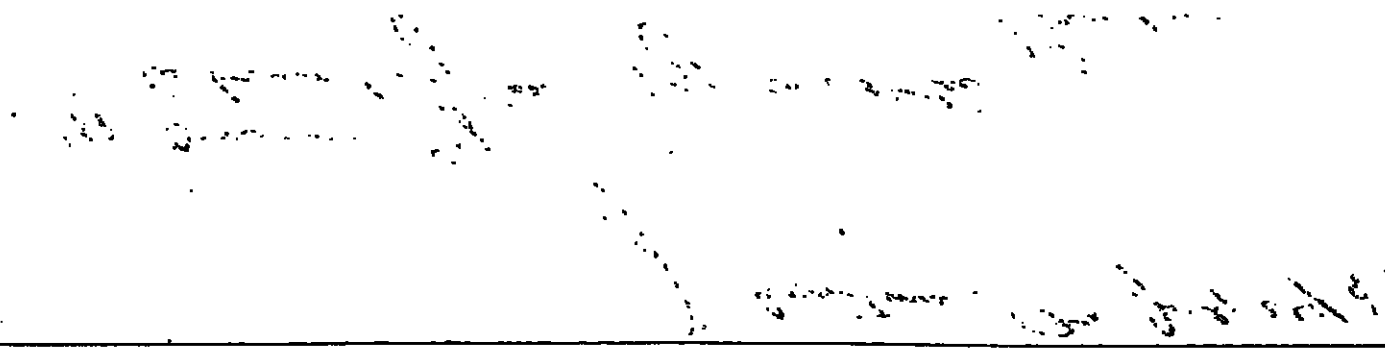
Mine Road

in

Story Creek Turn

place for holes to
stand deep.

gran



TELEPHONES: LONG DISTANCE, NO. 12.
LOCAL, NO. 214.

LAW OFFICES OF

Jas. M. Walters,

ROOM: I. ALMA HALL,

Johnstown, Pa.

April 2nd 1897,

St. Davis' Eng.
(Pratt)
Ebensburg Pa.

Dear Sir: -

Please send me, Rule to take

Testimony In Re Petition for Public Road running from Johnstown to Jerry Walter's
Street Trp on part of Petitioner's oblig

Very truly yours,

James M. Walters

* June 25 1897

June Road

Attorney General

Prayer
for
Rule 100

Filed 5 Apr 1897

Walters

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY:

In Re. Exceptions of John D. Raymond, one of the Supervisors of Stonycreek Township to the Report of Viewers for the opening of a Public Road and Confirmed 21st of April, 1897, in Road Docket Vol. 4, page 415, of No. 7, June Term, 1896, and Rule to show cause why the exceptions should not be allowed to be filed nunc pro tunc.

To the Honorable A. V. Barker, President Judge of said Court:

Your petitioner, Harman A. Miller a resident property holder and tax payer of Stony Creek Township, and one of the original petitioners for the opening of said road comes into Court and while protesting against the regularity of this proceeding, by being compelled to answer to a matter already adjudicated and determined and reserving to himself all rights, makes answer as follows:

First.--That the proceedings in the opening of said road being regular, and in accordance with the law and the rules of this Court as shown by the records, the matter excepted to therefore, being res adjudicata cannot now be opened up unless for an error appearing upon the records alone which would work a manifest injustice and leave the parties remediless and the exceptions prayed to be filed nunc pro tunc should therefore be dismissed; and further that the report of the viewers is sufficiently definite to designate the termini of said road and in every particular conforms to the requirements of the Act of Assembly.

Second.--The report is definite, and it is not necessary that the report show that the termini is in Cambria County as the Court will take judicial notice of the respective subdivisions of the

County such as Townships, especially is this true as the Court of Quarter Sessions of Cambria County has no jurisdiction over roads in any other county, it must be necessarily presumed that the proposed view was within the limits of Cambria County.

Third.--The draft is complete and complies with the law.

Fourth.--If the viewers failed to assess damage, that is not sufficient ground to vacate the report of viewers after final confirmation. The necessity of the road has been fully established and determined by the decree of the Court and order to open issued. The remedy here sought for damages is provided for by Act of Assembly, and the exceptants must look to the remedy provided by the Act, that is by appointment viewers to assess damages, etc.

Fifth.--The road having been ordered opened the only remedy for damages is by viewers for that purpose alone and if the road is burdensome a petition to vacate by law.

Sixth.--An appeal for damages can in no way affect this proceeding

Seventh.--As to notice to County Commissioners, if this is required the Commissioners alone can take the advantage of it.

Eighth.--The question of necessity was determined by the viewers and the decree of the Court.

Ninth.--The failure of similar proceeding cannot affect this case. Where a proceeding to open a road fails, a similar proceeding to open the same road cannot be commenced within one year. But that is not the case with this proceeding as the record will show that the proceeding to open this road never failed. The application was before the court and at that time a favorable report of viewers was confirmed by the Court.

Your petitioner believing that all the exceptants objections -

are and have been fully answered prays that the exceptions in this case be dismissed at the cost of the exceptants, and your petitioner will ever pray, etc.

Harman A. Miller

COUNTY OF CAMBRIA, SS.

Before me, the subscriber, a Notary Public in and for said County, personally appeared Harman A. Miller the within named petitioner, who being duly qualified according to law deposeth and saith that the facts set forth in the above and foregoing petition and answers to exceptions are true and correct as he is informed and verily believes, to the best of his knowledge and belief, and further saith not.

Harman A. Miller

Sworn and subscribed to before me this 22 day of

July, A. D., 1897.



W. B. Stephens
Notary Public

No 7 June Sess 1896 R.D.

In the Court of Quarter
Sessions of Cambria County

In Re: Exceptions of John C.
Raymond, a Supervisor of Strong
Creek Twp. to Public Road, con-
formed April 21st 1897, R. D.
Vol. 4 page 415 of No 7 June 7, 1896
for Rule to show cause.

Answers petition

of _____, one
of the Petitioners for Road
and praying the Court
to dismiss the Exceptions
at the cost of the Exceptions

Filed 22 July 1897

Jas. M. Walters
Attorney at Law
Johnstown, Pa.
ROOM 1 ALMA HALL

To the Honorable A. V. Barker, President Judge of
the Court of Common Pleas of Cambria County.

The petition of Abner Griffith, of the Township of Stony
Creek County of Cambria State of Pennsylvania, respectfully represents:

1. That on the 17th day of August A.D. 1876 a petition was presented
to the Court of Quarter Sessions of Cambria County aforesaid for the appointment
of viewers to view & lay out a public Road in Stony Creek Township, Cambria
County to lead from a point on the public Road near Samuel Smith's in
Solomon Run in said Township of Stony Creek and ending at a point or point
on public road leading up near Jerry Walter at the edge of Tills
Land Township in Township of Stony Creek; & that the same day
viewers were appointed and on the 7th day of Dec. A.D. 1876 said viewers filed
a report laying out a public Road between said points

That on January 20th, 1877 said report of viewers was ap-
proved and width of said road fixed by the Court
at thirty feet. That on 1st day of March A.D.
1877, a Remonstrance was filed against granting
said road and on the 21st day of April A.D. 1877
said Remonstrance was argued and on same day
report of viewers as aforesaid was confirmed absolutely
said proceeding entered on Road docket book of
page ⁴¹⁶ in Prothonotary's office in and for said County.

2. That The public Road or highway laid out,
approved, and entered of record as aforesaid is confirmed
runs through a piece of land in Stony Creek Town-
ship aforesaid belonging to your petitioner a distance
of one hundred and ten or thereabouts (102.6) linear feet

or more
shes, & the report of Viewers and map accompanying
same erroneously calling this land of Uncle
Griffith when in fact and really the title to
same is in your petitioner.

That the Viewers aforesaid gave no notice to
your petitioner of said view nor did they obtain from
him any release of damages nor did they award him
any damage for his land taken as aforesaid nor
for his security for the same nor in any way
access or make provision for recompense for the
damage sustained by reason of their view report and con-
firmation thereof as aforesaid.

3. That your petitioner by reason of the forgo-
ing view report confirmation, and proceedings as
aforesaid has suffered damage to his aforesaid
said property to the extent of some hundred fifty
(150) dollars. No part of which has been paid or secured for
your petitioner.

Your petitioner therefore prays your honorable Court to set aside
the aforesaid decree of confirmation opening to said road and award
him a trial of the question of damages by jury according to the
course of the common law. And he will be

Done Griffith

Commonwealth of Pennsylvania
Cumberland County

Before me the undersigned
a Notary Public in and for said County of
Cumberland personally came the above named
Abner Griffith who being duly sworn according
to law, says the facts set forth in the foregoing
petition of appeal are correct and true to the best of
his knowledge and belief and that the same is not
taken for the purpose of delay but because appellant firmly
believes injustice has been done.

Affirmed and subscribed thus

15th day of May A.D. 1897

Ally H. Hart

Notary Public

Abner Griffith

Nov 2nd Deco 1896
Appeal

Abner Griffith

re

Long Creek Trap Road

Filed w/ May 1897

May 20th 1897

petition read and
will to show cause
why granted, return-
able the first day
of next term. This
order not to interfere
with opening the road
in the meantime.

W. Parkis

cc - [unclear]

To the Honorable A. V. Parker, Judge of the Court of Quarter Sessions
of Camoria County.

---o---

and property-holders.

The supplemental petition of the undersigned inhabitants of Stonycreek township, respectfully represents: That heretofore, to-wit, on the day of A. D. 1898, a petition, signed by certain residents and property-holders of Stonycreek township, was presented to your honorable Court, praying the appointment of three persons qualified according to law to view the ground for a public road or highway, beginning at a point near Samuel Smith's on Salmon Run, and ending at a public road leading to east Jerry Walters, at edge of Richland township.

That since the aforesaid petition was presented to your Honorable Court, the undersigned inhabitants and property-holders of Stonycreek township, in addition to those in the aforesaid petition, realizing the necessity of said road, and that they labor under great inconvenience for want of same, respectfully urge the granting of said petition and view as recorded by the viewers.

and may will, as in duty bound, ever pray, &c.

NAMES

NAMES

Garman A Miller
Reuben S Griffith
W. L. Winder
W. H. Wiggins
W. J. Clark
M. L. Earice
Charles E. Ingers
Moses Feathers
Wm. Thatcher
L. M. Sebring
A. L. Brock

C. A. Griffith
S. H. Fryck
Frank Griffith
M. B. Kinnaman
Joseph Lehmann
W. L. ...
Sol. D. Raymond
John ...
L. W. Rupp
N. Winger
J. J. Stull

Chas. Simmons
John S. Graveling
Petro Jacob
Bert
L
Lenny
Jerry Thoma
Jacob
E. Stayer
K. B. Binghamton
H. H. H.
E. S. L.
H. J.

H. A. G.
S. L. Griffith
J. W. Lohr
John C. S.
Aaron Lohr
Geo Pider
Wm. Balber
John H. Metzler
Henry Ache
Abe Bommgardner
M. S. L. Poth
J. B. Holsinger

Ynowy Sophia
Eli Knipple
Jacob
W. R. R.
Mary Smittle
Charles S.
W. S. Reed
J. H. Hock
Lew Dady
T. E. Reynolds

W. Schoer
Saml Harrison
Geo Ballihan
C. H. Clark
J. I. White
E. B. Hower
Charles H. G.
Samuel H.
Chas. F. Hower
Nathan Jacoby
P. Cornishan P.

No 7 Ince. Sessions 1896
In the Court of Quarter Sessions

Supplemental Petition
of Inhabitants of Storeyfield
Vp. praying the Court
for the opening of a Public
Road beginning at a Point
near Smeal Smith on Solomon's
Run ending at a public road
leading up past Jemy Walters
at edge of Richland Vp.
Cameron Co.

19 Apr 1897 Filed by Com. of Com.

Jas. M. Walters,
Attorney at Law,
Johnstown, Pa.
ROOM 1 ALMA HALL.
(Walters)

W. V. DERRITT & CO. PRINTERS, ENGRAVERS, STATIONERS, 407 GRANT ST. PITTSBURGH.

In a road in Stuyvesant Township

to 7 June sessions 1896 RSD

Deere

And now Aug 11, 1897 it is ordered that ~~this~~ report of viewers be recommitted to the same viewers with instructions to make on the draft the names of any adjoining land owners not already thereon and further to endeavor to procure from the persons over whose land the said road passes, who have not already released and all persons interested therein, releases from all claims for damages that might arise from the opening of such road and in every case where said viewers shall fail to procure such releases and it shall appear to them that any damages will be sustained, it shall be their duty to assess the damages and make report thereof, and where it does not appear to them that any damages are sustained they shall so report to the Court and they shall give notice of the time and place of meeting for the purposes aforesaid as required by law (and shall also serve notice on the County Commissioners.) - And further the rule heretofore granted to show cause why appeals should not be awarded to Frank Berkeley and Abram Griffith are discharged and the rule to show cause why execution should not be filed in pro tempore is discharged

By the Court

From the Record

cut 20 Aug 1897.

S. H. Davis - Clerk 24/


The undersigned views
opinionated by Court on road from
Barnett bridge to Paddock road from
each Jerry's father and Strongy Creek
Cove.

To the Honorable Judge of the
within named Court,

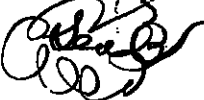
We the viewers
appointed said Court, To
obtain releases from the
land owners along line of
a public road leading from a
point near Samuel Smiths to
a point on a public road lead-
ing up passed Jerry Walters,
And to assess damages where
releases could not be obtained
if any, Both report that
after giving due notice of time
that we was to meet by 6 type
written notices stuck up in
public places, and along said
route, And that we met on
13th day of Sep. 1897, And have
failed to get any more releases
But do Report that we sim-
ly believe that not one of the
parties owning lands a long
line of this road that has been
laid out but will be benefited
in stand ~~and~~ damaged, And as
regards Abner Griffith or
Wmiah Griffith & Frank Berkeley

Claim for damages, We
will say this, Through their
lands there has been a private
road traveled and used as
such by our own individual
knowledge from 30 to 40 years,
And we have laid this Public
Road on top of this private
road through Beckey & Giffiths
lands, And we all say
no damages sustained,

Witness Our hands and
seals this 13th Day of
September 1899

Wm Slick 

John S Blough 

D W Henschberger 

Wm Slick 1 day

3 miles

John S Blough 1

2 miles

D W Henschberger 3

2 miles

(Original)

Notice of Viewers.

To The Commissioners of Cambria County, Penna

Notice is hereby given that the viewers appointed by the Court of Quarter Sessions of Cambria County, and to whom their report in said case has been recommended, by order of said Court, to view, etc., the ground for a Public Road in Stonycreek Township, beginning at Solomon's run near Samuel Smith's and ending at a point on or near the road leading to Jerry Walter's at edge of Richland Township, in Stonycreek Township, as designated in the petition of No. 7, June Sessions, 1897, R. D., and to whom their report has been recommended with instructions to mark on the draft the names of any adjoining land owners not already on record, etc., and to give notice of the time and place of meeting for the purposes aforesaid as required by law, and that notice shall also be served upon the County Commissioners, notice is therefore hereby given that the viewers will meet at the house of Samuel Smith in the said Township of Stonycreek on the 13th day of September, 1897, at 10 o'clock A.M., for the purposes mentioned in said order.

Johnstown, Pa., Sept 1st, 1897. Wm. Elliott (Surgeon)
John S. Blough
Dr. Chambers

Andrew Sept 3rd 1897; a copy of the
within notice sent by mail to John C.
Gates, Esq. Clerk for the Commissioners
of Cambria County, Pa.

Jerry Walter

No. 7 June Session 1896
R.D.

Report of Viewers on the
Recommended order to view the
Road for Road on Road near
Samuel Smith's on Solomon's
Run & ending at Port at public land
said road leading up near ferry
Walters at edge of Richland Strip
in Monroeville Strip.

On Cert 27 Sept 1897

Jas. M. Walters,
Attorney at Law,
DuPonstein, Pa.
ROOM 1 ALMA HALL.

W. V. DERRITT & CO. PRINTERS, ENGRAVERS, STATIONERS, 407 GRANT ST. PITTSBURGH.

Nov. 10th 1897 Approved

By the Court. —

15 Jan'y 1898 Confirmed
J. W. Davis Clerk

This conveyance made the Twenty-ninth day of January A.D., 1896, between Uriah Griffith; Louis Von Lunen; John G. Myers and John Messenger, Hulbert Messenger, Lincoln Messenger, Geo. Messenger, Adelaide Wissinger and Sylvester Wissinger, heirs of George Messenger, all of Cambria County, Pennsylvania, of the first part, and Jerry Walters, of the same place, of the second part:

Whereas, the said Jerry Walters is desirous of obtaining a right of way to and over certain land situate in the Township of Stony Creek, County of Cambria and State of Pennsylvania, all of which belongs to the parties of the first part.

Now This Indebture Witnesseth: That the said Uriah Griffith, Louis Von Lunen; John G. Myers and the heirs of George Messenger, in consideration of the sum of Ten Dollars to them in hand paid by the said Jerry Walters, the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell, and confirm to the said Jerry Walters, and to his heirs and assigns, forever, a right of way in and over a certain strip of land hereinafter described, and located on the lands of the parties of the first part, at all times freely to pass and repass on foot, or with horses, cattle, beasts of burden, wagons, carts, sleighs, or other vehicles or carriages whatsoever, on and over said strip of land, described as follows:

Beginning at a public road in the Township of Stony Creek, Cambria County, Pennsylvania, near the land of Herman Miller and Uriah Griffith and a post, thence North 28 degrees West, 31 perches to a post; thence North 7 degrees West, 10 perches to a post; thence North 31 degrees West 6 perches to a post; thence North 7 degrees East 29 and $\frac{2}{10}$ perches to a post; thence North 48 degrees East 10 and $\frac{8}{10}$ perches to a post; thence North 38 degrees East 5 perches to a post; thence North 10 degrees East 8 perches to a post; thence North 6 perches to a post; thence North 20 degrees East 6 perches to a post; thence North 18 degrees East

12 perches to a post; thence North 40 degrees East 8 and 6/10 perches to a post; thence North 55 degrees East 4 perches to a post; thence North 48 degrees East 19 perches to a post; thence North 17 degrees East 10 perches to a post; thence North 6 degrees East 7 and 2/10 perches to a post; thence North 36 degrees East 7 perches to a post; thence North 3 degrees West 44 perches to a post; thence North 45 degrees East 18 perches to a post; thence North 56 degrees East 12 perches to a post or sugar; thence North 2 degrees East 11 perches to a post; thence North 20 degrees East 12 and 6/10 perches to a post; thence North 23 degrees West 11 and 7/10 perches to a post or dead sugar; thence North 8 degrees West 14 perches to a post or stones; thence North 15 degrees East 16 perches to a post; thence North 15 degrees West 6 perches to a post; thence North 13 degrees East 13 and 4/10 perches to a post at private road to Johnstown, Penna., near the land of Samuel Smith, the said certain strip of land being of the width of Twenty feet

and being in length Three hundred five and nine-tenths (305.9) perches, and is close to Spencer's Run in said Township, and the said way is and shall be forever of the dimensions of said strip of land as aforesaid, and may be used for free ingress, egress and regress to and for the said Jerry Walters, his heirs and assigns, his and their tenants, in common with the said parties of the first part.

To have and to hold all and singular the privileges aforesaid to him the said Jerry Walters, his heirs and assigns, to the only proper use and behoof of him, the said Jerry Walters, his heirs and assigns, forever, in common with the said parties of the first part.

In witness whereof, the parties of the first part have hereunto set their hands and seals this *Twenty eight* day of *January*

One thousand eight hundred and ninety-four.

It is also agreed and expressly understood by and between the parties of the first part and the party of the second part that the roadway hereinbefore described shall be open for the use of the public at all times and under the same rights and privileges as may be enjoyed by the parties to this Indenture.

Witness:

E. O. Fisher,
D. R. Edwards

John G. Meyer (SEAL)
Louis von Schirmer (SEAL)
M. A. Griffetti (SEAL)

E. O. Fisher as to make
of John Messenger and signature
Hubert Messenger
Jas Rohrman as to
Lincoln and Geo Messenger

John X Messenger (SEAL)
Hubert Messenger (SEAL)
Lincoln Messenger (SEAL)
Geo Messenger (SEAL)

E. O. Fisher as to

Adelaide Wisinger (SEAL)
Sylvester Wisinger (SEAL)

We, the undersigned hereby agree to pay the amounts set opposite our names for the purpose of assisting in defraying the expense necessary for the construction of the roadway beginning at a public road in the Township of Stony-Creek, Cambria County, Pennsylvania to a point near the land of Samuel Smith in the same Township, County and State; the way to be Twenty feet in width, and to be of the course and distances as set forth in the Indenture hereto attached and made part hereof, and the length therein mentioned. *payable when road is completed.*

Louis Don Lumen	\$ 5.00
<i>Witness to work of</i> John ^{his} messenger	\$ 1.00
<i>E. O. [unclear] mark</i>	
John G. Meyer	\$ 1.00
Gen messenger	\$ 1.00
Hubert messenger	10 00
Adelaide Wisinger	\$ 1.00
Mc A. [unclear]	\$ 1.00
Lincoln Messengers	\$ 1.00

In the Quarter Sessions of Justice at
St. Albans Road in Westminster
No 7 June Session 1896.

Deed of Right May,
of
W. A. Griffith, Louis Von
Lunen et al
to,
Jerry Matter.

July & 2 Aug 1897

(Matters)

John S. Blough being duly affirmed testifies as follows:

Q. State if you were a viewer on that road out there?

A. Yes.

Q. State whether or not the viewers were all of one mind that neither Frank Berkey or Uriah Griffith or Abner Griffith as the case may be were damaged by reason of the opening up of said road?

A. Yes sir: and we thought there was no damages accrued to Frank Berkey or the Griffiths: we thought it was more good than damages.

Q. Did you have the notice all along the road?

A. Yes sir.

Q. No one ~~anybody~~ came to claim damages?

A. No one came.

John S. Blough