“THE IMPORTANCE OF ADEQUATE RIGHT OF WAY FOR RURAL ROAD IMPROVEMENT”

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We all realize the importance of “adequate right of ways”, so let us go back to the settling of this country and see if the words adequate and right of way worked side by side along with the progress of road building, and why it is so necessary to stress the word adequate. By the best information available we learn that the word was not right of ways but pass way. The word was probably coined when man was first required to live off the main traveled road and depend on his neighbor to let him cross a certain portion of his land to reach the main traveled road. This was a very satisfactory arrangement until a misunderstanding between the two parties caused the closing of this pass way which led to a law suit out of which came one of our oldest laws. This being that every person shall have egress and ingress to his property and if this pass way has been open and in peaceful use for a certain number of years, depending on the state you live in, it would henceforth remain open as a pass way to this property. Now bear in mind, this was a very narrow strip of land, but nevertheless, it was adequate in that it was enough to meet his need as a road. As time went on and the country became more densely populated, this same pass way was extended until it came out on another main traveled road. About this time, or shortly thereafter, County Road Departments were created, and, every citizen wanted the road passing his property put on the county road system and among these citizens were the ones living on the same pass way we have been talking about. The county agreed to accept this pass way but only after the property owners fronting on this pass way agreed to give whatever additional land the county deemed necessary for adequate width. At this time the word Public was prefixed to the words pass way making it known as public pass ways. Now the additional land requested by the county court was letting the word adequate still keep pace with the progress of road building, however, in the early days of the automobile some of the more prosperous counties again procured additional width and built up a more modern road system for that day, but as a whole, the road systems were very common, but this was due to lack of money and methods and systems of working the roads rather than inadequate widths.
Shortly after the beginning of the twentieth century the state created the Highway Department, and this was the beginning of surveys and planning. It was found that the existing public pass way was not adequate, and also, to maintain the newly planned roads it was going to be necessary to have more rigid control over the public pass way than the law granted. So another member of the easement family had to be used, namely right of ways which is a quit claim deed.

Even though every bit as much planning was done in the early days of the Highway Department as is done today, it was at this time that the word adequate began to be left behind, this was partly because of our fault, but mostly because no one could conceive that the automobile industry would grow into what it is today. However, in the early days of the department we did get a bit overzealous in getting certain roads under construction, in doing this we made two grave errors that have proven very costly; namely wherever procuring right of way became difficult and costly we are prone to make exceptions even to narrowing down the right of way below what we considered adequate in order to get the signature on the deed, and today, this error is causing car accidents and deaths; also, today the price of right of way necessary to overcome this condition is so far out of reason that it is almost impossible to purchase it to correct the existing condition. Secondly, and this I do believe, that right of way agents of every state in the early days failed to be honest in telling the people just what they could expect the contractor to do under construction and what to expect the front of their property to look like when the road is completed. Many cases have been related, some actually proven, where the agent actually and knowingly misrepresented the facts pertaining to the depth of fill, cut, or drainage condition that would exist on completion of the road. We are now being faced with the results of some of these misrepresentations. Some of these cases are causing very unpleasant relations with property owners when trying to secure right of way deeds. Now if you folks don't believe this, how about spending the day with me when I am trying to secure right of way in a section where these stories have been told? You could hear some of the most fantastic experiences related by some of the land owners that have been misled by some of their agents who were only interested in securing a right of way and who did not care about results and a future relationship with those people.

It is my opinion that if we intend to purchase adequate right of way at nominal cost, or have it donated, we are going to have to employ efficient right of way agents, and I will say here, that a good right of
way agent is the best public relations man a highway department can employ. If I had to set the qualifications for a good right of way agent, he would first, be an engineer so that he can read plans and interpret them so that the property owner can understand them; second, he must know real estate values; third, he must have a pleasing personality and an appreciation for other peoples thoughts and feelings; fifth, he should be a student of agriculture so that he can talk the language of the farmer and appreciate the farmers viewpoint.

The problems of securing this adequate right of way are many and will explain why a right of way agent must be so efficient. One of the first things that comes to my mind is a small thing to the engineer. That is reference stakes. We know they are important and necessary and have to be set so they tie a vital point to something permanent; and this, quite often requires stakes to be driven close to building that are considerable distance outside of the proposed right of way and are never explained to the property owner by the members of the survey party. Rumors are spread among the neighbors and by the time the right of way agent comes to this section the story goes, that the road reaches every place that there has been a stake driven. However, the reference stakes which are near buildings or up in the yard are the ones that concern the property owner. If the agent can explain that these stakes in no way concern the right of way he is trying to secure, he will experience no difficulty in getting the deed signed, but otherwise, you have a person you will have to condemn. Another person that is hard to get to sign, and yet it is hard to believe such an objection would ever be given, that is, the desire not to have a state maintained highway in front of their home, even knowing that it will increase the value of their property.

In some cases the construction of a road, in the property owners opinion, has unnecessarily destroyed things close to the right of way line. For example, this has been brought to mind; that occasionally contractors do cut trees that are not actually on the right of way line but, on an investigation it was found that had the tree been left standing the roots would have been so mutilated that it would have died. Now if the agent had not investigated this complaint he would not have been able to give the property owner the satisfactory explanation to his objection for not wanting to sign the deed.

Another way to secure right of way on any given road is to, in a diplomatic way, explain to the property owners that there are many sections of the county that are willing and waiting to have an opportunity to donate a right of way for this particular type road. This
is especially a good approach in the counties that are less fortunate in having adequate funds to secure right of way.

I do not believe that we can stress the importance of adequate right of ways too much. In securing this adequate width we have always considered only the present day. With our knowledge of the automobile industry of today, and what can be expected of it in the future, we must consider on each road, the possibilities of improved safety features, widening of surface and shoulders, as well as flattening slopes for sight distance, stopping bank erosion and saving farmers fences from being washed out. This last statement according to the legal profession could crowd the court calendar with cases against the purchaser of the right of ways. Adequate right of ways do make maintenance work less costly to say nothing of the safety to the maintenance crews working with moving traffic.

In reviewing this problem, had we secured adequate right of ways; we would have saved the time and labor for the right of way agent, expense for the county and state and last but not least, the good will of the rural people.