

No. 3, May Term, 188

View Vacate & Supply
Public Road

versus in
Decatur Twp.

Contents:

R.S. #3. Page 192

2-3-6
0-5

0-5

5-1
2-7

Ms. 3 May 1866. 1866

Car / July 18790
John W. Spencer and

卷之三

l'arrivedate appartenente
di Cesare Beni e della
sua moglie

These pictures and
text belong to the original
of *W. H. Wirtz's*
W. H. Wirtz's
and are presented
by the author.

new file 13 107
Lester's account
on hand file
Our credit
so far
peculiar
to us

October 1861

P. 10000 to 100000
Confinement of
of beavers

Mon July 1870, 11 a.m.

Received

McGraw-Hill
July 1969

卷之三

In the Court of Quarter Sessions of Clearfield County Pa
No 3 May Sessions 1886.

In the matter of viewing vacating and supplying a portion of a public road in Decatur township, Clearfield County Pa. from a point on the Township Line Road on the line of Woodward and Decatur townships, through the land of John H. Phillips and John A. Kephart to a point at or near the land of John M. Chase in Decatur township, and the Report of viewers thereon, confirmed December 27th 1886.

The undersigned inhabitants of Decatur township aforesaid respectfully represent: -

That, as they are informed, and believe, the Report which was confirmed in this case was ~~improperly~~ on the 27th day of December A.D. 1886 was improperly obtained regardless of the requirements of law, and that, through mistakes of some kind the confirmation of said Report was unproperly & unprovidently entered, as will appear by records in the case. It appears,

1. That the ^{old} public road, by said said proceedings, would be in part vacated and supplied, not for any public benefit or purpose, but to subserve the private interest of a few land holders including John H. Phillips, John A. Kephart and William K. Turner, though one of whose land road passes. - And that ~~that~~ ^{that} fact is apparent on the papers of record.

2. That the petition on which the view was obtained purports to be the petition of inhabitants of Decatur township, while in fact only about six of the 23 signers are inhabitants of Decatur township, and the six are included the above named persons interested in said road.

3. The change reported by the viewers would be a public loss and disadvantage: — ~~as much as the old road vacated is shorter in distance, and easier in grade and passes over as good ground for the purpose of a road if not better, than the new road reported to supply its place.~~ — This distance would be about $\frac{1}{2}$ mile more or less, — and the township would be put to the extra expense of about two hundred dollars or possibly ~~much more~~ to put the new road in condition for travel and then would not have a better road than the old one now is. — Nobody would be benefitted unless it would be the persons reported to, through or near whose land the road passes. — There is nothing in the Report to show that the portion of the old road reported to be vacated has become useless, burdensome or "inconvenient." The Report says that by the opening of the new road the portion of the present road which they intended to be vacated will become unnecessary and burdensome.

4. The Report also sets forth as a part of it, that from said road (the new one reported by the viewers) is ~~crossed~~, John H. Phillips and John A. Kephart agree to ~~cut and~~ remove all timber, brush & logs and make the same ready for grading. —

5. The proposed new road contains a great many stumps and would not be ready for grading till they are removed, all of which would require much labor and expense. The road has never been opened.

6. The Order to the viewers attached to the Report does not give the proper directions as to notice to the public of the time and place of the view, and in point of fact we believe that no such notice as the law requires was given, and that the public was substantially without

Neither notice or knowledge of the said proceedings.

The Report fails to state either the time or manner of notice.

7. That the Order to view issued to the viewers represents the damage and injury by the old road to the lands of John H. Phillips and A. Kephart and others as the matter complained of and to be remedied by making a road more advantageous to the petitioners; - all of which as a ground for vacating and supplying is insufficient and illegal. The said order does not designate the points for vacation & supply.

We therefore pray the court to strike off the aforesaid Confirmation of Dec. 27th 1886 of the Report of the viewers, upon the ground that it was unreasonably and improvidently entered as appears from the papers and records in the case -

And so the pray:

June AD 1890.

John M. Davis

Jacob M. Farren

Jacob Baumgardner

A. B. Jones (or A. J.)

Martin Flick

Dr. M. Farren

Galway Burgess

John Jeff

J. W. Davis

Henry Moller

William C. Miller

W. H. Ballou & Co.

R. K. Jones

Elmer Rogers

A. P. Parker

Joseph Isenburg

W. H. Mathews Ranch

John H. Turner

E. J. Kephart

G. S. Miller

J. M. Miller

James Kephart

John H. Kephart

W. H. Ballou & Co.

Elmer E. Goosier
Harrison G. Ling Jr
Wilson Kephart
William Gross
Joe A. Mills
Geo. Wm. Neal
Colin E. Neal
C. E. Daugherty
Austin Davis
J. A. Kephart
S. P. Kephart
W. A. Reams
J. S. Kephart
Geo. W. Mattern

Road case -

No. 3 May Sess.; Term, 1886

The Commonwealth

VERSUS

Decatur Township et al
Petition Rule to show cause
why Confirmation of Report in
regard to Road in this case should
not be stricken off

Constable's Return.

J. W. Turner
Constable

3 - services	\$ 4.5
7 miles ^{evening} direct	4.2
Total	\$ 8.7

Clearfield County, ss:

Personally appeared before me the subscriber, who
being duly sworn, doth depose and say that he made the
number of services and traveled the number of miles
set out above in making service of this Subpoena.

John W. Turner

Sworn and subscribed before me this 8th
day of August 1890. -

W. W. Cleary
Clerk.

*Monally & McCurdy
Atts.*

Clearfield County, ss.

The Commonwealth of Pennsylvania to John W. Turner,

L. P. L. Maclennan, Attest - J. McJones

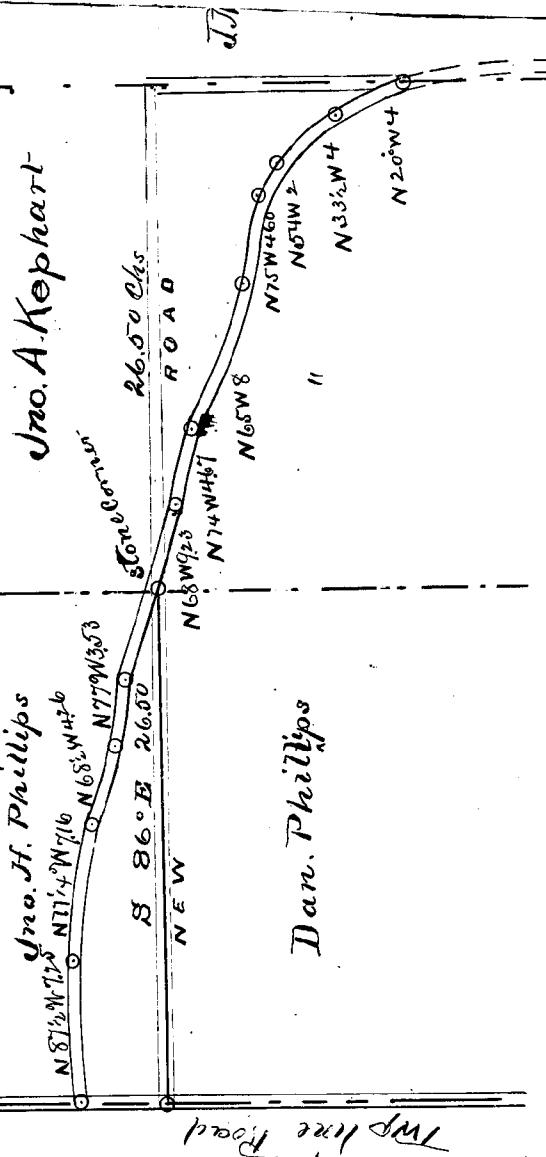
We Command You, That, setting aside all manner of business and excuses whatsoever, you be and appear in your proper person before our Judges, at Clearfield, at ~~the office of the County Attorney & County Clerks, in Clearfield, for the County of Clearfield, Sessions, there to be held for Clearfield County, on the 8th day of August 1890.~~ — next, there to testify the truth according to your knowledge in a certain case now pending in our said Court, ~~and then and there to be tried~~, wherein the ~~Commonwealth of Pennsylvania~~ Plaintiffs ~~are~~ in a Rule to show cause why confirmation of the Report of a certain Road in Becketon Township should not be stricken off in case No 3 May Session 1896 Defendant, and that on the part of the said Township. And this you are not to omit under the penalty of five hundred pounds.

WITNESS, the Hon. DAVID L. KREBS, President of our said Court, at Clearfield, the 28th day of July — A. D., one thousand eight hundred and eighty-nine.


Clerk.

Woodward
Township

Decatur • ownership



Scale 100 chs. = 1 in

CLEARFIELD COUNTY, SS:

At a Court of Quarter Sessions of the Peace of the county of Clearfield, held at Clearfield, in and for said county, on the

13th day of May, A. D. 1886,

before Judges of said Court, upon a petition of sundry inhabitants of the township of Decatur, in

said county, setting forth that a Public Road had

been lately laid out by order of Court from a point at or near the house of John Woodward in Woodward Township to a point in Decatur Township at or near O'Keepharts Road Bank that part of said Road is so located on the land of most of Philip A. Kephart and others as to greatly damage and injure said lands that the said road can be so changed as to make it more advantageous to your petitioners and at the same time afford them a better road and with less injury to said lands

and therefore praying the Court to appoint proper persons to view and lay out the same according to law, and make Report to Court

whereupon the Court, upon due consideration had of the premises, do order and appoint

El. C. Read, Aaron G. Shoff, and Thos C. Anderson

who, after being respectively sworn or affirmed to perform the duties of their appointment with impartiality and fidelity, are to view the grounds proposed for said road, and if they view the same and any two of the actual viewers agree that there is occasion for such road, they shall proceed to lay out the same agreeable to the desire of the petitioners, as may be, having respect to the best ground for a road and the shortest distance, and in such manner as to do least injury to private property, and state particularly whether they judge the same necessary for a public or private road, together with a plot or draft of the same, with the courses and distances and reference to the improvements through which it passes, and shall also procure releases of damages from persons through whose lands said road may pass, or failing to procure such releases, shall assess the same, if any sustained, and shall make report thereof to the next Court of Quarter Sessions to be held for the said county, in which report they shall state that they have been sworn and affirmed according to law. Notice is directed to be given to the owners or occupants of seated lands through which the within road is intended to pass, of the time of the view, according to the 147th Rule of Court.

BY THE COURT.

James Kerr

CLERK.

RELEASE OF DAMAGES.

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned, owners of lands through which the road located by the viewers, under the annexed order, passes, for and in consideration of the sum of ONE DOLLAR to us respectively paid by the at and before the ensealing and delivery hereof, have remised, released and forever quit-claimed and do hereby remise, lease and forever quit-claim to the said all damages that may arise to us respectively by reason of the location and opening of the said road; so that neither we, nor any of us, nor any person claiming under us, can or may hereafter ask, sue for, demand, have or receive any damages for injuries arising or growing out of the location and opening of the road aforesaid.

Witness our hands and seals this day of
A. D. 188 .

+++++
L. S.
+++++

+++++
L. S.
+++++

+++++
L. S.
+++++

+++++
L. S.
+++++

ASSESSMENT OF DAMAGES.

The following persons, having refused to release the damages to which they respectively may be entitled by reason of the location and the opening of the said road in the annexed return described, we, the undersigned viewers, under oath in pursuance of our duty, under the Act of Assembly do assess their damages and make report thereof, as follows:

To the sum of

To the sum of

To the sum of

Witness our hands this day of A. D. 188 .

To the Honorable the Judges of the Court of
Quarter Sessions of Clearfield County Pa

We the undersigned viewers appointed by your Honor
and named by the Amended Order of Court would
respectfully report that in pursuance of said
order and after giving good and sufficient
notice of the time & place of meeting, have met in
pursuance of said notice and all being present &
after all having been severally sworn or affirmed
according to law we have viewed the premises
within named and find that the road as now used
does Cut the lands of Jno & Philps & Jno St.
Kiphart in very bad shape and also lays upon bad
ground in some places and ~~we have~~ we also find that
a public road between the points within named is
necessary and have thereon laid out & do now return the
for public use the following road to wit. Beginning
at the corner of Jno & Philps & Jno Philps on
Top line Public Road between Woodward & Leathers tops
thence along the line between Jno & Jno Philps S 86° 25' E
265 0 Chas to Stone Cor of same on Jno. St. Kiphart
line then continuing same course 26.50 Chas through
said Kiphart land to line of Jno Chase Laya then along said
line South 4° N 13.40 Chs to Public Road ^{from} which said road
if confirmed Jno & St. Kiphart to agree to
Cut & remove all timber Brush & Logs and make the same ready
for grading. In our opinion no damage will be done
any one owning lands over which the above described is laid
by the laying of the above described Road a portion of the
present road now used will become unnecessary
& burdensome & we have therefore vacated said Road as
follows Beginning at point on Old line above mentioned then
along said Road. At 20 ft. 4 Chs. At 33 ft. 4 Chs. At 54 ft. 2 Chs
At 75 ft. 4.60 At 65 ft. 8 Chs. At 74 ft. 4.67 Chs. At 68 ft. 9.43 ft. 77 ft. 35 3
At 84 ft. 4.26. At 77 ft. 4 ft. 7.16 At 87 ft. 2 ft. 7.25 Chs to Top line Road above
mentioned at lot or drift of which about a acre ^{at} 100 ft. P
T. Leandersen A. D. Shopp

NOTE.—In case of a Private Road, the referee must be
exempted in favor of the party tover for said road.
Also.—Viewers will carefully note the number of days
employed and set the amount out at the foot of their return.
Reviewers cannot interfere with damages assessed by
the original viewers, except so far as the location may be
changed by the reviewers.
N.B.—If the viewers believe the parties are not entitled
to damages, taking into consideration the advantages as
well as the disadvantages of the road, they will report to
that effect.

No. 3 May Sessions, 1886

ORDER

To view and Lay out a Road
For ~~the~~ the use in the township

of Beemer Clearfield county.

Set 2nd 1886. Reader
James M. Si schi ordered
that the road be opened
3 foot wide except where there
is suitable cutting without
cutting or buying timber
No 1/2 foot wide

Cost Days 1 24 Amount 200
P. M. M. 5 120
S. C. 1 150
E. C. 2 148

Approved
By the Court

Confirmed absolutely
Dec 27, 1886
13, the County

Filed 15 Dec, 1886
Fees \$1²⁵ paid by Omilhee

Omilhee

No 3 May 88 1886

On the Matter of Vacating
and Supplying ~~the~~ part
of public Road

Decatur Twp

Rule

Shff McCloskey \$1⁰⁰ XX

McCloskey

To the Hon. D. S. Woods, Judge of the court within name —
July 21, 1886 Served the within rule, by a tree and ~~affidavit~~
copy personally to Oscar Mitchell, the ~~other~~ on
account for the road. Same never being ~~done~~
made by direction of the ~~Board of~~ County
Asses ~~for~~ other Rule. — Same service was
so made on the 21st day of July 1886
as answer. Oscar L. McCloskey, Shff. H.

In the matter of Vacating } The no. 3000 of
the suspending part of a } Master Sessions
Rule in Rease } of Chester Co Pa
in the } on the 3rd May 1896
Occasian Township

And now P. R. Dey

1890 Rule granted to show cause
why Confirmation Absolute should
not be denied of the 1st argument cause

By the Comr

Certified from the record at
Cleared the 31st May 1896
John B. Dey

John B. Dey
Court of the Comr

On the Quarter Sessions of Leelanau
County

W. 3 May Sess. 1886.

In the matter of the mill to show
cause why confirmation of road
in Decatur Township should not
be stricken off.

Now April 27, 1891 we Burton
Winter and William Pritchard
the present supervisors of Decatur
Township hereof do Pa. here
by direct and authority McDonald
by the County Esq. attorney for the
mill in the above stated case
do have said mill discontinued
and discharged and to
proceed no further in the mat-
ter.

Burton Winter
W. Pritchard Jr
Supervisors of
Decatur Twp.

At 3. May 1886. -

In the matter of Rule
to show cause why the
conspiration of the
Report of Officers as to
Road in Decatur Co -
in this case should be
stricken off. -

Now July 7th 1881
the Legislature ~~open~~
has made disentitling
as far as respects the
Township of Decatur
for whom we have
been supplying them
acts. - in accordance
with ~~with~~ request -
will now bring in to the
right of the other petitions
of the same conspiracy.

Attest
H. -

Pet. of July 1881
At the
Court

We the undersigned citizens of Decatur Township appointed to estimate the advantages and costs to open the public road lately laid out in Decatur Township from a point at John H. Phillips corner on Woodward Township line to a point on the line of John M. Chases land in Decatur Township at a point where said new road connects with old road

The old road is more advantageous than the new road ^{and shortest} Old Road the best the grade of the old road is better than the grade of the new road it will cost \$1.59⁰⁰ Dollars to remove the stumps in the new road it will cost \$396.00 Dollars ^{more to grade} to make the new road ~~in as good condition as the old road is now~~.

it will cost only about \$50.00 Dollars to make the old road in good condition for travel said new road is not ~~suited~~ for public travel except where it is crossed by the old road

6. 27. 1890

We the undersigned ^{citizens} of Decatur Township appointed to

Estimate the new Road, Believe the above statement to be true and correct to the best of our ability

G. R. Mattern
S. M. Jones

James Leffers D,
William H. Trefhart
Wilson Kephart.
J. L. Baughman
J. A. Kephart
Jacob H. Larson.
John H. Kephart
J. B. McLaren
William Gross

Exhibit A.
W. M.
Aug. 8, 1890

In Court of Quarter Sessions
Clearfield Co's
Road case. —
No 3 May 5. 1886.

Estimate of Cost of opening the
new road to supply part of the
old one. —

— 80 & m⁶ —

No 3 May Sec. 1886

Read case.

On the Rule to Show Cause
why Confirmation of Bond
in Decatur County should
not be strucken off of
to 3 May Ses. 1886.

卷之三

Diff'rent ruler for
Diff'rent on part of December 1st

8 Petitioners for Rule
to strike off.

W. M. Connelly on taking
of deposit — \$ 4.00
S. M. Jones out

1000 units
G. O. G. Mattern

G. B. S. Mattern
1 des Kranichs - 1.032

J. W. Turner on services
of Subpoena —

App. 1. 1892 Recd of Mrs. Blawie ^{to} the cost of Wright's ~~manus~~ ^{manus} above paid in
order claim to ~~arrears~~ ^{arrears} mainly. —
A. T. G.

Blodooee. 1821

Amherst
Mass.

RULE TO TAKE DEPOSITIONS.

CLEARFIELD COUNTY, SS:

In Re, Rule to Show Cause
why Confirmation of Roads
in Decatur Township should
not be stricken off - of No. 3
May Sessions 1886. -

Quarter Session
In the Court of Common Pleas of Clearfield
County, Pennsylvania.
Road case
No. 3 May Sessions Term, 1886

AND NOW, to wit, the 22nd day of July - , in the year of our
Lord one thousand eight hundred and eighty-nine
~~Decatur Township and Petitioners for striking off
the Confirmation by M. M. McHenry~~ enter a Rule to take the
Depositions of ancient, infirm and going witnesses, to
be read in evidence on the Argument of
this case. Ex parte Rule of Parties for Rule on
five - days' notice.

J. M. Blawie
Prothonotary,

To Oscar Mitchell, Esq.:
Atty of Record for the Roads.

You will please take notice that, in pursuance of the foregoing rule, depositions will be taken before Daniel Connolly Esq., or some other person authorized to administer an oath or affirmation in Pennsylvania, in and for the county of Clearfield, at the office of McHenry & McHenry in the Borough of Clearfield, in the county of Clearfield and State of Pennsylvania, on the 8th day of August, A. D. 1890, between the hours of 9 o'clock A. M., and 9 o'clock P. M., when and where you may attend and cross-examine.

Daniel Connolly

Clearfield, Pa., July 28th, 1890

Atty for the Roads

Served this Rule July 28, 1890
personally by duplicate original copy of
same notice by copy given to Oscar
Mitchell Atty for the Roads of record

Served on Oscar Mitchell this 28th day of
July 1890 before me
James McHenry Clerk

J. McHenry

In the Court of Quarter Sessions of Clearfield County.

No. 3 May Sessions 1886

n the matter of vacating and supplying part of a public road in Decatur township. And Rule to show cause ~~why~~ absolute confirmation of road in Decatur township should not be stricken off.

Deposition of witnesses produced, sworn and examined before me, the Eighth day of August, A.D. 1890, at the office of McEnally & McCurdy, in the borough of Clearfield, in the County of Clearfield, and State of Pennsylvania, between the hours of Nine o'clock A.M. and Nine o'clock P.M. by virtue of the annexed Rule of Court of Quarter Sessions of Clearfield County, Pa., and notice attached together with the agreement of Counsel for the examination of witnesses in a certain cause depending in said Court, wherein Decatur township and others are parties Plaintiff for a Rule to strike off the confirmation of the road in Decatur township in No. 3, May Sessions, 1886, and Oscar Mitchell, Esq., is Attorney for those opposing the said Rule to strike off the said confirmation.

S.M.Jones, aged about 33 being duly sworn deposes and says; I am a citizen of Decatur twonship, and have been for Eight years. I have examined this road that was reported and confirmed in 1886. In the latter part of last month I was over this new road and the old one which it was intended to supply. Mr G.P.C. Mattern & Wm H Kephart were along. Others were also along. We were there for the purpose of examining the two and estimating the cost of making the new road. The new road had not been opened nor used for traveling except where the old road crossed it. We estimated that it would cost \$555. to put the new road in a proper condition as called for by the opening order. ~~at~~ We estimated about \$159. for removing the stumps and about \$396. for grading and ^{fitting} ~~thowing~~ up the ground about 16 1-2 feet wide according to the opening order. In some places it would require stone to be hauled; I would think a good many stone and at considerable expense. The place where stone would be required looked to me like a flat basin or swampy ground. Say about 20 rds. it might be more than that. I was over this ground in May 1885; it was covered with water and was soft; my horse sank in a great many places; I dont mean that the ground was all covered with water but that there was water standing at intervals. I think it would be absolutely necessary to pile or stone the road across this piece of ground to make it fit for traveling all seasons of the year. I think it would be necessary to build up the road on that ground so as to elevate ^{it} above the present surface; I regarded this as being

a very expensive part of the road. The old road crosses one portion of this flat; At a distance I would suppose nearly 15 rds. It looked to me as if it was not as wide where the old road crosses and the chance for draining appeared to be better at the old road; Stone had been used in making the old road across it. We estimated that it would cost \$50. to put the old road in a fair condition for traveling. This would not open it out the full width which the law requires; I do not think that \$300. would be sufficient to put the new road in as good a condition as the old road would be in after the expenditure of \$50. at least I would not like to undertake the contract; I hardly consider the new road as good in grade as the old one, especially where it connects with the road on the Woodward twp. line; I do not think the new road if made, would be as good as the old road for the accomodation of the public. My reason is that the old road is the shortest and when you reach the Woodward twp. road the travel nearly all goes to the right, that is to the north; and also that I think the grade is better on the old road. The following persons who appear to be signers to the original petition, were inhabitants of Decatur Wm T Kephart twp. in 1886 viz. John H Phillips; Wm K Turner, John A Kephart, [^]John Kephart: J A Haines, appears as a name to the petition. There was a person by the name of Haines in the twp. at that time and he may be the man. The witness after looking at the original petition, says; I do not recognize any of the other names as being at that time citizens of Decatur twp. I know or believe that a majority of the names are of persons who at that time belonged to Woodward twp. and I think that most of them still belong to Woodward twp. I never heard of this new road till a year ago this last spring;

Cross-examined by Oscar Mitchell.

I reside from $2\frac{1}{2}$ to 3 miles from this road at present. My present business is contracting and shipping fire clay; I farmed, mined coal &c. I never built any township road; I helped to build some but never contracted any; one piece of road I helped to build 7 miles; I worked probably 4 months; I worked by the day; was only a day man; dont know what the road cost; I consider that I have as good a knowledge as any run of laboring men about building roads, filling &c. I dont swear that I measured any of the road but that it seemed to me by walking to be about a mile long; I swear to no distance as to the road; there is some stumps taken out and the majority of the logs have been removed and the timber has been cut off; the road is not in a condition for driving if the fences were removed; we made the estimate $16\frac{1}{2}$; when we went to make our estimate the order was produced and we saw that it required $16\frac{1}{2}$ feet to be graded and required the road to be opened 33 feet; we made our estimate according to that order;

I dont remember what length we based it on; dont know whether roads in this township are usually opened as wide as the order calls for or not; I know they are not all; the old one is not opened that wide; I dont know whether there is stone within a quarter of a mile of this road; the stumps are not pulled out of the new road as wide as the old; there are some larger stumps pulled and blown; the logs and brush not all off this road some on it; not many; I got through this new road just the same as if it had been brushed out through the woods; that is on horse back; Did you measure this swamp? I didnt measure any of it; I cant swear to the length of the wet place in this road; it might be 20 rods and might be more; I dont know that the supervisor worked on this road we made our estimate on the road as we found it that morning

I didnt count meny stumps in the new road that would have to be taken out to make it as good as the old road; I didnt count the grubs in the new road that would have to be taken out; we first made an estimate of what expense it would take to have to read off the stumps and the grubs, a rod, that is, one ~~rod~~ with another, from one end of the road to the other; then we took an estimate of what it would take to have to grade that road one rod from one end to the other, that is, sc much a rod, and averaged it up; it averaged the amount we have stated, \$159 stumping; \$359 for grading, and the stumps and the grubs were to be pulled for the width of 33 feet.

Were there any stumps in this swamp? There had been some stumps; I would not pull these stumps and grubs out through the wet place where I would have to fill unless they were too high; I dont know as I know of a road through the wooded district of our township that has the stumps and grubs pulled for the space of 33 ft. in width. *not*

Dont you know that there is ~~a~~ new road in your township opened up these last 8 years, that pulled the stumps and grubs for the width of 33 ft.? Dont know there was; when I was on the new road in May 89, it was a wet season,

Dont you know there is a very wet place on the old road? There has been one bad place on the old road and it is not good yet; that place is not a very long place that I noticed.

Was this road swampy the last time you were on it? It wasnt swampy, I saw no water; it was a very dry time; I dont know whether there was any notice up to view this road or not; I would consider the old road shorter than the new to go to Houtzdale; I suppose half the distance stoned on the new road was near as great in length as the distance stoned on the old road.

How long is the distance stoned on the new road? Dont know, didnt measure it. Now your estimate is based on the supposition as to the length and the number of the stumps and grubs? I counted no stumps, counted no grubs nor measured no length of stone, more than the eye, guided by my judgment; I think the road by Philips does not lay in the ravine where the water runs into the road my reason for thinking that, is, when I go below Philips towards Hendersons I go down hill into a basin and back up again..

[By Mr McEn.] I think there were 11 viewers viewing the road. the viewers all agreed as to the cost of the stumping grubbing & grading of the road; these viewers were: GPGMattern Jas. Kephart, Wm Kephart, Wilson Kephart, JLEaughman, JAKephart Jacob McClarlin, John Kephart, JRMcCoyen Wm Goss SMJones.

Oscar Mitchell, counsel for the parties in favor of the road objects to this testimony as being incompetent and irrelevant.

We had before us at the time of making these estimates the opening order checking the courses and distances of the road; we referred to it in ascertaining the distances of the road.

[By Oscar Mitchell.] The principal part of the 11 viewers were from the end of the twp. where the road is; the supervisor, John W Turner, called upon me to act as a viewer; I dont know as these viewers would have to come over this new twp. road to come to the place of meeting; Mr Kephart or Thom H Philips were not present at this view; ; I think that all these viewers with the exceptions of about 2 or 3 could reach that road within 3 miles or 3 $\frac{1}{2}$. I didnt know then, I dont know now, who were in favor of the road and who opposed to it. I dont know whether the supervisor who called me is in favor of the road or against it; I knew on that day that we met after we had disapproved the road that the supervisor was against it; I own no land in Decatur township.

S P G Mattern I have been a resident in Decatur for 30 years or more
Obj to as incompetent and irrelevant for the reason the only thing that
can effect this case is whether or not a notice were posted as required
by law and not whether or not Mr Mattern saw it or not said objection made
by Oscar Mitchell attorney for the road;

I knew nothing of this new road until this spring. I was one of the
men called upon by the supervisors in June of this year.

It is admitted that all irrelevant testimony may be taken advantage of
before the court with any objection here; the grade in the new is not as
good as that in the old; the new road is not as short as the old road;
According to my judgement the new road if made would not accommodate the public
as well as the old road; if there is a swamp where they say there is on
the new road, then the new road would be much more expensive to keep in repair
than the old one, because the road is longer and the swamp is longer on the
new road than on the old one; there was no swamp there when I was there in
June, and also on yesterday; it was very dry time both times when I was there
and the waters were very low; if the ground referred to and reported as swampy
is in fact swampy, then the new road would pass perhaps twenty times as far
over swampy ground as the old one- but as the ground was not swampy when I
was there I do not undertake to testify as to the character of the ground in
wet weather; On looking at the petition for this new road which is signed by
33 petitioners, I do not recognize any of them as inhabitants of Decatur twp.

In 1886 outside of the six persons who have been ^{named} by Mr Jones in his testimony,
and in regard to two of them viz. Mr J A Haines and Levi P Kephart, I am not

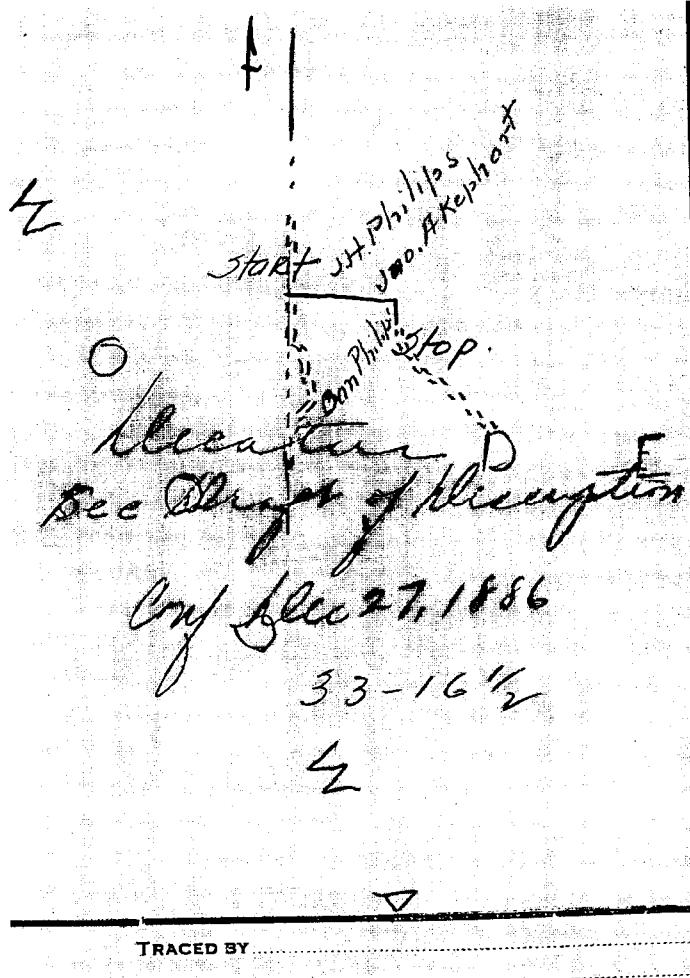
sure whether they were residents of the twp at that time or not; We estimated that it would cost \$50. to make the old road in a fair condition for travel between the points that would be supplied by the new road and that it would take a very much larger expenditure to put the new road in an equally good condition but I never made an estimate upon that question as to the new road; the estimate of the viewers was as shown in this paper which contemplated the making of the road as set out in the order. The finding of the viewers myself and the other viewers is contained in the paper hereto attached marked exhibit A.

CROSS EX.

I am well acquainted with this old road but not with the new. I was one of these viewers; we made our estimation by going over the ground. Didn't count the stumps; I represented to Mr Wm H Kephart that the new road would cut off the school house lot from the twp. road; but that was not one of the objections on the day of the view to my knowledge. *It was mentioned then.*

G.R. Smather

I certify the foregoing to be the testimony of the witness
named as taken by me at the time and place mentioned
in the caption, under the seal attached and agreement
of attorneys endorsed. —



In the Quaker City
No 3 May 28 1886

Detention of Pub.
Lie and air

Decatur Ind.
Brown Vacate road.
Peyville road.
High from a point on
med. line in Glades
Brown Indivaria Ind.
A poor undulating
or mountain. Replants
Rowe's branch. Vacate
Rear portion of said road
in Decatur Ind. starting on
near New Woodward Ind. on
or Jeffries Rd. and ending
at a point ~~at~~ ^{at} a point
said road or near the
Ind. Glades the said
boundary. May 13th

and now ~~on~~ after
1886. E. C. Reece, Ad
m'g. Staff. and Adm. P
Indium
our ^{apt} ~~own~~ ^{own} ~~own~~ ^{own}
Reeves
Nacatur Ind. Ind.
and in all respects
to said Sos. Sos. Sos.

By M. L. C. M.
M. L. C. M.

In the Court of Quarter Sessions of
Clearfield County.

To the Honourable the Judges of
the Court of Quarter Sessions of said
County.

The petition of the undersigned
inhabitants of Decatur Township,
in the said county respectfully sheweth
That a road hath been lately cut by
John H. Phillips farm in Woodward Township to a point in Deca-
tur Township about a mile from a point at or near
Lephant's coal bank, that portion of
said road is situated upon the lands
of John H. Phillips, a Lephant and others
as to greatly damage and injure said
lands, that the said road can best
changed as to make it more adan-
tageous to your petitioners and at the
same time afford them a better
road and with less injury to the
said lands.

Your petitioners therefore
pray your Honorable Court to appoint
proper persons to view, vacate and
supply that portion of said road
in the Township of Decatur, start-
ing at or near the Woodward Town-
ship line at Jeffries Post office
and ending at a point on the
said road at or near the farm of

John M. Blaser in Decatur Town-
ship

and make report thereon
according to law

and they will over pay
Israel Cornelly

George Brady

Levi J. Kephart

C. C. Goss

Jos. H. Chase

John H. Phillips

J. L. Bailey

Frank Goss

Angela Gauss

Lewis Haines

Daniel Hines

Oscar Kline

Wm H. Turner

J. A. Kephart

John Kephart

Franklin Roberts

J. H. Haines

John Baldwin

H. C. Kalsbain

J. C. Kalsbain

J. H. Hauser

David Bartoe

David H. Bartoe

In Re Rule to Show
Cause why Confirmation of
road in Decatur Township
should not be struck
off.

In the Court of Quar-
ter Sessions of
Crawfurd County, Pa.

No 3 May 22, 1886

Depositions of Witnesses taken this
15th day of August A. D. 1890, at the Office of
Oscar Milhee, Esq., Crawford, Pa., between
the hours of 9 o'clock A.M. and 9 o'clock
P.M., by virtue of the annexed Rule of
Court and notice thereon endorsed, for the
Examination of witnesses in a certain cause
then pending.

John A Kephart, Affirmed. On foot of persons
in favor of road.

My age is about 44 yrs.
I was supervisor of Decatur Township in
the years 1887 and 1888. I had an opening
order for this road in controversy in 1888.
In pursuance of this order I did return
Twenty five and Eighty dollars worth of work
on this road. While I worked on this
road under this opening order no person
ever objected to it. The road was bushed
out by myself and John R. Philips without
expense to the township. I claim this
road could be traveled except the fences.
It was put in this condition by the
work which I mentioned before, which

was done by me as supervisor and by myself and John H. Phillips as individuals. What I call stumps are all removed from the center of that road. The road is rid of stumps for about thirty feet wide except some few places.

There are sixteen or eighteen feet clear of stumps. This is the narrowest portion of the road. The other part of the road is over thirty feet clear of stumps. I as supervisor, put stour on this road.

The stour we put on this road is broken for trawling except a few on one end. A part of this road I put in as fair trawling condition as new roads are usually put in. I claim I could put this road in good trawling condition for about Twenty five dollars. If they would let this road out for bids, I would take the bid and put this road in as good trawling condition as new roads are usually put in, for the sum of Twenty five dollars. I should think the new road would be an improvement over the old road, because I claim it is on better ground. I think the new road would be easier kept up by the township than the old road. I am well acquainted with the ground on both the old and the new road. I would claim that the art part of the road is the longest on the old road. The new

road would be easier drained than the old. This old ^{road} through this swamp has been moved from place to place. I suppose this was done because it was so bad through the swamp. I have made over two miles of road in my time.

Case Examined by Mr. McEally.

I was on part of the ground when the view was located. I was with the viewers. Mr. Philips was with us. I do not remember any others besides the viewers. They did not carry the chain through them. They ran it by sight. They had a chain along but did not use it. This was in the afternoon. I do not know what day it was. I have not run this ground at the time. The road went through some of my land. ~~The~~ land of myself and Mr. Philips joins. Mr. Philips and I were two of the petitioners. Mr. Philips and I did not agree with the viewers that we would stump the road. We agreed to brush the road. We agreed with the viewers to do this. But we did not agree to stump the road. There were very few trees of any size on the road. Mr. Philips and I did not cut down any of the trees on the road. What few trees there were, were left standing to be pulled down. Mr. Philips and I did not remove any stumps. When

I was supervisor & reward consisting
I hauled some stone. Mr. hauled them
in different places. There was a great
many places we did not put any stone.
Mr. hauled stone on this part of the road
and not ground, and on these places
where we found stumps out. This
new road was run between Turner and
me, then it ran through my land, then
on the line between Chase and me. This
fence I speak of ran across the new
road. It was a fence of Dan Philips.
There were two fences across the road. They
were both Dan Philips fences. They are
across the road yet. They were there also
when the road was laid out and have
been ever since. Inside of those fences
the land is cleared. There is buckwheat
in it today. It is about thirty rods
from our fence to another across this
buckwheat field. The old road goes
through my land. The old road runs
about through my land, in an aching
way Mr. Philips.

Re Direct-

The buckwheat field is an old
field, and the ground is nice and dry
and is not stony. I put stone in
different parts of this road, because our
place was wet, and in the other places
because we had found stumps out

and left holes which we wanted filled. The reason the road was not chained was because the viers could see through and Reed said it was not necessary and it was getting late. We were hindered from going through on account of the ground being too wet. I am acquainted with A. P. Lemburg who signed the petition to strike off the confirmation of this road. Mr. Lemburg told us he never saw this road and did not know when it was, and that he signed the petition on the representation of Turner, the supervisor. There are men on this petition whose names I do not know and I was supervisor for two years.

John A. Kephart

John B. Night, Affirmed.

My age is 42 yrs. I live in Decatur Township; about one-half mile from Osceola. I own land in Decatur Township. I was supervisor of Decatur Township in the years 1887 and 1888. I built about 1½ miles of new road. I have examined the new road in question. The stumps are all rid out, with the exception of a few little oak stumps in some places, that would not amount to anything, to make a good road about twenty feet. There are some

grubs them but I would not call them
stumps. They stoned the rest with
portion of this road sufficient to make
a good ride wagon track. This was
done for eight rods. On each side
of this the ground is gravelly and
has no indication of being swampy
ground. As near as I can tell the
road was cut out the full width of
two rods. But the little brush has grown
up. There is a part where the road where the
brush is probably about three feet high.
There is a part where the brush was grubbed
there is no brush. There is a part along
Mr. Kephart where the fire from Mr.
Kephart's clearing about a couple of rods
ago scrubbed the road and burned it off
clean. This brush I speak of is just
sprouts growing up from roots since
the road was brushed out. I saw
wagon tracks on this new road which
indicated that it had been traveled on.
I never heard any complaint by
the tax payers of the Township about this
road in controversy. This new road
is on higher and better ground and
better drainage than the old one.
This new road will be a better road
for the traveling public than the old
one. When this new road passes
over the cut place it is about eight
rods long which has been graded. When
the old road passed over the cut place it

is about twenty four rods from when the
corduroyed above and below it is corduroyed
at the other. Between these points there
are parts not corduroyed just as low as
the part that is corduroyed, but it is dry
and dusty now. Between this cordu-
roy nothing seems to have been done
to the road but the road branches off to
both sides. This is dear & suppose to
avoid driving on the soft place in the
main road. It is cheaper to make a
road around than to fix the one in the
middle. Is my opinion & would
just as soon take the new road and
make a good road out of it as the old road.
& examined the ^{old} road and the new road and
know the condition both are in. & do
not know of a road in the township that
are thirty three feet wide clear of shrubs
and brush. In wooded districts they
nearly open a good wagon track. and
leave the rest go.

Cost Examined.

I as supervisor, did
not do any work on the road in contro-
versy. That part of the township was
left to Mr. Kephart when I was super-
visor. I was not personally on this
road when I was supervisor. I was
in Mr. Kephart's end of the township.
Drew up in the face of 1887 to look
at the road. It was partly bushed then.

He did not have all the stumps blown out. Since I think of it, it was in 1888 that I went up to look at the road, and not in 1887. This road at the request of Mr. Kephart, the other supervisor. I went over the whole length of the road at this time. The brush had been cut and was lying along in the road. The stumps had not been taken off. The logs had been cut off and rolled off to the side. The only other time I was on the road was yesterday, when I went up again at the request of J. A. Kephart, the former supervisor. I went over the whole of the new road yesterday. Besides the old road also. I was in company of Mr. Philips and Mr. Kephart and McHenry. Both roads were dry then. There were no wet places in either of them. The way I could tell the wet places was by the corduroy in the old road and the stonē in the new road, which I supposed was to cover the wet places. Between the old road and the new road there is a pond of water in a sort time. There is swamp grass there now but no water. From this pond I think the water would naturally run toward the old road. The new road lies on higher ground than the old one and I think the water would run toward the old road. This pond is twice as far from the new road as it is from the old road. It is eight rods from the new road

to the center of the pond and only four rods from the old road to the center of the pond. The pond looks to be three or four rods across. In a real wet time it might spread a good deal farther. The center of the pond I think is below the new road and a little lower than the old road, and when full of water naturally lays against the old road.

J W Wright

David Marshall McHenry, Secon.

I live in Woodward township and my age is 36 yrs. I am acquainted with the location of the old road and new road in Woodward. I have made 324 rods of township road in my time. I have measured the old road in Woodward town. There are 240 rods in it. I have measured the new road. There are 269 rods in the new road. This new road would be nearer for two-thirds of the travel, I think, than the old one in going to Houlbydale, Glen Hope, and that country. I think the new road is on better ground all the way through, on better grade, better drain and not so much swamp. I am acquainted with the location of both of these roads and have seen them in wet weather. The new road would be

earlier left up. The old road is in a kind of a gully and is hard to keep in shape. That portion of the old road that goes through the swamp is difficult to drain as there is no outlet for the water. The new road when it passes over the swamp is higher than the old road and is easier drained. On last Thursday I examined both roads, I ran yesterday. I do not think there would be much difference in the expense of putting these roads in the same Traveling Condition. In my judgment it would cost just about as much to put our road in Traveling Condition as the other. The stumps have been removed from the new road for a width of about thirty feet except in a couple of places. These places which I have excepted are crossstumps for a width of about sixteen or eighteen feet. There have been stone hauled on the new road for winter road. The new road would not drift as much as the old road because the new one is more in the woods. The old one drifts pretty badly and they have to cut roads around in the winter. I saw that they had run wagons on the new road. Through the wooded districts in my township it is not customary to stump the roads thirty feet wide. I think it would take more to make the old road in a good condition when it comes out.

the Honeydale road at the Woodword Twp. line than it would to make the new one in a good condition. When the old road connects with the Honeydale road there is a very bad turn, and with a long cobbled roadway with bay, everything, a man cannot make the turn unless he backs around. At this point in the old road it would cost more to put it into condition so as to turn onto the Honeydale road than it would to put the new one into condition turn onto the Honeydale road. The new road at this point would not be as hard to keep in condition as the old one. This new road would make a better road for the traveling public than the old one, because it is on a better location. It would take less expense to keep up the new one than the old road.

Geo Farmer:-

I think each road strikes the Woodword Township road about at right angles. When you strike this Honeydale road on the Woodword Twp. line, if you turn to the right it will take you to the Jaffrin Post Office, I think, in about fifty or sixty rods. At Jaffrin Post office there are two roads. One going across the creek leading to Curwensville, and the other leading to Charfield. On turning to the left when you reach the Woodword Twp. road, the first place of any importance that would be

rached would be Houltdale at a distance of about six miles. I live in Woodward Township. I have lived there about five months. Before this I lived in Boggs Township. Lived in Boggs Township about eight years. I have been a citizen of Woodward and Boggs townships for about sixteen years. I labor by the day generally. When I lived in Boggs Township I lived within two miles of this road. Messrs. Kephart, Phillips and Bright were with me yesterday when I was over this road. I went at the request of Mr. Phillips. I was never over the new road before since it was a road but I have been over the ground. When the new road connects with the Woodward Twp. road it is a bank. The connection is on top of the bank. In going from the Woodward Twp. road onto the new road there is a little of an upward grade, but not very much. This upward grade extends about fifteen rods past my through the field. One of the fences of Daniel Phillips which encloses one of his fields is right along the Woodward Twp. road. If this new road continued on across the Woodward Township road it would still be a light down grade. The Woodward Twp. road at the point where this new road intersects it has a light descending grade toward the right which is toward Jeffers Post office. In going toward Houltdale, that is in turning to the

left, the Woodward Twp. road is slightly ascending. To the right of the Woodward Twp. road the grade is a little stronger. When the old road strikes the Woodward Twp. road is a little descending. I think about the same grade as the new one when it intersects. The ascending grade in the old road continues I think for about thirty-five rods from the Woodward Twp. road. The Woodward Twp. road from the intersection of the old road has an up grade toward Jefferson Post Office and a down grade toward Haulytale. This down grade is a pretty good grade. There is a hollow, or lowest place, in the Woodward Twp. road between the intersection of the new and old road. I can't say whether this lowest point is meant to be new or the old road. I don't think there is much difference. This low place is at a ravine in which water in very wet times. This ravine is not so very narrow. There is no road open through the field now. The field is in buckwheat. There is nothing visible on the ground then to show where the new road is at the place when the new road would strike the Woodward Twp. road in coming through the field. I know where the new road is located. I only know from what Mr. Kephart and Mr. Philips told me as to where the road is through the field and where it strikes the Woodward Twp. road. They told me when they run it out. The old road has been hauled during the sixteen years that I have been in that

neighborhood. They traveled it when first
came to that country.

J. M. McHenry

J. W. Kephart, Recalled:-

I had a chance to take a coulnotch to put this new road in a
fair condition for travel. I would give
a bond to the supervisor to put it into fair
condition for the sum of Twenty five
dollars. In order to get off of the old road
onto the Honeydale road with a long coupled
with a load on it, we have to back the wagon to make
the turn. To make a proper turn from the
old road onto the Honeydale road, we would
have to put in a stone culvert which
would not have to be done with the new
one. The old road would cost the most
to make a proper turn. The old vacated
road for about twenty five rods, I would call
a canal, and the water runs in it, and
it runs into the Brookwood Top road and
cuts this ditch out so that we can't
make the turn to Honeydale. Part of this
vacated road is in the natural course
of the water and it seems that the
water cannot be kept out. This water
that runs in the old road makes it
bad in the spring.

John a Kephart

State of Pennsylvania } 88:
County of Clearfield }

I do hereby certify, that
the above witnesses are duly qualified and
examined at the time and place stated
in the above caption; that the same was
reduced to writing by me, in the presence
of said witnesses and having been first
read over to them, they subscribed their names
thereto in my presence.

Witness my hand and official seal.

Ab. C. Miller,

Notary Public.

Bill of Costs
Notary Public.

Ab. C. Miller, taking testimony	\$4.00
Witnesses,	
John A. Kephart, 1 day	\$1.00
13 miles .78	\$1.78
John W. Knight 1 day,	\$1.00
23 miles 1.32	\$2.32
David M. Hendry, 1 day	\$1.00
13 miles .78	\$1.78
John Philips	
To serving subpoenas	
To miles	

Ab. C. Miller
Notary Public

RULE TO TAKE DEPOSITIONS.

CLEARFIELD COUNTY, SS:

Rule to take deposition
of ~~John Darrow~~
cause why compensation
of ~~John Darrow~~ has
been denied. On
Mo. 3 May 1886.

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

No. 3 May Sess Term, 1886

AND NOW, to wit, the 9th day of Aug., in the year of our
Lord one thousand eight hundred and eighty-nine,
the ~~Parties forward~~ enter a Rule to take the
Depositions of ancient, infirm and going witnesses, to
be read in evidence on the ~~argument~~ of
this case. Ex parte Rule of ~~Parties forward~~ on
5th days' notice.

AM. Bloom
Deek

To Mr. Manally & Chandy, Esq.,
Atty for Petitioners

You will please take notice that, in pursuance of the foregoing rule, depositions will be taken before ~~Mr. Miller & D.~~, or some other person authorized to administer an oath or affirmation in Pennsylvania, in and for the county of ~~Clearfield~~, at the office of ~~Osceola Mitchell~~ in the borough of ~~Clearfield~~ in the county of ~~Clearfield~~ and State of Pennsylvania, on the 15th day of Aug., A. D. 1890, between the hours of 9 o'clock A. M., and 9 o'clock P. M., when and where you may attend and cross-examine.

Osceola Mitchell

Clearfield, Pa., Aug. 9, 1890. Atty for Petitioners.

This Rule was duly served on us Aug. 9th 1890 & same accepted. Manally & Chandy Atty for Rule to stake off Compensation.