

No 2 March Road Podol
1926

Edward Tellen

Petition for Attachment
Filed 2 April 1928

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA.

No. 2. March Sessions, 1926.

In re Petition of Edwin Gillen :
for Appointment of Viewers to :
Assess Damages for Private Road :
in Jackson Township. :

Now, April 2, 1928, it appearing that Edwin Gillen, Petitioner failed to pay costs in the above entitled case as ordered by the Court when case was disposed of, and the Clerk of Court moves that an attachment be awarded for Edwin Gillen.

Frank C. Robb
Clerk of Courts.

And now, April 2nd, 1928, motion granted and attachment awarded for Edwin Gillen, the above named petitioner, returnable forthwith.

By the Court
Evans

No. 2, March Sessions 1926

In Ct. of Gtr. Sessions.
No June Term, 1926.

Road Dkt. No. 1926.

541

In Re: Private Road of
Martin Rager and Ross
Rager.

PETITION.

Filed 3 May 1926

THOMAS A. SWOPE
ATTORNEY AT LAW
UNION BANK BLDG.
NANTY-GLO, PENN'A.

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY,
PENNSYLVANIA.

In Re: Private Road of
Martin Rager and Ross
Rager.

No. June Term, 1926
Road Dkt. No. 1926.

PETITION.

To the Honorable Judges of the Court of Quarter Sessions:

Your petitioner, Edwin Gillen, respectfully represents:

1. That your petitioner is the owner of a certain piece or parcel of land situate in the Township of Jackson, County of Cambria and State of Pennsylvania.
2. That for many years a private road was in existence along the Westerly boundary line of the land of your petitioner, and that for 25 years last past the said private road has been of an average width of about 12 feet, and that your petitioner and his predecessors in title farmed and used the land up to the boundary of said private road, and during which time the said private road was of an average width of about 12 feet for more than 25 years last past.
3. That your petitioner is informed and believes that said private road was obtained by prescription and that there are no proceedings in the Courts of Cambria County, Penn'a. laying out or establishing the said private road and that for the last 25 years the said private road has been of an average width of about 12 feet, and if said road was ever of a greater width that your petitioner has acquired title up to the point that limits the width of said private road to an average of about 12 feet by adverse possession.
4. That within the last three weeks Martin Rager and Ross Rager entered upon the land of your petitioner and excavated, dug and removed earth from your petitioners land and cut and fell trees on the land of your petitioner along said private road so as to extend the width of said private road (the same not having been widened by process of law or by the consent of your petition-

er), the said earth being removed at places that your petitioner has tilled and farmed the soil for 31 years and upwards. Thereby damaging the land of your petitioner.

5. That your petitioner finds that it is very necessary that said private road be fenced, so as to prevent stock pasturing in said fields adjoining from escaping. That for the last six years your petitioner has been unable to pasture said land because of the want of a fence along said private road.

WHEREFORE, your petitioner prays Your Honorable Court to appoint viewers to assess damages for taking your petitioner's land for a private road, for removing the soil therefrom, for cutting trees on the land of your petitioner, for failure to keep said private road fenced for the past six years and for damages equal to the cost of building a fence along said private road.

And your petitioner will ever pray, etc.

X Edwin Gillin
Petitioner.

State of Pennsylvania,
County of Cambria, ss:

Edwin Gillen being duly sworn according to law deposes and says that he is the petitioner named in the within petition and that the facts set forth therein are true and correct to the best of his knowledge, information and belief.

X Edwin Gillin

Sworn to and subscribed
before me this 1 day
of May, A. D. 1926.

Chas. Fahey, J. of P.

MY COMMISSION EXPIRES
FIRST MONDAY IN JAN. 1932.

ORDER OF COURT

And now, May 3rd 1926, upon motion presented in open Court and upon due consideration thereof Adam Shuman, J. O. Kitch and Alm Shuman Esq. are hereby appointed viewers to view and assess damages occasioned by the widening of the private road aforesaid, the felling of trees and damages occasioned to the landowner for want of a fence along said private road and also the cost of fencing the said private road as prayed for in said petition. And said viewers to make their return to this Court on or before the 1st Monday of June, 1926.

By the Court
L

No. 2 March Road Docket Term, 1926

COMMONWEALTH
vs.

Edward Gillean

COMMONWEALTH ATTACHMENT

**This writ transferred
to Sheriff Steuer's Docket.**

*I hereby depute.....
to execute the within writ.*

..... *Sheriff*

April 7, 1928, Sheriff's duties to whom defense
for this day pending payment of costs, if costs
are paid within that time defendant is discharged
By the Court
Crown

April 3, 1928. See Court order on writ. April 5, 1928. My costs paid by Defendant.

So answers,

Carl Steuer

Sheriff.

Sheriff Steuer. \$10.00.

Cambria County, ss:

THE COMMONWEALTH OF PENNSYLVANIA.

To the Sheriff of Cambria County, GREETING:

WE COMMAND YOU that you attach

Edward Gillen

late of your county *Joeman* *is* *he* *be found in your bailiwick, and*
sum *safely keep so that you have* *his* *body before our Judges at*

Ebensburg, at our Court of Quarter Sessions of the Peace there to be held for the County aforesaid,
forthwith to answer us for not complying with the order of the Court.

WITNESS the Honorable President Judge of our Court at Ebensburg the

day of *April* *in the year of our Lord one thousand nine hundred and* *twenty-eight*

Francis C. Kobb
clerk

No. 2, March Sessions, 1926.

Root Docket, Vol. 6 page 154.

~~COMMONWEALTH~~

In re Petition of
Edwin Gillin for
appointment of Receivers
to assess damages
vs.
for Private Road in
Jackson Township.

~~COMMONWEALTH~~

BILL OF COSTS

Pros.

~~District Attorney~~

Margaret Evans

COMMONWEALTH

In re Edwin Gillin
for appointment of
Viewers to assess
damages for Private
Road in Jackson Township.

In the Court of Quarter Sessions of the
Peace in and for Cambria County

No. 2 of March Sessions, 1927
Road Ticket, Vol. 6 page 154

Commonwealth's Bill of Costs

Witness	Days	Miles Direct at 6c per mile	Amount	Received My Costs in Full From County Treasurer
Edward Smith, Jackson Twp.	1	6 mi	2 36	Re #100 Check No 223
Howard Davis, Conemaugh Co.	1	15 mi	2 90	✓ 224
William Davis, Conemaugh Co.	1	15 mi	2 90	✓ 225
Davis Burkhardt, Jackson Twp.	1	6 mi	2 36	✓ 226
H. Barney, Jackson Twp.	1	6 mi	2 36	✓ 227
Theodore Miller, Mankay Twp.	1	8 mi	2 48	✓ 228
Amanda Yeager, Conemaugh Co.	1	15 mi	2 90	✓ 229
Miss Ella Yeager	1	15 mi	2 90	✓ 230
Paul Yeager	1	15 mi	2 90	✓ 231
John Allbaugh, Vinco Co.	1	10 mi	2 60	✓ 232
Annie C. Allbaugh, Vinco Co.	1	10 mi	2 60	✓ 233
Alvin Lutz, Conemaugh Co.	1	15 mi	2 90	✓ 234
Ross Rager for serving subpoena on witnesses			6 50	} 50 235
Ross Rager, mileage in serving subpoenas, 23 miles			2 30	
Total			40 96	

Whereby certify that the above witnesses were subpoenaed by my order and were in attendance and necessary
to the trial of the case.

Ross Rager District Attorney

Cambria County, ss.

Ross Rager

being duly sworn according to law,
says the above bill as it stands stated is correct; and that the witnesses charged for were
subpoenaed and in attendance, that the mileage is correct; and that the witnesses named
above have not charged or received pay from the Commonwealth in any other case for the
time charged, to the best of his knowledge and belief; and that he believed them to be
material.

Sworn and subscribed this seventh
day of February, A. D., 1927.

before Charles D. Ritzland

Justice of the Peace
Commission Expires Jan. 8, 1928

Controller

Ross Rager

Certify to County Commissioners.

Clerk.

No. 2. March Sessions, 1926.
Road Docket, Vol. 6 page 154.
In the Court of Quarter Sessions
of Cambria County, Pa.

In re Petition of Edwin Gillin
for appointment of Viewers
to assess damages for private
road in Jackson Township.

Appeal of Martin Rager and
Ross Rager, parties in interest,
to the Court of Common Pleas
of Cambria County, Pa. from the
report of Viewers filed on June
7, 1926, in the Court of
Quarter Sessions of Cambria
County, Pa. to No. 2 March
Sessions, 1926, Road Docket,
Vol. 6 at page 154.

Filed 26 June 1926

Morgan W. Evans.

In re Petition of Edwin Gillin
for appointment of Viewers to
assess damages for Private Road
in Jackson Township.

In the Court of Quarter Sessions of Cambria County.
No. 2, March Sessions, 1926.
Road Docket, Vol. 6, Page 154.

Appeal of Martin Rager and Ross Rager,
parties in interest, to the Court of
Common Pleas of Cambria County, Pennsyl-
vania, from the Report of Viewers filed
on June 7, 1926, to the above number and Term.

Martin Rager and Ross Rager, parties in interest in the above entitled proceeding, hereby appeal to the Court of Common Pleas of Cambria County, Pennsylvania, on the Report of Viewers filed to No. 2, March Sessions, 1926, (Road Docket, Vol. 6, Page 154) and demand a Jury trial, and assign the following reasons therefor, to wit:

1. The award by the Viewers to Edward Gillin, the petitioner, of Sixty Dollars for damages for building a fence along the road in question was not warranted under the evidence adduced before said Viewers, nor under the law.

2. Said award of Sixty Dollars to Edward Gillin cannot be justified under the facts as found by the said Viewers and if allowed to stand will work injustice to the Appellants.

3. The Petition upon which the appointment of said Viewers was predicated fails to show any right in Edward Gillin to the view prayed for, or to the damages claimed to have been sustained by him at the hands of the Appellants.

4. The Report of Viewers shows on its face that the said Edwin Gillin has sustained no damage for any of the injuries alleged to have been inflicted upon him by the Appellants, and the award of Sixty Dollars should not have been made.

5. There is no authority in law for the appointment of the Viewers in the present case.

6. The Court of Quarter Sessions of Cambria County did not have jurisdiction of the proceeding appealed from.

7. That under the facts, as averred in the petition of Edwin Gillin, his action, if any he has, would be a civil action in the Common Pleas, and the

Court of Quarter Sessions was without jurisdiction.

8. Appellants deny the averments contained in the second paragraph of the Petition for the appointment of Viewers, and aver that same are untrue. Appellants further aver that the road in question, which Edwin Gillin sets forth as the Westerly boundary line of his farm, is not a private road but a public road, of a width of approximately twenty-five feet, leading from a point on the Pittsburg and thence forming boundary of lands of Edwin Gillin and Edward Smith; Philadelphia Pike between the lands of Edward Gillin and Edward Smith; thence through lands of Edward Gillin; thence through lands of Martin and Ross Rager and others, to a point on another public road near the Lutheran Church in Jackson Township, Cambria County, Pennsylvania.

9. That said road was dedicated to public use some seventy years ago by the predecessors in title of Edwin Gillin, Martin and Ross Rager, Edward Smith and other parties through whose lands said road ran, and that part of said road, now in controversy, has been used by the public continuously since that time, and particularly by the Appellants and their predecessors in title, and that Appellants are not compelled to fence any part of said road, and are in no way liable to Edward Gillin for the cost of fencing same.

10. That at the time Edwin Gillin purchased the land referred to in his said Petition he took title, subject to the right of the public in said Public Road, and particularly subject to the rights of Martin and Ross Rager, as members of the public, therein.

11. Appellants deny that said road was obtained by prescription, as averred in the third paragraph of the petition of Edwin Gillin, or that Edward Gillin has obtained title to any part of said road by adverse possession, and aver that said road was laid out, as set forth in the ninth paragraph hereof, and that Edwin Gillin has not and cannot obtain title to any part of said public road by adverse possession.

No. 2 March Sessions, 1926.
Road Docket, Vol 6 page 154.

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

In re Petition of Edwin Gillin
for appointment of Viewers
to assess damages for Private
Road in Jackson Township.

Exceptions of Martin and Ross
Rager to Report of Viewers.

Filed 26 June 1926.

Morgan W. Evans.

Read now, July 7th 1927, after argument and due consideration
the first and second exceptions submitted, the report
of the views set aside and the proceeding dismissed
for the cause of petitioners.

By the Court
E. W. P.

In re Petition of Edwin Gillin,
for appointment of Viewers to assess
damages for Private Road in Jackson
Township.

(In the Court of Quarter Sessions of
Cambria County, Pennsylvania.
No. 2, March Term, 1926.
Road Docket Vol. 6, page 154.

EXCEPTIONS TO REPORT OF VIEWERS

Martin Rager and Ross Rager, being parties in interest in the above entitled proceedings, except to the Report of the Viewers filed therein and assign the following reasons:

I. There is no warrant or authority for the appointment of the Board of Viewers, appointed in the present case, to view and assess damages alleged to have been sustained by Edwin Gillin, in the petition filed by him in said proceedings, and the Court, by reason thereof, is without jurisdiction in the premises.

2. That under the facts, as averred in the petition of said Edwin Gillin, his action, if any he has, would be a civil action in the Common Pleas, and the Court by reason thereof is without jurisdiction in the premises.

3. That before Martin Rager and Ross Rager, or either, can be assessed with the cost of fencing the road in question, it should have been averred in the Petition and found by the Viewers that said road was laid out originally at the request of said Martin Rager and Ross Rager or their predecessors in title.

4. That before Edwin Gillin, the petitioner, is entitled to damages for fencing said road, it must have been averred in the petition and found by the Viewers that either Edward Gillin or his predecessor in title had granted said road to Martin Rager and Ross Rager or to their predecessors in title at the request of said Martin Rager and Ross Rager or their predecessors in title.

5. The report of the Viewers (See Finding No. 4) showing that Edwin Gillin, himself, removed the fence along said road on his side thereof, and that he had not been damaged on account of said fence having not been replaced or fixed up during the six years, last past, the Viewers erred in awarding Edwin Gillin the sum of Sixty Dollars damages sufficient to fence said road.

6. That under finding of fact No. 5, as found by the Viewers, the road in question is a public road, and being such, Martin Rager and Ross Rager are not liable in damages for the cost of fencing same.

7. That upon an inspection of the Report of the Viewers it is apparent that Edwin Gillin has not sustained any damage by either acts of omission or commission at the hands of either Martin or Ross Rager, and the Viewers were in error in assessing damages against them.

8. That the Petition filed by Edwin Gillin is fatally defective in that it fails to set forth the interest of said Edwin Gillin in said road or any interest therein entitling him to present the petition in question.

9. The Viewers erred in awarding Edwin Gillin damages in the present proceeding for the reason that their report, itself, shows that said Edwin Gillin sustained no damage for or on account of any of the items of injury by reason of which he claims to have been damaged.

10. The report of the Viewers is also defective in that it fails to show just what part of said road Martin Rager and Ross Rager are to contribute to the fencing, as well as the part Edwin Gillin and his grantees are to fence.

11. The report of the Viewers (Finding No. 3) showing on its face that before Edwin Gillin is entitled to recover in the present proceeding it is essential that he maintain his title, if any he had, to said road, by an action of ejectment against one Edward Smith, and not having averred title to said road in himself, and not having proved title thereto in himself, the Court was without jurisdiction to appoint said Viewers, and the Report should be set aside.

12. Under the petition filed in the present proceedings, the Viewers were without authority or power to assess damages and benefits.

13. That under the report, of the Viewers, as filed, Edwin Gillin has sustained no damage by reason of the alleged widening of said road, as said road has not been widened to its full width, but, on the contrary, he is benefited by said road, the report showing that he, as well as his grantee, are users in common with Martin and Ross Rager of said road.

14. The Report of Viewers showing that the road in question was dedicated as a public road, over seventy years ago, by the predecessors in title of the said Edwin Gillin, the predecessors in title of Martin Rager and Ross Rager, and the predecessors in title of the owners of other farms over which said road passes, beginning at a point on the Pittsburg-Philadelphia Pike and ending at another public road near the Lutheran Church in Jackson Township, this County, and that said road had been used by the public generally throughout its entire length up and until about fourteen years ago, at which time the Southern Cambria Street Railway cut off one end of said road, and that the other end of said road is still in use, being used in particular by the Martin and Ross Rager families, by Edward Gillin and by one Yeager, who purchased a tract of land from said Edward Gillin, the fact of the non-user of a portion of said Road for fourteen years by the public cannot affect or alter the rights of Martin Rager or Ross Rager or the public generally to use the remainder of said road, nor does it change the character of said road from a Public road to a Private Road, or render Martin Rager or Ross Rager liable to fence any part of said road.

Margaret H. Evans
Attorney for Exceptants.

CAMBRIA COUNTY, SS:

Ross Rager, and Martin Rager, being duly sworn according to law, deposes and says that the above exceptions are not filed for the purpose of delay but because they feel that injustice has been done them, and that the matters and statements contained in the foregoing exceptions are true and correct as he verily believes.

Sworn and subscribed before me
this 26 day of June, 1926.

Martin Rager
Ross Rager

Frank B. Roth
clerk

NO. 2. March Term, 1926.
In the Court of Quarter
Sessions of Cambria Co. Pa.

In re Private Road of
Martin Rager and Ross
Rager over lands of Edwin
Gillen, in Jackson Twp.,
Cambria County, Penn'a.

Order to View and
Report of Viewers.

Filed 7 June 1926.

CERTIFIED

Jacob M. Hoffmann

COUNTY CONTROLLER

A. M. Shoemaker.

14 June 1926 Approved:

By the Court

E.

R E P O R T O F V I E W E R S .

To the Honorable, the Judges of the Court of Quarter Sessions of
Cambria County, Pennsylvania.

We, the undersigned Viewers appointed by your honorable Court to determine the damages, if any, sustained by Edwin Gillin by reason of the widening of a private road; through and over the land of said Edwin Gillin; for the felling of trees along said private road, for want of a fence along said private road and for the cost of fencing said private road; respectfully report.

That having given due notice of the view and of the time and place of meeting of the viewers to the Commissioners of Cambria County, to Edwin Gillin; the petitioner; and to Martin Rager and Ross Rager: and posted and published notices, as required: We met upon the premises in accord with the notices so given and after carefully viewing the premises we adjourned to a day set, of which all parties in interest had due notice and appeared together with their Attorneys and witnesses and were heard. Prior to the view and hearing all viewers had been duly sworn to perform the duties of their appointment faithfully, impartially and to the best of their judgment and ability. And having viewed the premises heard the parties and their witnesses we found as follows:

1st. That no damages had resulted to the petitioner by reason of the widening of the road in question.

2nd. That three small trees had been felled along the Westerly side of the road in question with the consent of Edward Smith who contends same were on his property and other testimony relative thereto isto the effect that the trees were along or in the fence row between the Westerly side of said road and the premises of said Edward Smith and his predecessors in title for a period exceeding twenty one years.

3rd. That the line between Edwin Gillin and Edward Smith has been run by two differend engineers within the last few years and which line is correct we cannot determine but from the weight of the evidence conclude the trees stood along the fence row where the fence had been recognized as the property line for some twenty five years or more prior to the recent surveys and whereas the trees, which are together of a value probably not exceeding five dollars, are not wanted by Mr. Smith and are on the premises of the petitioner, who ac-

ording to Mr. Smith is at liberty to utalize same to his own advantage and therefore, if perchance he should be the rightful owner of the trees, still he has not, in our judgment, been damaged by reason of their having been cut.

4th. That Edwin Gillin himself removed the last of the old fence which had been erected along the Easterly side of the road, which was one of the old monuments indicating the line of the road next to the Gillin fields, and that he has not been damaged on account of same not having been replaced or fixed up during the six years last past.

5th. That the road in question which originally led from the Pittsburgh - Philadelphia Pike through and over the premises now owned by the petitioner, the farm owned by the Ragers, mentioned in the petition, and across one or more other farms to another public road near the Luthern Church, was dedicated some seventy odd years ago and for many years was used by the occupants of these and neighboring farms in going to and from said Luthern Church, though it was never kept up by the public nor recognized or claimed to be a public road until now and as a fact the use of the road beyond the Rager farm has been cut off by the Southern Cambria Railroad and abandoned by the public for a period of approximately fourteen years and no portion thereof is now nor for and during these last fourteen years has been used by any portion of the public, except that from the Rager farm to the Pittsburgh Pike, has been used by the Ragers, by Edwin Gillin and one Yeager, who purchased a small acreage from Edwin Gillin and is entitled by reason of a grant from Mr. Gillin to a right of way over his premises to the public highway. Hence we have concluded that the road over the Gillin farm tho at one time in general use has ceased to be more than a private road leading to the Rager farm which is used also by Edwin Gillin and his grantee; and as such ~~the~~ the Ragers would be liable for damages sufficient to fence same, less the benefit which convenience and necessity prompts and obliges Edwin Gillin to sustain on his own account and on account of his grantee.

Although many cases were cited to sustain the argument that this is a public road we are of opinion that they were not authority for the case at hand and did not govern our determination.

Our schedule of benefits and damages exhibited June 3rd. showing the damages sustained by Edwin Gillin to be one hundred twenty doll-

ars damages less sixty dollars benefits and a balance of Sixty (\$60.00) Dollars, which should be paid to Edwin Gillin by Martin Rager and Ross Rager, in lieu of all damages sustained.

According to the testimony of the witnesses the width of the road, as originally dedicated, and fixed and governed; at least in the open where fences were erected; would be, as near as we can ascertain, about twenty feet in the clear. said fences on either side of said road from the Pittsburgh Pike for the first four hundred feet being about sixteen to eighteen feet apart and for the next thousand feet, or thereabouts from twenty to twenty four feet, averaging about twenty feet. The portion of the road leading through the woodland of Edwin Gillin is not and so far as we can ascertain never has been marked by any monuments on either side and unless it should be to some extent governed by the monuments or fences erected at either side of the road, in the open, cannot be determined.

Witness our hands this seventh day of June, A. D., 1926.

J. D. Pitts
A. M. Shoemaker
Adam Shuman
Viewers.

Cost of View

J. D. Ritter
3 1/2 Days

138 miles (3 trips) @ 5¢

\$ 26 25
6 90
\$ 33 15

CERTIFIED
J. W. Hoffman
COUNTY CONTROLLER

Adam Shuman

3 1/2 Days

APPROVED FOR PAYMENT 66 miles (3 trips)

\$ 26 25
3 30
\$ 29 55

~~Approved for Payment~~
~~Commissioners~~

CERTIFIED
J. W. Hoffman
COUNTY CONTROLLER

A. M. Shoemaker

Preparing, posting & serving notices of view & notice to viewers 2 1/2 hrs @ 18¢ 75

Trolley fare (2 trips) 1.28 + 8 mi @ 5¢ .40 1 68

View 7 50

Hearing 7 50

Preparing & making personal service of notice of hearing and exhibition of schedule 7 50

Exhibition of schedule, hearing & argument of attys 7 50

Examination of authorities going over testimony and deciding award 7 50

Preparing Report 7 50

Having signed assembling & filing report & preparing notices of filing for distribution 3 75

Stenographer 5 00

Stamps 14

\$ 74 32

CERTIFIED
J. W. Hoffman
COUNTY CONTROLLER

Notice of View!

Notice is hereby given that the viewers appointed by the Court of Quarter Sessions of Cambria County, Pa., to view and ascertain the damages, if any, sustained by one Edwin Gillen, of Jackson Twp., Cambria Co., Pa., by reason of the widening of a certain private road - long since in use by Martin Rager, Ross Rager and their predecessors in title - through and over land of said Gillen; also damages for the felling of trees, damages for want of a fence along said private road and for the cost of fencing the said private road; as prayed for by the petitioner:

will meet -- -- -- ON THE PREMISES -- -- -- in the Township of Jackson aforesaid on the 28th. day of May 1926, at 10:00 o'clock A. M., for the purpose of performing the duties of their appointment.

Adam Shuman,

J. D. Ritter,

A. M. Shoemaker,

Viewers.

Ebensburg Pa., 5/18/ '26.

Add now, May, 20 1926, service of the within notice is hereby
accepted for the Commissioners of Cambria County, Pa.

J. S. Kinkead

Notice of View!

Notice is hereby given that the viewers appointed by the Court of Quarter Sessions of Cambria County, Pa., to view and ascertain the damages, if any, sustained by one Edwin Gillin, of Jackson Twp., Cambria Co., Pa., by reason of the widening of a certain private road long since in use by Martin Rager, Ross Rager and their predecessors in title through and over land of said Gillin; also damages for the felling of trees; damages for want of a fence along said private road and for the cost of fencing the said private road; as prayed for by the petitioner:

will meet ON THE PREMISES in the Township of Jackson aforesaid on the 28th day of May 19 26, at 10:00 o'clock A. M., for the purpose of performing the duties of their appointment.

Adam Shuman,

J. D. Ritter and

A. H. Shoemaker,

Viewers.

Hbensburg, Pa. 5/ 18/ 1926.

Now, May 20 1926, service of the within notice is hereby accepted for the petitioner, Edwin Gillin.

Thomas Shrope
Atty. for Edwin Gillin.

26 I have, May 18, 1926, I hereby acknowledge
I received a copy of within Justice,

Morgan H. Evans,
Jdly. for Martin Roger
for Rosa Roger.

Notice of View!

Notice is hereby given that the viewers appointed by the Court of Quarter
Sessions of Cambria County, Pa., to view and ascertain the damages,
if any, sustained by one Edwin Gillin, of Jackson Twp., Cambria Co.,
Pa., by reason of the widening of a certain private road - long
since ~~taxed~~ in use by Martin Rager, Ross Rager and their pre-
decessors in title - through and over land of said Gillin; also
damages for the felling of trees, damages for want of a fence
along said private road and for the cost of fencing the said
private road; as prayed for by the petitioner:

will meet at ON THE PREMISES in the
Township of Jackson aforesaid
on the 28th day May, 1926, at 10:00 o'clock A.
M., for the purpose of performing the duties of their appointment.

Adam Shuman,

J. D. Ritter and

A. M. Shoemaker,

Viewers.

Ebensburg, Pa. 5/18/26.

In re Assessment of Damages to Edwin Gillin of Jackson Twp., Cambria County, Pennsylvania., if any sustained by him, by reason of the widening of a certain private road, the felling of trees, the want of a fence along said road and the cost of constructin a fence along said road.

N O T I C E .

The undersigned Viewers appointed by the Court of Quarter Sessions of Cambria County to determine the damages, if any, as aforesaid will sit June 1st. at 10:00 o'clock A. M. at the Court House in Ebensburg, Pa. to hear such testimony as the parties in interest and their witnesses may have to offer relative to the matter of our inquiry; and will sit again at the same hour and place on June 3rd. to exhibit a schedule of our finding in the aforesaid matter.

Adam Shuman ,

J. D. Ritter ,

A. M. Shoemaker,

Viewers.

And now, May 18, 1926, I hereby acknowledge
that I have received a copy of either Justice,

Morgan St. Evans
att. for Martin Roger
for Ross Roger.

Copy of Schedule Exhibited.

SCHEDULE.

In the matter of the View to assess damages to Edwin Gillen occasioned by the widening of a private road through and over his farm, for the want of a fence along same during the last six years, for the construction of a fence along same and for the damage occasioned by the felling of certain trees along said private road:

The undersigned Viewers appointed by the Court of Quarter Sessions of Cambria County, Pennsylvania, having given due and legal notice to all parties concerned of the view and having carefully viewed the premises, heard and considered the testimony of the parties in interest and their witnesses, so far as concerned and was admissable in the matter of our enquiry, we have prepared the following schedule of damages and benefits.

Total Damages	-	-	-	-	-	-	\$ 120.00.
Benefits	-	-	-	-	-	-	<u>\$60.00.</u>
Balance of damages due Edwin Gillin from Martin							
Rager and Ross Rager	-	-	-	-	-	-	\$ 60.00.

J. D. Ritter, Adam Shuman and A. M. Shoemaker, Viewers.

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA.

In re Private Road of : No. 2 March Term, 1926.
Martin Rager and Ross :
Rager :

PETITION.

To the Honorable Judges of the Court of Quarter Sessions:

You petitioner, Edwin Gillen, respectfully represents:

1. That your petitioner is the owner of a certain piece or parcel of land situate in the Township of Jackson, County of Cambria and State of Pennsylvania.

2. That for many years a private road was in existence along the Westerly boundary line of your petitioner, and that for 25 years last past the said private road has been of an average of about 12 feet, and that your petitioner and his predecessors in title farmed and used the land up to the boundary of said private road, and during which time the said private road was of an average width of about 12 feet for more than 25 years last past.

3. That your petitioner is informed and believes that said private road was obtained by prescription and that there are no proceedings in the Courts of Cambria County, Penna. laying out or establishing the said private road and that for the last 25 years the said private road has been of an average width of about 12 feet, and if said road was ever of a greater width that your petitioner has acquired title up to the point that limits the width of said private road to an average of about 12 feet by adverse possession.

4. that within the last three weeks Martin Rager and Ross Rager entered upon the land of your petitioner and excavated, dug and removed earth from your petitioner's land and cut and fell trees on the land of your petitioner along said private road so as to extend the width of said private road (the same not having been widened

by process of law or by the consent of your petitioner), the said earth being removed at places that your petitioner has tilled and farmed the soil for 21 years and upwards, Thereby damaging the land of your petitioner.

5. That your petitioner finds that it is very necessary that said private road be fenced, so as to prevent stock pasturing in said fields adjoining from escaping. That for the last six years your petitioner has been unable to pasture said land because of the want of a fence along said private road.

WHEREFORE your petitioner prays Your Honorable Court to appoint viewers to assess damages for taking your petitioner's land for a private road, for removing the soil therefrom, for cutting trees on the land of your petitioner, for failure to keep said private road fenced for the past six years and for damages equal to the cost of building a fence along said private road.

And your petitioner will ever pray, etc.

Edwin Gillin,

Petitioner.

And now, May 3rdm 1926, upon motion presented in open court and upon due consideration thereof Adam Shuman, J. D. Ritter and A. M. Shoemaker, Esq., are hereby appointed viewers to view and assess damages occasioned by the widening of the private road aforesaid, the felling of trees and damages occasioned to the land owner for want of a fence along said private road and also the cost of fencing the said private road as prayed for in said petition. And said viewers to make their return to this Court on or before the 1st Monday of June, 1926.

By the Court,

E.

Extract from the Record.

Certified this 4th day
of May A. D. 1926.

Frank B. Robt.