

In_re, Proceedings for Private) In the Court of Quarter Sessions of
Road,) Cambria County Pa.
in)
Barr Township.) No. 6 March Sessions 1908
Road Docket No. 5 page 227

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Answer to exceptions filed 30 January 1909

To the Honorable Judge of said Court.

Anna E. Euszkauckas, the Petitioner, by her attorney makes answer to the exceptions filed on January 30th 1909 which exceptions it is averred, should not be considered by the Court, for the reasons

(1)

Rule of Quarter Sessions Court No. 18 Provides "All exceptions to the confirmation of reports of viewers of roads, or divisions of townships, must be filed, in writing on or before the first day of the first term after the report is made."

The records show, the report of viewers in this case was filed 1st June 1908 in open Court. And approved 4th August 1908 and breadth of road fixed at twenty five feet, By the Court.

The records further disclose, that no exceptions were filed until 30th January 1909, two terms of Court having intervened.

(2)

The first exception, is answered by the Records of the Recorder's Office, wherein it appears, in Deed Book Vol. 204 at page 78 that by deed dated 11th July 1906 Recorded Nov. 1st 1906 that Joseph J. O'Kowicz conveyed to Anna N. Euszkauckas, the Petitioner, the lands being a farm in Barr township whereon she, by her Petition for a Private road filed 7th March 1908, prays that Viewers be appointed, by your Honorable Court.

Also Deed Book Vol. 202 at page 313 shows that S.S. Cyphers by his deed dated 25th March 1907 and recorded on Nov. 1st 1907 conveyed to Anna N. Euszkauckas, the Petitioner a tract of land which adjoins same farm, and upon which a portion of said road was laid out and returned as a private road, by the viewers.

The Petition for the appointment of viewers, and the road laid out and returned by their Report filed on 1st June 1908, is in compliance with the Law then governing the private road prayed for, and the necessity therefor, and the terminal points were fixed in the report of the viewers.

(3)

The second exception, goes to the personnel of the viewers, all of whom were proper persons, and no misconduct being alleged against either of them, the law presumes they acted fairly, impartially and judiciously in the performance of their duties.

(4)

The third exception, avers facts, which were solely a matter for the viewers, guided by their oaths, and best judgment and ability, and their report to the Court, fixed the quantum or sufficiency of the damages awarded, unless otherwise determined by an appeal from the damages awarded, by the proper person directly interested and in the manner prescribed by law.

Wherefore, Petitioner prays that the exceptions be dismissed and the Report confirmed absolute, and herewith submits for the inspection of the Court, the papers filed in the case.

Anna N. Kuszkauckas.

By her attorneys

J. F. McKenrick & J. F. McKenrick

Cambria County ss: -

Before me personally came J. F. McKenrick who being duly sworn according to law says: that he is cognizant of the facts set forth in the foregoing Answer and that the same are true to the best of his knowledge, information and belief

Sworn and subscribed to before me

this 9th day of October 1912

J. F. McKenrick

A. S. Kirkead

Clerk of the Court.

No 6 March Sess. 1908

Road Docket, No. 5 page 227

In-re, Proceedings for a
Private road in Barr Township

ANSWER OF PETITIONER, to
Exceptions filed 30 Jan. 1909

Filed 9 Oct 1912

McKenrick & McKenrick
for
Petitioner.

In re Proceedings for private road

in

The Township of Barr

In the Court of Quarter Sessions of Cambria County, Pa.

No. 6 March Sessions, 1908.

EXCEPTIONS.

1. Anna N. Euszkauckas petitioner for said road, is not the owner of a plantation situate in said Township of Barr, and there is no dwelling house erected on the land owned by her in said township, and she is therefore not entitled to have a road laid out for private use under the provisions of any Act of Assembly of the State of Pennsylvania.

2. One of the viewers in such proceedings was not a fair, judicious and impartial person within the meaning of the law regulating the appointment of viewers, he having acted in a like capacity in two former proceedings instituted in said Court for the purpose of opening a private road between the same termini.

3. In the report of viewers they do not propose any width of the road as a basis for their estimate for damages.

M. D. Kittell
Attorney for Steve Galicia.

Cambria County, ss.

M. D. Kittell being duly sworn according to law says that the matters set forth in the foregoing exceptions are true, as he verily believes.

Sworn and subscribed before me
this 30th day of January, 1909.

A. S. Kinkead, Pro.

M. D. Kittell

No.6 March Sessions, 1908

Road Docket.

In re Proceedings for private road in Barr Township.

Exceptions.

Filed 30 January, 1909.

Kittell.

In the Court of Quarter Sessions of Cambria County.

To the Honorable Francis J. O'Connor. President Judge of the Court
aforesaid.

The Petition of Anna N. Kuszkauckas, of Barnesboro Cambria County
Respectfully represents, that she, the petitioner, is the owner of a farm
situate in Barr township said County, that she labors under great inconve-
nience for want of a Private Road, to lead from a point at or near the barn
on said farm, to a point on the Public Road leading from Barnesboro to
Moss Creek at or near the Pump House of the West Branch Mines, both said
beginning and termini being in said Barr Township.

Petitioner further represents that she has no access to and from
her said farm without crossing over lands, the owners of which forbid her
and threaten her with an action of trespass.

Wherefore, Petitioner prays your Honorable Court to appoint proper
persons to view and lay out the same. and make report to your Honorable
Court, as provided by the Act of Assembly in such case made and provided.

And your petitioner will ever pray &c.

Anna N. Kuszkauckas

Cambria County, ss:-

Before me a Justice of the Peace in and for the said
County, personally came, Anna N. Kuszkauckas, the petitioner above named,
who being by me duly sworn according to law, deposes and says: that the
facts set forth in the foregoing petition are true and correct as therein
stated, to the best of her knowledge, information and belief.

Sworn and subscribed before me
this fifth day of March A.D. 1908

Anna N. Kuszkauckas

Thos. Brown (Seal)

Justice of the Peace.
MY COMMISSION EXPIRES IN MAY, 1910.

(Seal)

BOND TO SECURE PAYMENT OF VIEW &c.

KNOW ALL MEN BY THESE PRESENTS, that we, Anna N. Euszkauckas, the petitioner for the within View of a Private Road, and Thos. Brown her surety herein: are held and firmly bound unto the County of Cambria its County Treasurer, in the sum of Twenty five Dollars, lawful money, to be paid to the said County of Cambria, its County Treasurer, its certain attorneys or assigns, to which payment well and truly to be made and done we do bind ourselves, our heirs, executors, administrators jointly and severally firmly by these presents.

Sealed with our seals and dated this 5th day of March A.D. 1908

NOW THE CONDITIONS OF THIS OBLIGATION IS SUCH: That whereas, the said Anna N. Euszkauckas, the principal, hath petitioned the Court of Quarter Sessions of said County, for the appointment of Viewers to view, lay out, and make a report to said Court, of a Private road in Barr township to lead from a point at or near her barn to a point on the Public road leading from Barnesboro to Moss Creek at or near the Pump House of the West Branch Mines.

Therefore, If said Viewers make report, and their wages and the costs of said view, are paid in the first instance by the said County, then the said Petitioner, herein binds herself to repay to said County, the amount of money so paid by it upon the conclusion of said proceedings.

If on the Contrary, said wages of Viewers, and costs of this proceeding is paid in the first instance by said Petitioner, then this Obligation to be void, otherwise to remain in full force and virtue.

Signed, sealed and delivered, in the presence of Ed. Leillon W. P. Guss, Clerk (Seal)

James F. Hood

Thos. Brown (Seal)

Ms. 6 March Sessions 1908

In the Court of Quarter Sessions

No. June Sess. 1908

Petition of Anne N. Fiskeuckas,
for Appointment of Viewers to
View, and make a report to the
Court, of a private road in Barr
township, from a point at or near
the Barn of petitioner, to a
point on the Public Road leading
from Barnesboro to Moss Creek at
or near the Pump House of the
West Branch Mines. In Barr town-
ship.

Filed. 7 March 1908.

ORDER OF COURT.

And now March 7, 1908, the within
petition read, and upon the consid-
eration thereof, the Court appoints
Jud. Edgar Surveyor, and Jos
J. Miller and Henry
viewers, to view lay out, and
make report to the Court, as with-
in prayed for.

[Signature]

J. F. McKenrick, atty. for Pet.

Upon the Authority of "Township Road" 10, Pa. St. 196,
this petition and the appointment of viewers thereon
are regular (This in answer to objection raised at "Bar" to issuing
of order) of the Court.

Commonwealth of Pennsylvania, }
County of Cambria. } ss

At a Court of Quarter Sessions of the Peace of the County of Cambria held at Ebensburg, in the said County, on the second day of March A. D. 1907, before the Honorable Judge of the said Court: Upon the petition of ~~divers inhabitants of the Township of~~, in the said County, setting forth that they labor under incon-

venience for want of a road or highway, to lead from Anna N. Lutzkowskas of Barmesboro, Cambria County, respectfully represents: "That she, the petitioner, is the owner of a farm situated in Barre Township, said County, that she labors under great inconvenience for want of a Private Road, to lead from a point at or near the farm on said farm, to a point on the Public Road leading from Barmesboro to Moss Creek, at or near the Pump House of the West Branch Mines, both said beginning and terminus being in said Barre Township. Petitioner further represents that she has no access to and from her farm without crossing over lands, the owners of which forbid her and threaten her with an action of trespass.

and therefore praying the Court to appoint proper persons to view and lay out the same according to law. The Court, upon due consideration had of the premises, do order and appoint

Jno. S. Elder, surveyor, and
Jos. J. Miller and Henry Eger

viewers, to view the ground proposed for said road, and if they view the same, and shall agree that there is occasion for such road, they shall proceed to lay out the same, having respect to the shortest distance and the best ground for a road, and in such manner as shall do the least injury to private property, and also be as far as practicable, agreeable to the desires of the petitioners, and that they make a report of their proceedings to the next Court of Quarter Sessions to be held for said County, 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 it may pass.

By the Court.

Attest:

J. S. Kinkead, Clerk.

NOTE. "It shall be the duty of all persons appointed in the several counties of this Commonwealth to view and review any public or private road or bridge, if they shall decide in favor of locating said road or bridge, to endeavor to procure from the person or persons over whose land such location may be made releases from all claims for damages that might arise from the opening of such road or the building of such bridge; 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 signed by a majority of their number, and return the same, together with all releases obtained, to the Court of Quarter Sessions, and the damages so assessed shall be conclusive, or may be subject to appeal, review or modification, as may be provided by existing laws in the different counties of this Commonwealth."

"The persons appointed as aforesaid shall view such ground, and if they shall agree that there is occasion for a road, they shall proceed to lay out the same, having respect to the shortest distance, and the best ground for a road, and in such manner as shall do the least injury to private property, and also be, as far as practicable, agreeable to the desire of the petitioners."

"The viewers, as aforesaid, shall make report at the next term of said Court, and in the said report shall state particularly: First, who of them were present at the view, second, whether they were severally sworn or affirmed; third, whether the road desired be necessary for a public or private road; they shall also annex and return to the Court a plot or draft thereof, stating the courses and distances, and noting briefly the improvements through which it may pass; and, whenever practicable, the viewers shall lay out the said roads at an elevation not exceeding five degrees (except at the crossing of ravines and streams), where, by moderate filling and bridging, the declination of the road may be preserved within that limit."

NO. 6, March SESSION, 1908.

Order to view Private Road.
 vs. Board Township

Viewers.

James L. Elders
 Geo. J. Miller
 Henry Eggen

Clerk A. J. L. Burr 90 cts.
 M. Henrich

To the Honorable Francis J. O'Connor President Judge of the Court of Quarter Sessions of Cambria County.

The undersigned viewers appointed by your Honorable Court to view the Private Road in Barr township, as set forth in the annexed Order of your Honorable Court.

Respectfully report, that after having given due and legal notice to the persons interested, as shown by the hereunto annexed notices, and by Printed Notices posted in conspicuous places near the line and termini of the proposed road, as provided by law a copy of which is hereunto annexed;

That your viewers met at the time and place mentioned in said notices on Tuesday March 17th 1908 and after being severally sworn according to law, as shown by the Oath hereunto annexed, proceeded to the lands and have viewed and laid out, and do return for private use the following road which we believe to be necessary and this the the only feasible location for the same, to wit:-

Beginning at a point opposite the barn of Mrs. A.N. Fuszkauckas in Barr Township, thence North 40 degrees East 236 feet to a post; thence North 20 deg. East a distance of 195 feet; to a post; thence North 36-3/4 deg. East a distance of 178 feet to a post; thence East 98 feet to a post; thence North 53 deg. East 105 feet to a post on line of land of Stephen Gallitzin; thence North 49-1/2 deg. East 164-5/10 feet through the land of said Stephen Gallitzin to a post; thence North 74 deg. 50 min. East along line of land of said Gallitzin a distance of 153 feet to a post; thence North 49 deg. East 290 feet through lands of Joseph A. Gray and Lorenz Wyland, owners of the surface, and the Clearfield Bituminous Coal Company the owners of the Coal underlying same, to a post; thence North 40 deg. East 142 feet continuing through lands of said Gray & Wyland owners of the surface, and the said Clearfield Bituminous Coal Company the owners of the Coal, to a post; thence North 44 deg. East 155 feet continuing through lands of said Gray & Wyland (surface) and said Coal Company the minerals; to a post; thence through underneath the Tipple and between the trusses supporting same, of the West Branch Mine of said Coal Company, North 21-1/2 deg. ^{west} a distance of 64 feet to a post; thence North 76-1/2 deg. East 148 feet crossing the tracks of New York Central Railroad, and still through lands of said Gray

and Wyland,(surface) and said Coal Company(minerals)to a post;thence North 67-1/4 deg. East a distance of 130 feet still through lands of said Gray & Wyland,(surface) and said Coal Company,(minerals) to a post in the Public road leading from Barnesboro to Moss Creek,near the Pump-house of said West Branch Coal Mine.all of which said road is in Barr township Cambria County.As shown by a map or draft of said road hereunto annexed and made a part of this the Report of said Viewers.

Your viewers further report, that said road is wholly located on land owned by Mrs. A.N.Euszkaukas from the point of beginning until it strikes the line of lands of Stephen Gallitzin,which said land is improved.

That said Stephen Gallitzin was present at the view and refused to release damages, wherefore your viewers taking into account the advantages and disadvantages, and the damages done to his lands by the location,opening.and use of said road, do award him the Sum of twenty dollars for his his damages.

That the remainder of said road passes through lands of Joseph A. Gray and Lorenz Wyland, who have released their damages, as shown by a written release hereunto annexed;that the Clearfield Bituminous Coal Company owning and operating the Coal thereunder, at the West Branch Mines did not make any claim for damages,and your viewers taking into consideration the advantages of their using the portion of said road in the vicinity of their tipple,and the disadvantages of the location,opening and use of the entire road through said lands,do award to said Clearfield Bituminous Coal Company no damages.

All of which is respectfully submitted,

Witness our hands and seals this 27th day of May A.D.1908.

John L. Elder 2 days	\$ 10.00
mileage	2.20
Jas. F. Miller 1 day	3.00
mileage	.50
Henry Ager 1 day	3.00
mileage	.30
Posting notices	3.00
Justice's oaths	50

John L. Elder (Seal) Surveyor.
Henry Ager (Seal) Viewer.
James F. Miller (Seal) Viewer.

NOTICE OF VIEW FOR A PRIVATE ROAD.

To Stephen Gallitzin & Mrs. Stephen Gallitzin.

Spangler Pa.

Sir: You are hereby notified, that on March 7th 1908 on the petition of Mrs. A.N. Euszkauckas; the Court appointed the undersigned viewers, to view and lay out a PRIVATE ROAD, from a point on the farm of said A.N. Euszkauckas, at or near the barn on said farm, to a point on the Public road leading from Barnesboro to Moss Creek, at a point at or near the Pump-House of the West Branch Mine, both the beginning and termini of said road being in Barr Township, Cambria County Pa.

That said viewers will meet at the Hotel Brandon in the Borough of Spangler on Tuesday March 17th 1908 at 11 O'clock A.M. and will then proceed to the lands for the purpose of viewing said ground and making a report to the Court..

You are hereby notified and required to be present and make a demand for, or release damages for any injury to your lands over which said view may be made.

Yours very respectfully

J. L. Elder Jr.)
James J. Miller) Viewers
Henry Eger

Ebensburg Pa. March 7th 1908

Proof of service of above notice.

And now, March 7 1908 I served a copy of the above notice upon the said Stephen Gallitzin and Mrs. Stephen Gallitzin, by reading and making known to them, the contents hereof, and handing them a true copy of the within Notice. On March 7 1908

Henry Eger
One of the Viewers.

NOTICE OF VIEW, for a Private
road. over lands of Stephen
Gallitzin

Served by Copy &c.

McKenrick, Atty. for Road.

In the Court of Quarter Sessions of Cambria County

In the matter of a Private Road in Barr Township

OATH OF VIEWERS.

Cambria County ss:-

You, John L. Elder- James T. Miller and Henry Egor,
and each of you Do solemnly Swear by Almighty God the Searcher of all
hearts, that as viewers aforesaid, You will fairly, judiciously and impar-
tially perform your duties and make a true report thereof to the Court.

To the best of your ability, and that as you shall ^{ANSWER} to God at that
last great day.

John L. Elder)
James T. Miller) Viewers
Henry Egor)

Sworn and subscribed to before me this

14th day of March A.D. 1900

Shos Brown (Sec1)

Justice of the Peace.

My Commission expires the *14th* day of *May* A.D. 1900.

MY COMMISSION EXPIRES IN MAY, 1910.

ROAD NOTICE.

Notice is hereby given that the viewers appointed by the Court of Quarter Sessions to view the ground for a Private Road in Bar Township Cambria County, to lead from a point at or near the barn on the farm of Mrs. Anna N. Euszkauckas, (Dougherty farm) to a point on the Public road leading from Barnesboro to Moss Creek at a point at or near the Pump-house of the West Branch Mine, the beginning and terminus being in Barr township.

will meet at the house of Hotel Brandon, Spangler Bor' in the Borough of Spangler aforesaid, on the 17th day of March 1908, at 11 o'clock A.M. for the purpose of viewing said ground.

John R. Elder
James J. Miller
Henry Eger

Ebensburg Pa. 2nd March 1908.

Viewers.

NOTICE FOR A VIEW OF A PRIVATE ROAD.

To the Superintendent West Branch Mine,

Sir: You are hereby notified, that On March 7th 1908, On the petition of Mrs. A.N. Euszkauckas, the Court appointed the undersigned, viewers to lay out a PRIVATE ROAD, from a point on the farm of said A.N. Euszkauckas, at or near the barn on said farm, to a point on the Public road leading from Barnesboro to Moss Creek, at or near the Pump-House of the West Branch Mine. both the beginning and termini of said road being in Barr township, Cambria County Pa.

That the said viewers will meet at the Hotel Brandon in Spangler Borough on Tuesday March 17th 1908 at 11 O'clock A.M. and will proceed to the lands for the purpose of viewing the ground and making a report to the Court.

You are hereby notified and requested to be present and make demand for, or release damages for any injury to your lands over which said view may be made.

Yours very respectfully.

J.P. Miller)
James J. Miller) Viewers
Henry Egan)

Ebensburg Pa. March 7th 1908

Acceptance of service of Notice.

Barr Township Pa. March 7 1908 I hereby accept service of the within notice to view. for the Edwin Pitts Coal & Lignite Coal Mining Co.

Timothy M. Learty Supt.

Release of Damages.

Barr township Cambria County Pa. March-- ----1908 We the _____ lessees of the lands over which the above mentioned Private road passes, hereby waive claim for any damages. and hereby release any and all damages by reason of the location and opening of said road, or its use as a Private road.

Witness. _____)

_____ Supt.

_____)

_____ Coal Mining Co.

_____)

Viewers.

NOTICE OF VIEW, for PRIVATE
ROAD. over lands of West-
Branch Mines, Barr tp.

acceptance of service.

Release of damages.

J.F. McKenrick, atty. for
Road.

NOTICE FOR A VIEW OF A PRIVATE ROAD.

To the Superintendent of the West Branch Mine,

Of the Clearfield Bituminous Coal Mining Company

Sir: You are hereby notified that on March 7th 1908, On the Petition of Mrs. Anna N. Euszkauckas, the Court appointed the undersigned viewers to lay our a PRIVATE ROAD from a point on the farm of said A.N. Euszkauckas at or near the Barn on said farm to a point on the Public road leading from Barnesboro to Moss Creek, at or near the Pump-house of the West Branch Mine, both the beginning and the termini of said road being in Barr Township Cambria County Pa.

That the said viewers will meet at the Hotel Brandon in the Borough of Spangler on Tuesday March 17th 1908 at 11 O'clock A.M. and will proceed to the lands for the purpose of viwving the ground and making a report to the Court.

You are hereby notified and requested to be present and make demand for, or release damages for any injury to your lands over which said view may be made.

Yours very respectfully.

J.L.Elder.)
James T. Miller) Viewers
Henry Eger)

Ebensburg Pa. March 7th 1908

Acceptance of service of Notice.

Barr Township Pa. March 9th 1908 I hereby accept service of the within notice to view for the Clearfield Bituminous Coal Co.
Timothy McCarthy. Supt.

Release of Damages.

Clearfield Pa. May 27th 1908 We the lessees of the mining rights upon the surface of the lands over which the above mentioned Private road passes hereby waive claim for damages, and do hereby release any and all damages caused by reason of the location, and opening of said road, or its use as a private road.

Witness

[Handwritten signature]

[Handwritten signature] Prest.

Clearfield Bituminous Coal Corporation

Release of Damages

Private road under tipple
West Branch Mines, Cambria
County Pa.

Return to

J.F. McKenrick Esq.

Ebensburg Pa.

NOTICE OF VIEW FOR A PRIVATE ROAD.

To Joseph A. Gray and Lorenz Wyland.

Spangler Pa.

Gentlemen: You are hereby notified, that On March 7th 1908, on the petition of Mrs. A.N. Euszkauckas, the Court appointed the undersigned Viewers, to view and lay out a PRIVATE ROAD, from a point on the farm of said A.N. Euszkauckas, at or near the barn on said farm, to a point on the Public road leading from Barnesboro to Moss Creek, at or near the Pump House of the West Branch Mine, both the beginning and termini, being in Barr township Cambria County Pa.

That said viewers will meet at the Hotel Pranden in the Borough of Spangler on Tuesday March 17th 1908 at 11 O'clock A.M. and will then proceed to the lands for the purpose of viewing said ground, and making a report to the Court.

You are hereby notified and required to be present and make demand, for, or, release damages for any injury to your lands over which said view may be made.

Yours very respectfully.

J. L. Elder Jr
James J. Miller) Viewers
Henry Eger

Ebensburg Pa. March 7th 1908

Acceptance of service of notice.

Spangler Pa. March 9 1908 I hereby accept service of the above notice to view.

Witness.

Henry Eger

Joseph A. Gray Owner of land

Owner of land.

Release of Damages.

Lorenz Wyland

Spangler Pa. March 11 1908 We the owners of land over which the above view has located a Private Road, hereby waive any demand for damages, and hereby release any and all damages, by reason of the location and opening, and use of said Private road.

Witness. _____ Surveyor.

James J. Miller

Henry Eger

Viewers.

Joseph A. Gray Owner

Lorenz Wyland Owner.

March 11st 1908.,

We the undersigned, Joseph A. Gray and Lorenz Wyland sign this release but with the understanding that the same shall not interfere in any way with the rights or privileges, for the operation of the coal on said lands.

Witness.

Henry Eger.

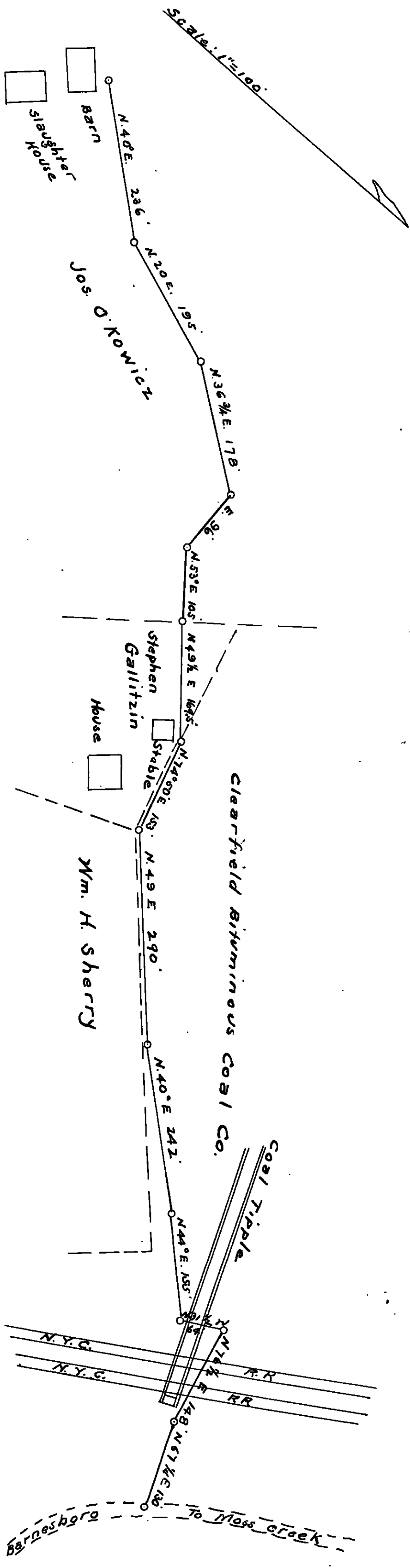
Joseph A. Gray Seal.

Lorenz Wyland Seal.

NOTICE OF VIEW. For Private
road. over lands of
Joseph A Gray & Lornez Wyland

acceptance of service.
Release of Damages.

McKenrick. Atty. for Road.



In the Court of Quarter Sessions

No. 6 March Sessions 1908

In-re, Private road in Barr Town-
ship.

REPORT OF VIEWERS.

Filed 1 - June 1908.

in Barr Town



*4 August 1908 Approved and made final at liberty five
feet.*

By the Court

J. F. MCKENRICK, Atty.