

Not Michaelmas

In the Court of Quarter Sessions,  
Cambria County, Pennsylvania,  
No. 2, June Sessions; 1932.

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In re: Laying Out Public  
Road in Conemaugh Township,  
Cambria County, Pennsylvania

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Nos. 1 and 2 June Sessions 1932  
 Nelson J. Baumgardner  
 S. E. Diekey  
 Dixon Tomb  
 Vancos

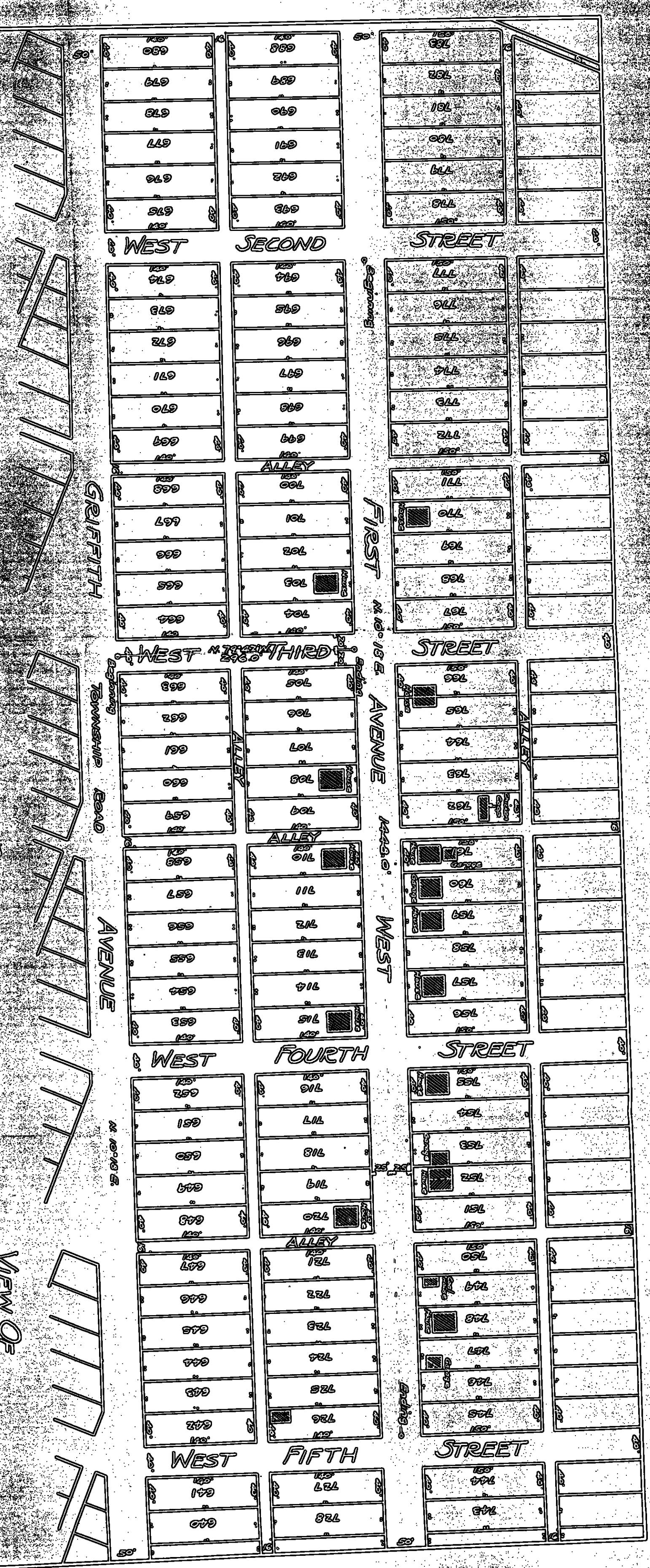
No. 1 June Sessions colored thus  
 No. 2 June Sessions colored thus

CONEMAUGH TWP, CAMBRIA CO., PA.  
 Scale 1"=100' — S.E. Diekey & Co. — Aug. 27, 1932  
 Civil and Mining Engineers  
 Johnstown, Pa.

PROPOSED ROADS  
 situate in

VIEW OF

1-G-249



Ed # 2 June 1932

Not Microfilmed



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

NO. 2 June Sessions 1932

ROAD DOCKET

IN RE: Petition of the residents of Conemaugh Township,  
for laying-out a road and appointment of viewers.

18 July 1932 Petition Filed.

And now, the 18th day of July, A. D. 1932, the within  
petition read and upon due consideration, Mahlon  
Baumgardner, Esq., S. E. Dickey and Dixon Tomb are  
appointed Viewers as prayed for.

By the Court

McKenrick, J.

19 July 1932, Order to view issued.

12 Sept. 1932, Report of viewers filed.

12 Sept. 1932, Approved and width fixed at Forty Feet.

By the Court

McKenrick, J.

19 Sept. 1932, Exceptions to Report of Viewers filed.

30 Dec. 1932, Opinion of the Court filed.

21 Jan. 1933. Certiorari from Superior Court filed.

Extract from the Record.

Certified this 23rd day  
of January, 1933.

  
CLERK OF THE COURT OF QUARTER SESSIONS

IN THE COURT OF QUARTER SESSIONS OF THE COUNTY OF CAMBRIA

PENNSYLVANIA.

In Re: Petition of the inhabitants of  
the Township of Conemaugh, County of  
Cambria and State of Pennsylvania.

No. 2 June Sessions 1932.

To the Honorable, the Judges of said Court:-

The petition of the undersigned inhabitants of the Township  
of Conemaugh, County of Cambria and State of Pennsylvania, respectfully  
represents:-

That they labor under great inconvenience for want of a  
public road to begin at the intersection of the center line of First Avenue West  
and the center line of West Second Street and to end at the intersection of the  
center line of First Avenue West and the center line of West Fifth Street, all of  
which streets are laid out on the Plan of Franklin Extended as laid out by the  
Franklin Land and Improvement Company, same being recorded in the office of the  
Recorder of Deeds of Cambria County, Pennsylvania, in Miscellaneous Book Vol. 10  
page 481. None of the aforesaid streets are opened. The distance between the  
two intersections above set forth is approximately Sixteen hundred (1600) feet.

Your petitioners therefore pray your Honorable Court to  
appoint three (3) persons, qualified according to law, to view the ground proposed  
for such road, and, if they see occasion, lay out the same and make report of  
their proceedings in the next session of court.

Peter Buckner

John Jakoby

John Jakoby

John Porczyk

John Torner

H B Engle

Joseph Mehoras

John Mihovics

John Klajder

John Medle

Anton Gurnek

John Stezelan

Frank Pistow

Frank Martinic

Joseph Lujan

State of Pennsylvania,

County of Cambria

ss.

On this 16<sup>th</sup> day of July, A. D. 1932, before me,

A Notary Public in and for said county and state, personally appeared

Pete Bukovec, one of the petitioners above named, who

having been duly sworn according to law, says that the statements made in the foregoing petition are true and correct to the best of his knowledge and belief.

Peter Bukovec

One of Petitioners.

Sworn to and subscribed before me  
this 16 day of July A. D. 1932.

Mrs. Rose Batdorf  
Notary Public.

MY COMMISSION EXPIRES END  
OF NEXT SESSION OF SENATE

TO THE SUPERVISORS OF THE TOWNSHIP OF  
CONEMAUGH, COUNTY OF CAMBRIA AND  
STATE OF PENNSYLVANIA.

CONTINUED:-

Please take notice and you are hereby notified  
that the undersigned will present a certain petition, a copy of which has been  
acknowledged to have been received by you, applying for the appointment of  
Viewers to open a certain road, more fully set forth in the said petition,  
to the Court of Quarter Sessions of the County of Cambria and State of  
Pennsylvania, at 10:00 A. M. Monday, the 16th., day of July, A. D. 1932.

Greer, Fox and Hahn, Attorneys for Petitioners

By Hubert Hahn

July 16 A. D. 1932.

A Written notice, of which the above is a true  
and exact copy, was served on the 15th and the 16th day of July, A. D.  
1932, on Otto Senft, George Kohler and William Berkebile, Supervisors of the  
Township of Conemaugh, County of Cambria and State of Pennsylvania.

ATTEST

Charles A. Kuen

DECREE

AND NOW, the 18<sup>th</sup> day of July, A. D. 1932, the  
within petition read and upon due consideration, Walter Dunnington Esq  
J. E. Hickey and Dixon Toub  
are appointed Viewers as prayed for.

*By the Court*

BY THE COURT

McKennis  
g



In the Court of Quarter Sessions  
of Cambria County, Pennsylvania

In Re: Petition of the residents  
of Conemaugh Township, County of  
Cambria and State of Pennsylvania,  
for laying out road and have  
Viewers appointed.

P E T I T I O N

We hereby acknowledge to have  
received a true and correct  
copy of the within petition:

Edto Script

Filed July 18, 1932

GREER, FOX & HAHN  
LAW OFFICES  
JOHNSTOWN, PENNA.

506-507 U. S. NATIONAL BANK BUILDING

IN RE LAYING OUT PUBLIC  
ROAD IN CONEMAUGH TOWNSHIP,  
CAMBRIA COUNTY, PENNSYLVANIA.

IN THE COURT OF QUARTER SESSIONS,  
CAMBRIA COUNTY, PENNSYLVANIA.  
NO. 2, JUNE SESSIONS, 1932.

REPORT OF VIEWERS.

We, the undersigned Viewers, appointed by the annexed order of Court to view the premises herein described for the purpose of determining as to the necessity of a public road in the Township of Conemaugh, Cambria County, Pennsylvania, leading from the intersection of the center line of First Avenue West, and the center line of West Second Street and to end at the intersection of the center line of of First Avenue West, and the center line of West Fifth Street, all of which streets are laid out in the Plan of Franklin Extended, as laid out by the Franklin Land and Improvement Company, and recorded in the office for the Recording of Deeds in and for Cambria County, in Miscellaneous Book Vol. 10, Page 481; the aforesaid streets being unopened and the distance between the two intersections above set forth being approximately sixteen hundred (1600) feet, respectfully represent:-

That we were duly sworn or affirmed as members of the Permanent Board of Viewers of Cambria County, as shown by the records of said Court; that we gave due public notice of the time and place of meeting of said Viewers by hand bills posted on the premises and by notice served upon the Commissioners of Cambria County, Weimer and Bennett, Esqs., counsel for the Supervisors of Conemaugh Township, and Greer, Fox & Hahn, Esqs., counsel for the petitioners, all of which accepted service at least ten (10) days prior to the making of said view, evidence of which is shown by copies of said notices hereto attached and made a part of this report.

That we met upon the premises according to the notice given, on Friday, August 26, 1932, at ten thirty o'clock A. M., Eastern Daylight Savings Time, and proceeded with the duties of our appointment.

That we viewed the site and locality of the road proposed to be laid out, making a personal inspection of the road between the points designated in the petition and order. There were present at the view a large number of citizens interested in the laying out of the said road, together with the three Supervisors of the Township of Conemaugh, and D. P. Weimer, Esq., — their counsel, and Charles A. Greer, Esq. and Herbert Hahn, Esq., of the law firm of Greer, Fox & Hahn, counsel for the petitioners. All of the abutting property owners own their homes and many of them have been tax payers in the Township for many years.

We are of the opinion and agree that a public road between the points mentioned is necessary, and we, therefore, authorize the laying out of a public road, according to the accompanying draft, viz: Beginning at a point at the intersection of West Second Street and First Avenue West, and intersecting on the center line of said First Avenue West and West Fifth Street, said First Avenue West running North 10° 18' East 1443 feet from its intersection at West Second Street, and ending at the intersection of First Avenue West and West Fifth Street, all in the Township of Conemaugh, as shown on Plan of Franklin Extended, and laid out by the Franklin Land and Improvement Company, and recorded in Cambria County, as aforesaid, in Misc. Book Vol. 10, Page 481.

We are attaching hereto and making a part of this report, a Release of Damages signed by property owners abutting on said street, and as for those who have not released, we assess no damages for the reason that the benefits of said road when laid out and improved are far in excess to any damages that may accrue to such property owners.

We, therefore, authorize the laying out of the hereinabove described road for public use.

WITNESS our hands and seals this eighth day of September, A. D. 1932.

Mahlon J. Baumgardner  
S. E. Dickey  
Dixon Tomb

CAMBRIA COUNTY, SS:

Personally appeared before me, the undersigned authority, a Notary Public in and for said State and County, MAHLON J. BAUMGARDNER, S. E. DICKEY and DIXON TOMB, who having first been duly sworn according to law, do depose and say that they are members of the Permanent Board of Viewers of Cambria County; and further that their respective accounts attached hereto are true and correct.

Mahlon J. Baumgardner  
S. E. Dickey  
Dixon Tomb

Sworn to and subscribed  
Before me this 8th day  
of September, A. D. 1932.

Alvin A. Sanders

NOTARY PUBLIC  
MY COMMISSION EXPIRES MARCH 9, 1936

IN RE LAYING OUT PUBLIC  
ROAD IN CONEMAUGH TOWNSHIP,  
CAMBRIA COUNTY, PENNSYLVANIA.

IN THE COURT OF QUARTER SESSIONS,  
CAMBRIA COUNTY, PENNSYLVANIA.  
NO. 2, JUNE SESSIONS, 1932.

TO MAHLON J. BAUMGARDNER, S. E. DICKEY  
and DIXON TOMB, DRS.

To Mahlon J. Baumgardner, Dr.

Data and preparing Notices to View	\$ 12.00	
Stenographer and stationery	3.00	
Posting notices to view, and obtaining acceptance of service on all parties	12.00	
Mileage	1.00	
Making view and taking testimony	12.00	
Mileage	1.00	
Data and preparing Report of Viewers	12.00	✓
Stenographer and stationery	<u>2.50</u>	\$ 55.50

To S. E. Dickey, Dr.

See statement attached - - - - - ✓ \$ 27.30

To Dixon Tomb, Dr.

Making view and taking testimony \$ 12.00 ✓  
Mileage 1.00 \$ 13.00

To Alice A. Paessler, Notary

To taking affidavit of Viewers - - - - - ✓ \$ 1.00

APPROVED FOR PAYMENT

L M Geller

John Thomas

COMMISSIONERS

JOHNSTOWN, PA., Aug. 29 1932

Cambria County, #1 & #2 June Session 1932

TO S. E. DICKEY & CO. DR.  
CIVIL MINING AND CONSULTING ENGINEERS  
809-811 JOHNSTOWN TRUST BLDG.  
JOHNSTOWN, PENNA.

2261

NATURE OF WORK

TERMS NET CASH

STATEMENTS RENDERED MONTHLY

To <u>S. E. DICKEY</u> Dr.		
Making view and taking testimony,	\$ 12	00
Mileage	1	00
Making draft	12	00
Tracing cloth		30
Blue prints	2	00
	\$ 27	30

10 230  
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 18 day of July A. D. 1952, before the Honorable Judge of the said Court: Upon the petition of divers inhabitants of the Township of Conemaugh, in the said County, setting forth that they labor under inconvenience for want of a Public Road ~~road~~ or highway, to lead from

the intersection of the center line of First Avenue West and the center line of West Second Street and to end at the intersection of the center line of First Avenue West and the center line of West Fifth Street, all

of which streets are laid out on the plan of Franklin Extended as laid out by the Franklin Land and Improvement, Same being recorded in the office of the Recorder of Deeds of Cambria County, Pa., in Misc. Book Vol. 10 page 481. None of the aforesaid streets are opened. The distance between the two intersections above set forth is approximately Sixteen (1600) feet.

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

Mahlon Baumgardner Esq.

surveyor, and

S. E. Dickey and Dixon Tomb

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.  
McKenrick, Judge

Attest:

John J. [Signature], Clerk.

NOTE. "It shall be the duty of all persons appointed in the several counties of this Commonwealth to 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 2 June SESSIONS, 1922

Order to view and layout road

in Conemaugh Township.

Viewers

Mahlon Baumgardner

S. E. Dickey

Dixon Tomb

Clerk J. M. Jones

3636

In re: Laying out Public  
Road in Conemaugh Township,  
Cambria County, Pennsylvania.

In the Court of Quarter Sessions,  
Cambria County, Pennsylvania.  
No. 2, June Sessions, 1932

NOTICE TO VIEW.

We, the undersigned Viewers, appointed by the above order of Court to view the premises described herein, and to determine as to the necessity for a public road, as prayed for by the Petitioners, leading from the intersection of the center line of First Avenue West and the center line of West Second Street, and to end at the intersection of the center line of First Avenue West and the center line of West Fifth Street, all of which streets are laid out on the Plan of Franklin Extended, as laid out by the Franklin Land and Improvement Company, and recorded in the office for the Recording of Deeds in and for Cambria County, in Misc. Book Vol. 10, Page 481, (the aforesaid streets being unopened, and the distance between the two intersections above set forth being approximately 1600 feet) will meet at the place of beginning of said proposed road on Friday, August 26, 1932, at ten thirty o'clock A. M., Eastern Daylight Savings Time, for the purpose of performing the duties of our appointment and the taking of testimony, at which time and place all interested persons may appear.

MAHLON J. BAUMGARDNER,  
S. E. DICKEY,  
DIXON TOMB.

Viewers.

Dated August 1, 1932.

AND NOW, this <sup>15th</sup> ~~first~~ day of August, 1932, I hereby accept service of the above Notice to View as Counsel for the Commissioners of Cambria County, and acknowledge to have received a copy of same.

H. J. Dm Clerk  
Counsel for the Commissioners of  
Cambria County.



In re: Laying out Public  
Road in Conemaugh Township,  
Cambria County, Pennsylvania.

In the Court of Quarter Sessions,  
Cambria County, Pennsylvania.  
No. 2, June Sessions, 1932.

NOTICE TO VIEW.

We, the undersigned Viewers, appointed by the above order of Court to view the premises described herein, and to determine as to the necessity for a public road, as prayed for by the Petitioners, leading from the intersection of the center line of First Avenue West and the center line of West Second Street, and to end at the intersection of the center line of First Avenue West and the center line of West Fifth Street, all of which streets are laid out on the Plan of Franklin Extended, as laid out by the Franklin Land and Improvement Company, and recorded in the office for the Recording of Deeds in and for Cambria County, in Misc. Book Vol. 10, Page 481, (the aforesaid streets being unopened, and the distance between the two intersections above set forth being approximately 1600 feet) will meet at the place of beginning of said proposed road on Friday, August 26, 1932, at ten thirty o'clock 26  
A. M., Eastern Daylight Savings Time, for the purpose of performing the duties of our appointment and the taking of testimony, at which time and place all interested persons may appear.

MAHLON J. BAUMGARDNER,  
S. E. DICKEY,  
DIXON TOMB.

Viewers.

Dated August 1, 1932.

AND NOW, this <sup>17</sup>~~first~~ day of August, 1932, I hereby accept service of the above Notice to View as Counsel for the Supervisors of Conemaugh Township, and acknowledge to have received a copy of same.

Wm. V. Bennett  
Counsel for Supervisors of Conemaugh  
Township.

In re: Laying out Public  
Road in Conemaugh Township,  
Cambria County, Pennsylvania.

In the Court of Quarter Sessions,  
Cambria County, Pennsylvania.  
No. 2, June Sessions, 1932.

NOTICE TO VIEW.

We, the undersigned Viewers, appointed by the above order of Court to view the premises described herein, and to determine as to the necessity for a public road, as prayed for by the Petitioners, leading from the intersection of the center line of First Avenue West and the center line of West Second Street, and to end at the intersection of the center line of First Avenue West and the center line of West Fifth Street, all of which streets are laid out on the Plan of Franklin Extended, as laid out by the Franklin Land and Improvement Company, and recorded in the office for the Recording of Deeds in and for Cambria County, in Misc. Book Vol. 10, Page 481, (the aforesaid streets being unopened, and the distance between the two intersections above set forth being approximately 1600 feet) will meet at the place of beginning of said proposed road on Friday, August 26, 1932, at ten thirty o'clock A. M., Eastern Daylight Savings Time, for the purpose of performing the duties of our appointment and the taking of testimony, at which time and place all interested persons may appear.

MAHLON J. BAUMGARDNER,  
S. E. DICKEY,  
DIXON TOMB.

Viewers.

Dated August 1, 1932.

AND NOW, this <sup>17th</sup> first day of August, 1932, I hereby accept service of the above Notice to View as Counsel for the Petitioners, and acknowledge to have received a copy of same.

*Greer Fox & Hahn*  
Counsel for Petitioners.

In re: Laying out Public  
Road in Conemaugh Township,  
Cambria County, Pennsylvania.

In the Court of Quarter Sessions,  
Cambria County, Pennsylvania.  
No. 2, June Sessions, 1932.

NOTICE TO VIEW.

We, the undersigned Viewers, appointed by the above order of Court to view the premises described herein, and to determine as to the necessity for a public road, as prayed for by the Petitioners, leading from the intersection of the center line of First Avenue East and the center line of West Second Street, and to end at the intersection of the center line of First Avenue West and the center line of West Fifth Street, all of which streets are laid out on the Plan of Franklin Extended, as laid out by the Franklin Land and Improvement Company, and recorded in the office for the Recording of Deeds in and for Cambria County, in Misc. Book Vol. 10, Page 481, (the aforesaid streets being unopened, and the distance between the two intersections above set forth being approximately 1600 feet) will meet at the place of beginning of said proposed road on Friday, August 26, 1932, at ten thirty o'clock A. M., Eastern Daylight Saving Time, for the purpose of performing the duties of our appointment and the taking of testimony, at which time and place all interested persons may appear.

HAMILTON J. BAUMGARDNER,  
B. E. DICKEY,  
DIXON TOMB.  
Viewers.

Dated August 1, 1932.

KNOW ALL MEN BY THESE PRESENTS: That We, the undersigned, in consideration of the advantages to us from the road mentioned in the annexed order and report, do hereby release the Township of Conemaugh from all damages that may accrue to us, or either of us for or on account of, or by reason of the locating, opening and using of the said road or that might accrue from the said road for any reason whatsoever.

WITNESS our hands and seals this \_\_\_\_\_ day of August, A. D.

1932.

Witnesses Present:

John Jakoby Peter Bukovec (SEAL).

John Jakoby Mary Bukovec (SEAL).

Peter Bukovec John Jakoby (SEAL).

Peter Bukovec Josephine Jakoby (SEAL).

John Jakoby John Dezolan (SEAL).

John Jakoby John Dennis & Isellan (SEAL).

Peter Bukovec Anna Medle (SEAL).

Peter Bukovec John Medle (SEAL).

John Jakoby John Klapder (SEAL).

John Jakoby Mary Klapder (SEAL).

Peter Bukovec Melhora Jane (SEAL).

Peter Bukovec Melhora Nora (SEAL).

John Jakoby Joseph Luzar (SEAL).

(SEAL).

Peter Bukover John Ponchuk (SEAL)

Peter Bukover Anna Ponchuk (SEAL)

John T. Gernick Condon (SEAL)

John T. Gernick Mary (SEAL)

\_\_\_\_ (SEAL)

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IN THE COURT OF QUARTER SESSIONS,  
CALBRIA COUNTY, PENNSYLVANIA.  
NO. 2, JUNE SESSIONS, 1932.

IN RE LAYING OUT PUBLIC ROAD  
IN CONEMAUGH TOWNSHIP, CALBRIA  
COUNTY, PENNSYLVANIA.

REPORT OF VIEWERS.

CERTIFIED  
*[Signature]*  
COUNTY CONTROLLER

*Filed Sept 12, 1932*

MAHLON J. BAUMGARDNER  
ATTORNEY AT LAW  
JOHNSTOWN, PENNA.  
SWANK BLDG.

*Approved by the Court - 10/11/32*

*12 Sept. 1932  
Approved and initial filed at forty feet  
By the Court  
Mentore i*

IN THE COURT OF QUARTER SESSIONS OF THE COUNTY OF CAMBRIA

IN RE: PETITION OF THE INHABI- :  
TANTS OF THE TOWNSHIP OF CONEMAUGH, :  
COUNTY OF CAMBRIA AND STATE OF : No. 2 September Sessions, 1932.  
PENNSYLVANIA :

NOW, the 16th day of September, 1932, comes Township of Conemaugh,  
by WEIMER & BENNETT, Esqs., its attorneys, and files the following exceptions  
to the Report of the Viewers:

FIRST - The petition does not state a definite point of  
beginning by giving exact distance from intersecting road,  
street or railroad already opened, as provided by Act of  
April 23, 1909, P. L. 142.

SECOND - The petition does not state a definite point of  
ending by giving the exact distance from intersecting road,  
street or railroad already opened, as provided by Act of  
April 23, 1909, P. L. 142.

Weimer & Bennett  
Attorneys for Township of  
Conemaugh -

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

IN RE: PETITION OF THE INHABI-  
TANTS OF THE TOWNSHIP OF  
CONEMAUGH, COUNTY OF CAMBRIA  
AND STATE OF PENNSYLVANIA

EXCEPTIONS TO REPORT  
of  
VIEWERS

*Filed: Sept. 19, 1932*

WEIMER & BENNETT  
~~RECEIVED~~  
ATTORNEY AT LAW.  
JOHNSTOWN, PA.

I hereby accept service of a copy of the within Exceptions.

Sept. 17th, 1932.

*so we do not and have  
by Hebert H. Haden  
Attorneys for Petitioners*



IN RE PETITION OF THE IN-  
HABITANTS OF CONEMAUGH TOWNSHIP  
FOR PUBLIC ROAD

IN THE COURT OF QUARTER SESSIONS OF  
CAMBRIA COUNTY, PENNSYLVANIA  
No. 2 June Sessions, 1932.

\*\*\*OPINION OF THE COURT\*\*\*

Heard before McKenrick, J. and Greer, J.

GREER, J.:

Certain inhabitants of the Township of Conemaugh presented their petition for viewers for a public road beginning at the intersection of the center line of First Avenue West and the center line of West Second Street, and ending at the intersection of the center line of First Avenue West and the center line of West Fifty Street, all of which streets are laid out on the plan of Franklin Extended as the same is recorded in the office of the Recorder of Deeds of Cambria County, Pennsylvania, in Miscellaneous Record Book Vol. 10 page 481, and further averring that none of the aforesaid streets are open and giving the distance between the two intersections above set forth.

Exceptions were filed to the report of Viewers by the Township of Conemaugh to the view, setting up that the petition did not state a definite point of beginning by giving exact distances from intersecting road, street or railroad already opened, and (2) does not state a definite point of ending by giving the exact distance from an intersecting road, street, or railroad already opened, as provided by the Act of April 23, 1909, P. L. 142.

The report of Viewers shows the proposed road to have neither a beginning nor an ending on a public highway, but to have been part of a dedicated street on the aforesaid plan. The law does not contemplate impossible and unnecessary things, and as the purpose of the Act in question was to assist the Department of Highways in locating all public roads in the Commonwealth, and as the petition referred to the plan of all the highways in the village of Franklin Extended, and reference to that plan would give the exact location of the proposed public highway, we are of the opinion that further identification is unnecessary.

Wherefore inasmuch as the proposed road does not intersect the highway at either terminus, the provisions of the Act of 1909 do not apply, and the exceptions therefore are dismissed, this 30th day of December, A. D. 1932.

BY THE COURT,

Charles C. Greer

J.

EXCEPTION

To all of which counsel for exceptants excepts and prays that an exception be noted and bill sealed, all of which is, the day and year aforesaid, accordingly done.

CHARLES C. GREER, J. (SEAL)

IN THE COURT OF QUARTER SESSIONS  
OF CALBERIA COUNTY, PENN'A  
No. 2 June Sessions, 1952.

IN RE PETITION OF THE IN-  
HABITANTS OF CONEMAUGH TOWN-  
SHIP FOR PUBLIC ROAD.

\*\*\*OPINION OF THE COURT\*\*\*

*Filed: Dec. 30, 1932*

*The Superior Court of Pennsylvania,* }  
SITTING AT PITTSBURGH } ss:

*The Commonwealth of Pennsylvania,*

TO THE JUDGES of the Court of Quarter Sessions

for the County of Washington

GREETING: We being willing for certain causes to be certified of the matter of the Appeal of

Conemaugh Township

from the order and decree of your said Court at No. 2 of June Term A. D. 19 32

In Re Petition of the Inhabitants of Conemaugh Township for Public Road.

before you, or some of you, depending, DO COMMAND YOU, that the record and proceedings aforesaid with all things touching the same, before the Justices of our Superior Court of Pennsylvania, at a Superior Court to be holden at Pittsburgh, on the third Monday of April, 19 33, so full and entire as in your Court before you they remain, you certify and send, together with this Writ, that we may further cause to be done thereupon that which of right and according to the laws of the said State ought.

~~Witness~~ the Honorable FRANK M. TREXLER, Doctor of Laws, President Judge of our said Superior Court, at Pittsburgh, the 19th day of January in the year of our Lord one thousand nine hundred and thirty. three.

*Prothonotary*  
Prothonotary

To the Honorable the Judges of the Superior Court of Pennsylvania, sitting at Pittsburgh.

The record and process; and all things touching the same, so full and entire as before us they remain, we certify and send, as within we are commanded.

*John H. M. Gandy* (L. S.)  
(L. S.)

No. 245 of April Term, 19 33

**Superior Court**

In Re

Petition of the Inhabitants of Conemaugh Township for Public Road.

Appeal of  
Conemaugh Township.

*CERTIORARI to the*

Court of Quarter Sessions

For the County of Cambria

Returnable the third Monday

of April, A. D. 19 33.

*Filed 21 January 1933*

**FILED**

APR -3 1933

**SUPERIOR COURT**

Weimer & Bennett

Attorneys for Appellant

THE SUPERIOR COURT OF PENNSYLVANIA } ss:  
COUNTY OF ALLEGHENY

## The Commonwealth of Pennsylvania

TO THE JUDGES of the Court of Quarter Sess. for the County of Cambria Greeting:

Whereas, By virtue of our Writ of Certiorari at No. 245 of April Term, 1933 of our Court a record in the matter of the appeal of Conemaugh Township

from the order and decree of your said Court at No. 2 June Sessions Term, 1932 was brought into our Superior Court and the said cause was there so proceeded in that on the 14th day of July A. D. 19 33 the following decision was rendered, viz:

The order of the court confirming the road is reversed, and the proceedings set aside. Appellee to pay the costs.

TREXLER, P.J.

Wherefore, We hereby remit you the record aforesaid with the proceedings thereon, and all things touching the same so far as in this Court they remain, for the purpose of execution as to justice shall appertain, in accordance with the decision of our said Superior Court as aforesaid.

Witness the Honorable FRANK M. TREXLER, Doctor of Laws, President Judge of our said Superior Court at Pittsburgh, then 25th day of July in the year of our Lord one thousand nine hundred and thirty. three.

*Reid Dammann*  
Prothonotary.

No. 2 June

Term, 19 32

No. 245

April Term, 19 33

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## Superior Court

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In Re

Petition of the  
Inhabitants of  
Conemaugh Township for  
Public Road.

Appeal of

Conemaugh Township.

### REMITTITUR

*Filed: July 26, 1933.*

In the Court of Common Pleas of Cambria  
County, Pennsylvania.

IN RE: PETITION OF THE IN-  
HABITANTS OF CONEMAUGH TOWN-  
SHIP FOR PUBLIC ROAD

No. 2 JUNE SESSIONS Term, 192 32

BILL OF COSTS

Names of Witnesses	P. O. Address	Date of Attendance	No. of Days	Place From Which Mileage Is Claimed	No. of Miles	Amount of Costs of Each Witness
S. E. Dickey & Co.	Johnstown, Pa.	BLUE PRINTS	1			\$ 4 50
Murrelle Printing	Sayre, Pa.	PRINTING PAPER BOOKS				38 58
Pier Dannals, Esq.	Pittsburgh, Pa.	COSTS ON APPEAL TO SUPERIOR COURT				12 00
						\$55 08

Commonwealth of Pennsylvania, }  
County of Cambria, } SS:

D. P. WEIMER

being duly sworn according to law de-  
poses and says, that the above bill of costs as stated is correct; that the witnesses named were necessary  
and actually present in court on the days stated, and in affiant's opinion were material witnesses; that  
their attendance at the times above set forth was necessary; and that they are persons entitled to wit-  
ness fees as charged.

SWORN and subscribed before me this  
28th day of July 192 33

Notary Public  
My Comm. Ex. M. 7-1935

D. P. Weimer



No. 2 JUNE SESSIONS Term, 1932

IN RE: PETITION OF THE INHABITANTS  
OF CONEMAUGH TOWNSHIP FOR PUBLIC  
ROAD - - -

KS--

# BILL OF COSTS

COSTS ON PETITION TO SUPERSEDE COURT

WRITING PRICES BOOKS

SIXTY EIGHT

*Filed July 31-1933*

\$22 08

15 00

28 28

4 20

No. 328

IN THE SUPERIOR COURT OF PENNSYLVANIA

In Re: Petition of the Inhabitants : No. 245 April Term, 1933  
of Conemaugh Township for : Appeal from the Order and  
Public Road : Decree of the Court of  
: Quarter Sessions of Cambria  
: County

Opinion by Trexler, P. J.

The Act of April 23, 1909, P. L. 142, Sec. 1 provides that, "Hereafter all petitions for the laying out or for the vacation of a public road, in any County of the Commonwealth, shall fix definitely the point of beginning and the point of ending, mentioned in said petition by giving the exact distance from an intersecting public road, street, or railroad, already opened." In the present case the petition, for<sup>a</sup> public road in Conemaugh Township, described the location as beginning "At the intersection of the center line of ~~See~~ First Avenue West and the center line of West Second Street and to end at the intersection of the center line of First Avenue West and the center line of West Fifth Street, all of which streets are laid out on the Plan of Franklin.\*\*\*\*\*None of the aforesaid streets are opened. The distance between the two intersections above set forth is approximately Sixteen hundred (1600) feet." The petition was followed by an order to view and then by a report of the viewers. In the report the road was designated in substantially the same language as in the petition, and a map, which was presumably attached to the report, shows the location of the road, as beginning at Second Street extending and opening to Fifth Street, unopened. No-  
<sup>There</sup> where in the report is any attempt to comply with the above act of assembly by definitely fixing the point of beginning and the point of

ending mentioned in said petition "by giving the exact distance from an intersecting public road, street, or railroad, already opened."

In Kennedy Township Road, 50 Pa. Sup. Ct. 619, this court held, referring to the Act of 1909, supra, that the evident purpose of the act was to require greater certainty than theretofore in designating the termini of a road so that the relation of the road to other roads should more clearly and definitely appear. The provisions of the Act are undoubtedly mandatory, and the omission to comply with it, where compliance is possible, is fatal. The words relate to a public road, street, or railway, which intersects the public road upon which the terminal point of the road to be laid out is situated. Portage Township Road, 50 Pa. Sup. Ct. 627. The petition in this case is fatally defective. The court held that since the report "shows the proposed road as having neither beginning nor ending on a public highway, but being part of a <sup>dedicated</sup> ~~designated~~ street" on a plan of lots, the law does not contemplate impossible and unnecessary things, and that the Department of Highways for whose benefit the Act was passed in order to enable it to have a complete record of all the roads in the Commonwealth, could by reference to the plan definitely locate the road. The Act evidently was intended to give the information to the highway department as to the location of the proposed road in the manner indicated, i.e. with reference to other roads already opened. It is not required that the department go into an extended inquiry in order to fit the road into the general scheme of the highways of the state. If this proposed road is extended in either direction it must of necessity, somewhere or other, be intersected by a highway that is already opened, and it should be an easy matter to ascertain the distance from such highway and insert that data into the petition.

We see no reason why the plain mandate of the Act should be ignored.

Furthermore, if we correctly understand the remarks of the lower court, and the report of the viewers, the road in question has no connection at either end with any road or street. If this be so, it has no termini in the legal sense of the word. The Act of June 20, 1919, P. L. 509, Sec. 1, only requires one, but that one must be on a public highway or place of public resort. The report, we have already quoted, shows that all the contiguous streets are laid out on a plan, but distinctly states "the aforesaid streets being unopened." We can find no authority in law for the opening of a road entirely detached from all other roads and leading nowhere. Schuylkill River Road, 19 Pa. Sup. Ct. 376; Miller Road Case, 9 S. & R. 35; West Pike-land Road, 63 Pa. 471. The actual situation may be different, but our only guide is the record as presented, and as we read it we have the anomalous position of a road being entirely a thing apart, having no connection with any other road, or place of resort, or to repeat the language of the lower court "having neither beginning nor ending on a public highway."

Under either of the above views of the case the road cannot be approved.

The order of the court confirming the road is reversed, and the proceedings set aside. Appellee to pay the costs.

Commonwealth of Pennsylvania }  
County of Allegheny } Sct:

I, PIER DANNALS, Prothonotary  
of the Superior Court of Pennsylvania, sitting at Pittsburgh, the said Court being a  
Court of Record, do hereby certify that the foregoing is a true and correct copy of the  
whole and entire ..... opinion ..... in the case of

In Re Petition of the inhabi- ~~XX~~ Appeal of Conemaugh Township.  
tants of Conemaugh Township for  
Public Road.  
at No. 245 April Term, 1933 as full, entire and complete as the same remains

on file in the said Superior Court, in the case there stated; and I do hereby further  
certify that the foregoing has been compared by me with the original record in said  
cause in my keeping and custody as the Prothonotary of said Court, that the forego-  
ing is a correct transcript from said record and of the whole of the original thereof.

In Testimony Whereof, I have hereunto set  
my hand and affixed the seal of said Court, at  
Pittsburgh, this ..... 25th ..... day of ..... July .....  
in the year of our Lord One Thousand Nine Hundred  
and Thirty- three.

Pier Dannels  
Prothonotary.

In re Petition of Inhabitants  
of Conemaugh Township etc.

Appeal of  
Conemaugh Township.

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## EXEMPLIFICATION

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*Filed: July 26, 1933.*