

No. *Sept* Term, *1893*

Vacatend Supply
Public Road

versus in

Hustonnd Sandy
Townships

R. L. #4 - Page 293

Twp. Rd. 17403

Clearfield County, ss:

At a Court of Quarter Sessions of the Peace of the county of Clearfield, Pennsylvania, held at Clearfield, in and for said county, on the 21st day of May, A. D. 1800, before Judge of said Court, upon a petition of sundry inhabitants of the township of Sandy, in said county, setting forth that

They labor under great inconvenience for want of a public road, to begin in a Public Road, known as the "Hickory Road" at a point near James Shannons farm in the Township of Sandy and to end in a Public Road known as the "Mountain Run Road" at a point near the Sandy and Huston Township line in Huston Township. The petitioners therefore pray the Court to appoint three persons qualified according to law to view the grade according to such road, and if they should see occasion to lay out the same, to inquire off and vacate the public road now laid but not opened from the road leading from Sabula to George Biers at a point near the Falk farm in Sandy Township to Huston Township line on the line of the proposed road in said Township. Which last mentioned road is known as the "Mountain Run Road" and will by reason of the laying out of the proposed road become useless.

and therefore praying the Court to appoint proper persons to view and lay out the same according to law, and report to next term of Court whereupon the Court, upon due consideration had of the premises, do order and appoint Geo C. Kirk, Amos Kline^{2nd} and J. P. Taylor

who, after being respectively sworn or affirmed to perform the duties of their appointment with impartiality and fidelity, are to view ^{and vacate and supply} 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 the 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 land 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 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 land 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.

Grant Thompson

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 ensembling and delivery hereof, have remised, released and forever quit-claimed; and do hereby remise, release 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. 189 .

..... Seal

..... Seal

..... Seal

..... Seal

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 James Shannon the sum of Ten dollars

To the sum of

To the sum of

Witness our hands this day of, A. D. 189 .

Geo. C. Kirk

Amos Kline

J. P. Taylor

To the Honorable, the Judge within named: We the undersigned, appointed by the annexed order, do report: That in pursuance thereof, after having been severally duly sworn, all the viewers appointed by said order, viewed the ground proposed for the within mentioned road, and we do agree that there is occasion for a road as designed by the petitioners, and that the same is necessary for a public road. And having had respect to the shortest distance and the best ground for such road, we have laid out in such manner as shall, in our opinion, do the least injury to private property, and as far as practicable agreeably to the desire of the petitioners, and do return for public use the following described road, to wit:—Beginning at a point in the "Hickory road" in Sandy Township, near residence of Jas. Shannon Thence N. 3° 20' E., on land reserved by Reading and Fisher for Public road, 1124 ft. to a post on line of Lucian Bird, Thence partly on lands of said Bird and partly on lands of Jas. Shannon, N. 22½° W. 750 ft. to a Beech. Thence N 67½° E. 200 ft. to a post. Thence N. 19¾° E. 100 ft. to a post. Thence N. 26½° E. 179 ft. to a Hemlock. Thence N. 41° E. partly on land of said Shannon, and partly on land of said Bird, 446 to a post in the line between Sandy + Huston twps. Thence N. 55½° E. partly on lands of said Bird and partly on lands of J. H. Keller, 980 ft. to a Birch. Thence N. 67¼° E. 500 ft. to a post. Thence N. 61¾° E. 278 ft. to a Hemlock stump. Thence N. 12° W. 277 ft. to a Hemlock. Thence N. 7° W. 405 ft. to a pine stump. Thence N. 4° W. 304 ft. to a Birch. Thence N. 14° W. 246 ft. to a Hemlock stump. Thence N. 0¾° E. partly on lands of said J. H. Keller, and partly on lands of Silas Keller, 723 ft. to a post in Sandy twp. Thence N. 7° W. 796 ft. to a Hemlock. Thence N. 21° W. 675 ft. to a small Hemlock. Thence N. 0¾° E. partly on land of said Silas Keller, and partly on land of Hoover + Hughes, 210 ft. to a post. Thence N. 44½° E. 107 ft. to a post. Thence N. 54¼° E. 131 ft. to a Hemlock stump. Thence N. 69¾° E. 78 ft. to a post. Thence N. 85¾° E. 188 ft. to a post. Thence N. 16¼° E. 186 feet to a post. Thence N. 75½° E. 230 ft. to post in Mountain Run road, on the line between Sandy and Huston twps. That there are no damages accruing to any of the owners of the land over which said road passes from opening the same, except James Shannon, which we have assessed as hereinafter stated.

That we have ingined and do vacate the following described public road, which has been laid out and not opened, to wit:—Beginning at a point in the above road, Thence N. 69¼° W. 81.8'—Thence N. 86° 10' W. 454'—Thence S. 67° W. 231'—Thence S. 46¾° W. 597.3'—Thence S. 55¾° W. 363'—Thence S. 59¾° W. 477'—Thence S. 55° W. 264'—Thence S. 41° W. 254.8'—Thence S. 35° 35' W. 208.5'—Thence S. 61° 20' W. 314'—S. 73¾° W. 209.8'—Thence S. 49° 10' W. 192'—Thence S. 69° 40' W. 103'—Thence S. 49° 40' W. 282.5'—Thence S. 38° W. 386.8'—Thence S. 15° 55' W. 154.3'—Thence S. 31° 25' W. 1117.4'—Thence S. 45¾° W. 169.3'—Thence S. 59° W. 208'—Thence S. 53° 55' W. 520'—Thence S. 39° 50' W. 120'—Thence S. 31° W. 537.2'—Thence S. 20° 45' W. 204.6' to a point in the public road leading from Sablala to Geo. Beers, which by reason of the laying out of the first mentioned road has become useless.

That before the said view, public notice of the time and place of the meeting of the viewers was given by advertisements put up in the vicinity, and also personal notice given to all the owners of deated lands through which said road passes, and also notice to the supervisors of Sandy and Huston Townships, as well as to the County Commissioners—Ten days before said meeting, and we annex a plot or draft of said road laid out stating the courses and distances, and noting briefly the improvements through which the same passes, and also a description and draft of the road vacated.

Witness our Hands this twenty-fourth day of July, A.D. 1900.

Geo. C. Kirk
Amos (Kirk)
J. P. Taylor

Viewers.

And now May 5th, 1902,
 having heard and fully con-
 sidered this case, the remuneration
 against the report of Vienn
 is annulled, and the said report
 of Vienn is now confirmed
 absolutely.

By the Court
 John W. Clark
 Judge 5th Dist. Pending

Leahy
 No. 6 Sept Sessions, 1900

ORDER

To view and lay out a road for
 Public use in the township of
 Lehigh, Clearfield Co.
 Sept Sessions, 1900,
 Sept 19th 1900
 read and confirmed Ni. Si.
 Road to be opened 33 feet
 wide, except where there is
 side hill cutting or embank-
 ment and bridging, there to
 be 16 feet wide.

By the Court
 Cyrus Goodrich

Filed....., 189

Fees \$1, paid by

A S M. M.

NOTE:—In case of a private road, the release must be executed
 in favor of the petitioner 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 origi-
 nal 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 dam-
 ages, taking into consideration the advantages as well as the
 disadvantages of the road, they will report to that effect

| | | |
|---------------|----------|--------|
| Geo. C. Kunk | Days 5 | Amount |
| | Miles 13 | 21.30 |
| J. P. Taylor | Days 3 | |
| | Miles 9 | 6.90 |
| Amos Klein | Days 3 | |
| | Miles 4 | 6.40 |
| J. B. Kunk Jr | Days 3 | |
| | Miles 0 | 4.50 |
| | Days | |
| | Miles | |

To the Commissioners of Clearfield County:

This is to Certify that a public road laid out and surveyed from a point on the Hickory Road, near the residence of James Shannon, in Sandy Township, to Penfield in Huston Township, and passing through the lands of the said James Shannon, is now opened and traveled by the public,

J. M. Bearinger

David Lyons

Supervisors of Sandy Township
Clearfield County, Penn'a

November _____ 1904

Frank H. Thompson,
Prothonotary.
DEC 7 1903
F. H. T.

RECEIVED DIRECTOR OF THE BUREAU OF THE
LAND OFFICE OF THE STATE OF NEW YORK

TO THE COMMISSIONER OF THE LAND OFFICE OF THE STATE OF NEW YORK
FROM THE COMMISSIONER OF THE LAND OFFICE OF THE STATE OF NEW YORK

1903

1903

Duplicate

Clearfield County, ss:

At a Court of Quarter Sessions of the Peace of the county of Clearfield, Pennsylvania, held at Clearfield, in and for said county, on the 21st day of May, A. D. 1900, before the Judge of said Court, upon a petition of sundry inhabitants of the township of ~~Houston~~ ^{Sandy}, in said county, setting forth that

they labor under great inconvenience for want of a public road to begin in a public road known as the "Hickory Road" at a point near James Shannon farm in the Township of Sandy and to end in a public road known as the "Mountain Run Road" at a point near the Sandy^{3d} Houston Township line in Houston Township: The petitioners therefore pray the Court to Appoint three persons qualified according to law to view the grade according to such road, and if they should see occasion to lay out the same, to inquire of and vacate the public Road now laid out but not opened, from the road leading from Sabula to George Biers at a point near the Bialk farm in ~~Wesley~~ ^{Sandy} Township to Houston Township line on the line of the proposed road in said Township, which last mentioned Road is known as the ~~Mountain Run Road~~ and therefore praying the Court to appoint proper persons to view ~~vacate and~~ ^{supply} the same according to law, ^{3d report to next term.} whereupon the Court, upon due consideration, had of the premises, do order and appoint Geo. C. Kike, Amos Shrie^{3d} & J. C. Taylor 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 view vacate ^{and supply} 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 the 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 land 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 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 land 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.

Grant H. Thompson
Clerk.

Mountain Run Road not well by reason of the laying out of the proposed road become useless.

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, release 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.

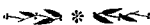
Witness our hands and seals this..... day of.....
A. D. 190.....

Seal

Seal

Seal

Seal



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 James Shannon the sum of Ten dollars.
To..... the sum of.....
To..... the sum of.....

Witness our hands this 26th day of July A. D. 1905.
Geo. C. Kirk

To the Honorable, the Judge within named: We the undersigned, appointed by the annexed order do report; That in pursuance thereof, after having been duly sworn, all the viewers appointed by said order, viewed the ground proposed for the within mentioned road, and we do agree that there is occasion for a road as desired by the petitioners, and that the same is necessary for a public road. And having had respect to the shortest distance and the best ground for such road, we have laid out in such manner as shall in our opinion do the least injury to private property, and as far as practicable agreeably to the desire of the petitioners, and do return for public use the following described road, to wit: — Beginning at a point in the Hickory road 16 1/2' west of Huston Twp., line, Thence on land reserved by Reading & Fisher for a public road, N. 3° 20' E., 1124.6' to a post in line of E. Bird's land, thence N. 22 1/2° W., 185' to Jas. Shannon line, 750' to a small Beech, thence N. 53 1/4° E., 200' to a post, thence N. 19 3/4° E., 100' to a post, thence N. 26 1/2° E., 179' to a Hemlock, thence N. 41° E., 285' to Shannon line 440' to Bird Cor. 446' to Post on land of E. Bird, thence N. 55 1/2° E. 500' to J. H. Keller line, 980' to small Birch, thence N. 67 1/4° E., 500' to a post, thence N. 61 1/4° E. 278' to Hem. stump, thence N. 12° W. 277' to a Hem, thence N. 7° W. 405' to a pine stump, thence N. 4° W. 304' to a small Birch, thence N. 14° W. 246' to a Hem. stump, thence N. 0 3/4° E., 350' to Sandy Twp., line 723' to a Birch thence N. 7° W., 796' to a Hemlock, thence N. 21° W., 675' to a small Hem, thence N. 0 3/4° E. 198' to Hem. stump, thence N. 20° E. 210' to a post in old Slide road, thence N. 44 1/2° E. 107' to a post, thence N. 54 1/2° E., 131' to a post, thence N. 69 3/4° E. 78' to Hem. stump, thence N. 85 3/4° E., 188' to a post, thence N. 16 1/4° E. 50' to mountain run, 186' to a post, thence N. 75 1/2° E. 230' to a point in Mountain run Road, in line of Sandy and Huston Townships. We further report that there are no damages accruing to any of the owners of the seated lands over which said road passed, by reason of opening the same, except Jas. Shannon, and having taken into consideration the advantages as well as the disadvantages, from the road passing through his land, we have assessed the damages sustained by the said James Shannon, as herein returned. That we have inquired and do vacate the following described public road, to wit: Beginning at a post in the line between Sandy and Huston Townships, in Mountain run road, thence S. W. 250' thence N. W. 81.2' thence N. W. 454' thence S. W. 231' thence S. W. 597.3' thence S. W. 363' thence S. W. 477' thence S. W. 264' thence S. W. 254.8' thence S. W. 208.5' thence S. W. 314' thence S. W. 209' thence S. W. 192' thence S. W. 103' thence S. W. 282.5' thence S. W. 386' thence S. W. 154' thence S. W. 1111.4' thence 169.3' thence 208' thence 520' thence 120' thence 737' thence 204' to a point in the public road leading from Sabula to Geo. Beer, near the Fyock farm, which by reason of the laying out of the first mentioned road has become useless, it having never been opened. That before said view, public notice of the time and place of the meeting of the viewers was given by advertisements put up at three of the most public places in the vicinity. Notice was also given to the County Commissioners, the supervisors of Sandy and Huston townships, and to all the owners of seated lands over which said road passes, ten days before said meeting, and we annex a plot or draft of said road and its situation, course and distances, and stating briefly the improvements through which the same passes, and also a description and draft of the road vacated.

Witness our hands the 26th day of July, A.D. 1900.

Geo. C. Kirk

Amos Plaine

J. P. Taylor

Viewers.

No 6 Sept. Sessions, 1900
ORDER

To view wanted supply "road for public use in the township of Union & Liberty Clearfield County

Sessions, 1900 ,
read and confirmed Ni. Si.
Road to be opened 33 feet
wide, except where there is
side hill cutting or embank-
ment and bridging, there to
be 16 feet wide.

Filed 1900
Fees \$1.25 paid by

NOTE.—In case of a private road, the release must be executed in favor of the petitioner 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.

| | | AMOUNT. |
|-----------------|----------|---------|
| Geo. C. Clark | Days 5 | 25.00 |
| | Miles 13 | 1.30 |
| J. B. Taylor | Days 3 | 6.00 |
| | Miles 9 | .90 |
| Anna Collins | Days 3 | 6.00 |
| | Miles 4 | .40 |
| J. B. Clark Jr. | Days 3 | 4.50 |
| | Miles | |
| | Days | |
| | Miles | |

Rule to Take Depositions.

Clearfield County, ss:

*In vacation & supply of
Wren road in Union
& Sandy Twp.*

versus

Remonstrance filed.

Quarter Sessions
IN THE COURT OF ~~COMMON PLEAS~~ OF
CLEARFIELD COUNTY, PA.:

No. *Sept 22* 1900
~~Term, 189~~

AND NOW, to wit, the *4th* day of *June*, in the year
of our Lord one thousand ~~eight~~ *nine* hundred and ~~ninety~~
one, the *Remonstrants* enter a Rule to
take the Depositions of ancient, infirm and going wit-
nesses, to be read in evidence on the *arguments*
of this case. Ex parte rule of *Remonstrants* on
five days notice.

Grant H. Thompson
Prothonotary.
Clerk

To *W. C. Peutz*, Esq.:
Atty for Petitioners

You will please take notice, that in pursuance of the foregoing Rule depositions
will be taken before *John Nackett, 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 *John Nackett*
in the *Courthouse* of *Stuslow* in the county of
Clearfield and State of Pennsylvania, on the *10th* (10th) day of
June, A. D. *1901*, between the hours of *9* o'clock
A. M. and *9* o'clock P. M., when and where you may attend and cross-examine.

Americus H. Woodward
Clearfield, Pa., *June 4th. 1901.* *Atty pro Remonstrants*
~~189~~

Served on me June 4. 1901
W. C. Peutz
Atty for Petitioners

No. Term, 189

.....

.....

versus

.....

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Rule to Take Depositions.

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Depositions of Witnesses produced, sworn, or affirmed, and examined before John Hackett, Esq., one of the Justices of the Peace, in and for the County of Clearfield, in Huston Township, on this 10th day of June, A.D.1901, between the hours of nine o'clock A.M. and nine o'clock P.M. of said day, taken at the office of L.Bird by agreement of counsel, in obedience to the rule of Court and notice hereto attached, to be read in evidence on the argument of a case now pending and there to be heard, to wit, in the Court of Quarter Sessions of Clearfield County, Pa., in re, vacation and supply of road in Huston and Sandy Twp. These depositions being on the part of the remonstrance to the said road.

Lucien Bird, called on the part of the Remonstrance, being duly sworn, deposes and testifies as follows ;

I was one of the original viewers on what is known as the Mountain Run road. The other viewers were H.S.MacMinn and J.P.Taylor. I am a surveyor, and acted as such in the location of that road. There were three main purposes for the location of that road, first to get a better road from Bennetts Branch valley to DuBois, second to get a better line from the Bennetts Branch valley to the valley of the Toby and in the direction of Brockwayville, and third to give a better outlet to citizens residing along the Mountain Run valley. The roads now in use between Bennetts Branch valley and DuBois go over the hills in Huston and Sandy Townships, and the hills are steep, and a good deal of the way the roads are liable to drift in the winter. Those roads are not practical roads for heavy hauling on account of their steepness and drifting. The roads in use are not as direct as the road laid out by us. In laying out the Mountain Run road we followed the water grade very closely. The grade is very even and regular, and is not steep at any point. We laid this road to connect with the public road leading from DuBois to the Toby valley, and the connection is made at or near Fyock's. The road up to where it connects with

the Sandy Twp. road is easy grade. After getting to Fyock's and connecting there with the Sandy Twp. road, there is a hill to get up to the summit. It has a rise of about 100 feet in going about 100 rods. The grade is comparatively regular. That is not nearly as steep as several points in the road now in use. The summit at that point, near the Dunkard Church, is 50 feet lower than the summit at Newell's, measured by a barometer. I am acquainted with the ground of the proposed vacation and supply of this Mountain Run road. The new road that is to supply the part of the old road that is to be vacated would accommodate James Keller and George Newell. I think that is all there are who live on the road. So far as I know and have talked to the people who are interested in the original Mt. Run road, there would be no objections to the proposed new road to accommodate these gentlemen, provided it did not vacate any of the original road. One objection to the vacation of the old road and its supply by the new one is that it makes a longer route to DuBois and at least three quarters of a mile longer route to the Toby valley. The road to the Toby valley would also be a steep road. The Mt. Run road as originally located is a better road as to grade than the new road, for the reason that the summit at the point that it reaches the summit is 50 feet lower than the summit on the proposed new road. In the Kirk road, or new road, they follow up the Newell Branch of Mt. Run. This is quite a level branch, and they get only 50 feet of a rise in over a mile up to Keller's. They then leave the branch and grade up the hill. They then have to make 250 feet of a rise in from half to three quarters of a mile distance to get to the summit. Assuming the elevation ^{of the road} at the Twp. ^{line} to be 240 feet, at James Keller's it would be 290 feet, and at the summit at Newell's between half and three quarters of a mile away, it would be 540 feet. Map marked Exhibit A shown to witness. I

prepared this draft. It shows the relative location of the Kirk survey, which is the proposed new road and the MacMinn and Bird survey which is the line of the Mt.Run road as originally laid out. It also shows the comparative elevations on the two roads. It is drawn to a scale of 50 rods to the inch. The counsel for remonstrance offer the draft in evidence in connection with the testimony of the witness, and it is attached to the testimony, marked Exhibit A. J.H. 6-10-1901. In coming from DuBois to the Bennetts Branch valley the grades would be even and better on the Sandy side in coming to the Dunkard Church summit, which is the summit of the Mt.Run road, than they would be in coming to the Newell summit, the summit on the proposed new road. That only applies for the last half or three quarters of a mile, as they have the same route up to that point. The reason for that is because the Dunkard Church summit is 50 feet lower than the Newell summit, and there is a ravine at the Dunkard Church summit coming up from the Sandy, while there is none that comes directly to the Newell summit. There is a very decided difference in the grade in these respects. There are probably fifteen or twenty families on the head of Mt.Run, beyond Fyock's, who would be accommodated by the road that is now proposed to be vacated in coming to the Bennetts Branch valley. They do business here and frequently come to Penfield and ~~travel~~ want to travel this road. The Mt. Run road is at least a mile shorter and a much better grade for them than the present public road. If this road were to be changed as proposed by the vacation and supply, it would be not particular accommodation to these people spoken of. One reason for that is,

because there is a bad place for snow drifts on the Kirk road beyond George Newell's. This road up Mt.Run as surveyed by Mr. MacMinn and myself was very carefully laid out with a view to making a through road from Bennetts Branch valley to DuBois and to Brockwayville and the Toby valley. It is as good a location as can be secured across that summit. I believe that is the lowest point on that summit between the eastern and western waters.

Cross Examined by W.C.Pentz, attorney for the Petitioners. I live in Penfield. The road that I laid out to No.4 Feb'y Sessions 1898 follows Mt.Run to Chas.Fyock's from Chas.Bundy's. It runs through Huston and Sandy Twp.s. At Chas.Fyock's it connects with the public road already laid out and opened from DuBois to Fyock's and Fyock's to the Toby valley. The piece proposed to be vacated is from Fyock's to the Newell Branch on Mt.Run. That piece of road lies entirely in Sandy Twp., and has never been opened in that Twp. No person travels that road at the present. This piece proposed to be vacated runs through Hoover, Hughes & Co. land, and Silas Keller. The Silas Keller is unimproved land where the road goes through it. Hoover, Hughes & Co. have sold this land to the State of Pennsylvania. The most of the Toby valley that I speak of is in Elk County, Brockwayville is in Jefferson County. This road that is to be vacated is not far from the Elk County line - I do not think at any point it is over half a mile. All the settlement that I am talking about above Fyock's is in Clearfield County. From the Dunkard Church there are two roads, one is the old road over the mountain and the new one by Fyock's, and these two come together, and these people live on one or the other of these roads. There is a logging road nearly parallel to the road to be vacated, and it is used occasionally by people. There is no person living on this road that is proposed to be vacated from the time it leaves Fyock's till it reaches the Huston Twp. line. This proposed new

road runs through James Keller and along the line of James Shannon and George Newell. On the proposed new road there are two properties, George Newell and James Keller, that have no public road. The land along the proposed new road belongs to the State for about a third of a mile before it strikes Keller. From the time it strikes Keller's property on the line of the State property, it is not more than 40 or 50 rods from the old road to the new on the land of the State. The balance of this road runs through the lands of individuals, either improved or unimproved. That is all fair farming land. About 50 rods of the vacated road runs through the land of Silas Keller - it may be 60 to 80 rods. That is wood land. I have no objections to Mr. James Keller and Mr. George Newell having a public road. I would help them get it if they had not tried to vacate this at the same time. My principal objections to the vacation of this road is the distance and grading by the new road, and the snow drifts, as stated in my examination in chief. There are two roads now from the Bennetts Branch valley to DuBois. These roads were open and in use when I came here in 1870. They were apparently laid to accommodate settlers up and down the mt. There is also a line of R.R. connecting Bennetts Branch valley with DuBois, with three passenger trains each way a day. The distance from Penfield to DuBois is about thirteen miles, that is by R.R., it may be a little more by wagon road. In a new settlement of a country they are very apt to lay the roads as the people want to settle. After a country is settled they are likely to look for better through routes, as they are doing in this case, and it is a very important matter to have a through route from this section to the valley of the Sandy and the valley of the Toby. The valley of the Toby is in Elk and Jefferson County. Mountain Run is very well settled for about two miles from Bundy's. Then the Kille tract comes in for about two miles, and that is unimproved, or woodland.

That reaches the line between Huston and Sandy. Then the State land comes in.

Re-examined. Since the lumber is cut out of this region, the people are turning their attention more to farming. The town of DuBois is the largest town in this section of country. It furnishes a market for a great deal of farm produce of this section. The matter of a good through road to DuBois, that is practical at all times of the year for hauling and driving, and that has easy grades, is a matter of much more importance to the people of this section of Huston and Sandy Townships, as well as to the people of DuBois, than it was years ago. The Kille tract that was spoken of by me, some of it that lies along Mt. Run and its branches is good farming land - two thirds of the tract is suitable for farming. About 400 rods of the road proposed to be vacated run through State land. There is about 100 rods of the road that supplies this that also runs through State land.

Re-cross examined. There has recently a great deal of coal land changed hands in the Bennetts Branch valley, and an operation has started six miles East of here. There is also a R.R. built from Centreville into this valley at Weedville. There has been an operation at Tyler, this County, for twelve or fifteen years, but this new one belongs to a different concern. The people operating at Kersey Run and Cherry Run have purchased the minerals up to the lower end of Penfield. The recent large sales to farmers have reserved all minerals. This applies all through this region of country, except the earlier farmers.

W.D.Woolward Jr., witness on the part of the Remonstrance, being produced and affirmed, testifies as follows :

I live at Penfield. I am acquainted with the location of the Mt. Sun road as surveyed by MacMinn and Bird. I also know the location of the proposed supply of that road, known as the Kirk survey. I have been over the lines of these two roads. I am well acquainted with ground on which they are located. The MacMinn and Bird survey is the best line. The MacMinn and Bird survey is the better line because of the difference in distance, the lower grades that it has, and the less liability to snow drift, and the greater number of people accommodated by the MacMinn and Bird survey. There is a necessity for a good road from the Bennetts Branch valley to the Sandy and Toby valleys, particularly to the Sandy valley. I was over the ground of the MacMinn and Bird survey last winter with Mr. Bird and others, also over the line of the Kirk survey. We examined the two surveys with an instrument with reference to grades. We found the MacMinn and Bird survey to be a gradual ascent, with no dips and no loss of grade at any place to the summit at Fyock's, that the summit where it crosses into the Sandy valley is 50 feet lower than the summit of the proposed road on the Kirk survey, whereas on the Kirk survey we found the grades not to be regular, but at one place to cross the valley at a point between Geo. Newell's and the Twp. road, which would occasion either a very expensive fill, or else cause a dip in the road and a very steep ascent. The grades on the MacMinn/Bird survey are very much better than on the Kirk survey. On that line it is an easy grade all the way. The Bird-MacMinn survey is also quite a good deal shorter - how much shorter I could not say I have examined the two routes with reference to the cost of making the roads also, and I should say that the MacMinn-Bird survey is much the cheaper route. In the Bird-MacMinn survey the route is freer from stumps, roots and growth than

the Kirk survey. There never was as much timber on the line of that survey as on the Kirk survey. For from half to three quarters of a mile on the Kirk survey we found that survey to be located through a thicket, having undergrowth of saplings from six to eight inches through down to the size of your thumb - these were so thick it was difficult to get along. We found quite a considerable swamp land that the Kirk survey passes through - hard to drain and costly to make a road upon. The MacMinn-Bird survey is nearly all side cut, just off the foot of the hill. There would also be three bridges to build on the Kirk route. It may be that a good sized sewer on the upper one would carry the water instead of a bridge. There would be on the other line a bridge or a sewer near Fycok's. It would be about similar to the upper crossing of the run on the Kirk survey. James Keller and George Newell are the only persons that would be accommodated by the Kirk survey who have no public road now. The MacMinn-Bird survey would accommodate more people than the Kirk survey. All these people particularly accommodated with this road live in the upper end of the Mt. Run valley. They do business at Penfield, some of them get their mail here, but most of them I think get their mail in Sabula. They live in Sandy Twp. The principal purpose, however, of this Mt. Run road is to accommodate the people of Huston and Sandy Twp.s in their travel to DuBois and to Brockwayville and the Poby valley. When constructed this would be the main road to DuBois. The roads to DuBois at present from the Bennetts Branch valley are exceedingly steep. In 189⁰ or 1891, I examined the roads that we now have in use between here and DuBois in reference to grade, and I found a difference in elevation between the summits on these roads and the summit at the Dunkard Church on the new road about 200 feet, that is the summit on the roads now used is 200 feet higher than the summit at the Dunkard Church. I also found that these roads were

not regular grade, but dipped across the heads of ravines so that in reaching the summit, you had to climb an additional 650 feet, which would really make a difference in the amount of hill climbing to do in getting to the summit of 850 feet. The Bird-MacMinn survey is a water grade all the way. The grades on the two roads now in use to DuBois are very steep in places. You cannot haul a large load up them at any time. When we examined these roads last winter, we found no snow drifts on the Bird-MacMinn survey, but on the Kirk survey we found a great deal of drift between George Newell's house and the Twp. road. The nature of the ground is such as to make that piece of road as bad a piece of ground for drifting as there is in the County, by reason of the fact that it runs right along a steep bluff which is cleared, and which is so steep that it is used for nothing but pasture. The line of the road is nearly East and West, and the North West wind, which is the prevailing direction of the wind in winter, will blow the snow right off the bluff on to the road.

Cross examined. Question . Mr. W, did you have stated that this road was as bad a road to drift as there is in the County, Will you please tell us how you know that it is as bad a road as there is in the County ? Answer. Drifts are caused by the snow being carried by the N.W. wind generally. This particular piece of road is exposed to a long stretch of open country, very high elevation. Its direction is a little N.W. by S.W. nearly due East. It skirts a low bluff, probably 30 feet in height, which has a very abrupt descent. The wind coming across this great stretch of open country, across the head of Sandy valley, carries the snow from these fields over the top of this bluff and deposits it in this road, because of the eddy caused by the bluff. That is the only reason I have to give for my former statement. I have

driven nearly all of the roads in Clearfield County in the summer, and I can judge from the nature of the ground and the character of the road whether it would be a road to drift. I was not looking for drifting roads when I drove these roads in the summer. It is practically a swamp from a little West of James Keller's house to the splash dam on Mt. Run. There is 200 rods of this swamp in Sandy Twp; This deep fill I talk about is all in Sandy Twp. The drifting place is all in Sandy Twp. There is nobody living on the line of road proposed to be vacated. There are two improvements on the Kirk survey and one on the other. The improvement I refer to on the road to be vacated is the one referred to by Mr. Bird in his testimony as the Silas Keller, which runs through woodland. When I went over this road taking levels I used an aneroid barometer. I never took any levels with anything except an aneroid barometer. The Chas. Fyock property is on the eastern slope and the waters run into Bennetts Branch. The summits that I spoke of on the other roads that are opened are the summits at the head of ravines. They are the summits of the ridges between the ravines that put up from the Bennetts Branch and Mt. Run, and they are all East of the summit at the Dunkard Church. I took these elevations in 1890 or 1891. I have not looked at my record for a long time. I took a record of them, I think I have the record, but I am now testifying from memory. I do not pretend to say that Mr. Newell and Mr. James Keller should not have a road. I say they should have a road and I signed their petition for a road, with the distinct understanding that they should not vacate any part of the old road. This road that is to be vacated is all in Sandy Twp. The people that I speak of that this road would accommodate this way, all have an excellent grade of a road towards DuBois. The vacation of this road would not affect their road to DuBois. I judge it is eight

miles from Fyock's to DuBois. It is between five and six miles from Fyock's to Penfield, and from Fyock's down toward Penfield to the edge of the Kille tract there is nobody living. In the part of the proposed road where there are such large stumps and heavy undergrowth, part is in Sandy and part in Huston- nearly equally divided. That is all that would interfere with making a good road there. Question. When you speak of the MacMinn-Bird survey accommodating more people than the Kirk survey, what do you refer to ? Answer. I refer to the people who live in the upper end of the Mt.Run vally, above Chas.Fyock's. It is in the neighborhood of three miles from Fyock's to Sabula. Sabula is a P.O. and a R.R. station. They have three passenger trains a day there each way. There is a great deal more hill on the road from DuBois to Sabula than from Sabula to Fyock's. The road from DuBois to Sabula parallels the creek - it is on the edge of the valley on the foot hills. In my judgment this road could be greatly improved - by a great amount of expense.

Re-examined. Where the Kirk survey goes through James Keller's land it goes through unimproved land, of the same character as the MacMinn-Bird survey through the Silas Keller land.

Re-cross examined. James Keller is starting a farm there the same as Silas Keller is starting a farm on his land. James Keller has been in there about two seasons, I think. I think he is married and has a family. Mr.Newell is married and has a family.

Samuel Brown, witness on the part of the remonstrance, called, affirmed, and examined, testifies as follows : I live in Huston Twp. I own land in both Huston and Sandy Twp.s. The Twp. land divides my place - I have about ten acres in Sandy . I live about a mile from James Keller's place. I live about a mile from the Dunkard Church. I am acquainted with the ~~general~~ location of the MacMinn Bird survey, although I never followed the road through.

I live right on the summit between the waters of Sandy and the waters of Mt. Run. The lowest place on that summit is at the Dunkard Church. I know the ground where the Kirk survey is located. The Bird-MacMinn survey will make the best road for everybody - for the public at large.

Cross examined. I saw the line of the Kirk survey, but I never followed it. I saw it at Mr. Newell's and then on the run. I never looked for the survey. The MacMinn-Bird survey would not accommodate George Newell or James Keller, unless they could get a road through to it. They have no outlet at all by a public road. The new road would go through Silas Keller's property.

George Newell, witness on the part of the remonstrance, called, affirmed, and examined, testifies as follows : I live on the line of the Kirk survey. I am acquainted with the road on the Bird-MacMinn survey. The way it is now, the old view is the best road - the Kirk survey was not properly located. There could be a road put in there that would be better. As between these two roads, I prefer the Bird-MacMinn road, and want that road built.

Cross examined. I would be on this new road. I want a public road past my place if I can have a good one. For individuals living along this road this would be the best road, for the traveling public the Macminn road would be the best road. The MacMinn road has never been opened, that is the Sandy Twp. end of it. I was along when Kirk and the other men viewed the road. I told them where I wanted the road located, and I also told them they made a mistake. I told them they were there to view that road and not to vacate the other road. They did not locate the road where I thought it ought to be. That is the reason I thought they made a mistake. I am not opposing this road - I want both roads made. Mr. Keller has no other road to get out except over this Kirk road. I have a private road into my place - I keep it up myself.

Mr. Keller does not have a private road in to his place.

W.B. Heath, a witness on the part of the remonstrance, called, affirmed, and examined testifies as follows : I live in Sandy Twp. I have seen the Bird-MacMinn survey from Silas Keller's up to Fyock's. The lowest summit over the mountain into the Sandy valley is at the Dunkard Church. There are quite a good many people living in our community. I live adjoining Mr. Samuel Brown. We travel frequently back and forth from Penfield and the Bennetts Branch valley. For accommodation of myself and others up there, so far as distance is concerned, there would not be much difference between the two roads, but so far as the ground is concerned the MacMinn survey is the best - it has considerable less grade. The roads we now use to come to Penfield are pretty steep. We come around by Conways mostly.

Cross examined. When I referred to grades, I referred to the two proposed new roads. I was never over the Kirk survey. James Keller has no public road outlet. On the Kirk road there would be three properties opened up for settlement. There is no other road to the Silas Keller property except the MacMinn-Bird survey. I cannot say whether the Kirk road would run through Silas Keller's land or not, I suppose so. He is improving this piece of land. The Kirk road would give an outlet to three properties. I am not opposed to these people having a road. I think they ought to have a road. As a citizen of Sandy Twp. I believe it would be advisable to open up and keep up both of these roads.

A. Reding, witness on the part of the remonstrance, called, sworn, and examined, testifies as follows : I live in Penfield. I have been over the location of both the Bird-MacMinn survey and of the Kirk survey. I was there last winter, in the company of Mr. Bird and others. The MacMinn-Bird survey is the shorter route to DuBois, and it is also the shorter route to the

Toby valley. He also says the Bird-MacWinn survey is the better grade. The summit at the Dunkard Church is lower than the Newell summit. I examined the road also with reference to the cost of making each road. The MacWinn survey is the cheaper road to build. The MacWinn survey will also be the cheaper road to maintain after it is built. There is a necessity for a road with good grades between here and the Sandy and Toby valleys.

Cross examined. I live in Huston Twp., in Penfield. I think Mr. Keller and the people living on the Kirk road should have a road. I would be opposed to this road. Keller and these other people could have their road made in a different place. I think there could be a better route than where the survey is now. I would not be in favor of that road to DuBois, because the other road would be the best road. I believe there are two public roads from DuBois to Penfield. I do not drive to DuBois very often. Individuals who have no load to haul, go to DuBois by R.R. All of the goods bought by our merchants in DuBois are sent by rail. The people on this side deal principally at Penfield.

Re-examined. We have no mills here in this valley to grind grain - we have to go either to DuBois or Brockwayville.

I certify that the above witnesses were duly qualified and examined at the time and place stated in the caption and subscribed their depositions in my presence before me.

Penfield, Pa., June 10, 1901.

John Hackett, Jr.

24

By Fyockles

475 models to rise 250¢

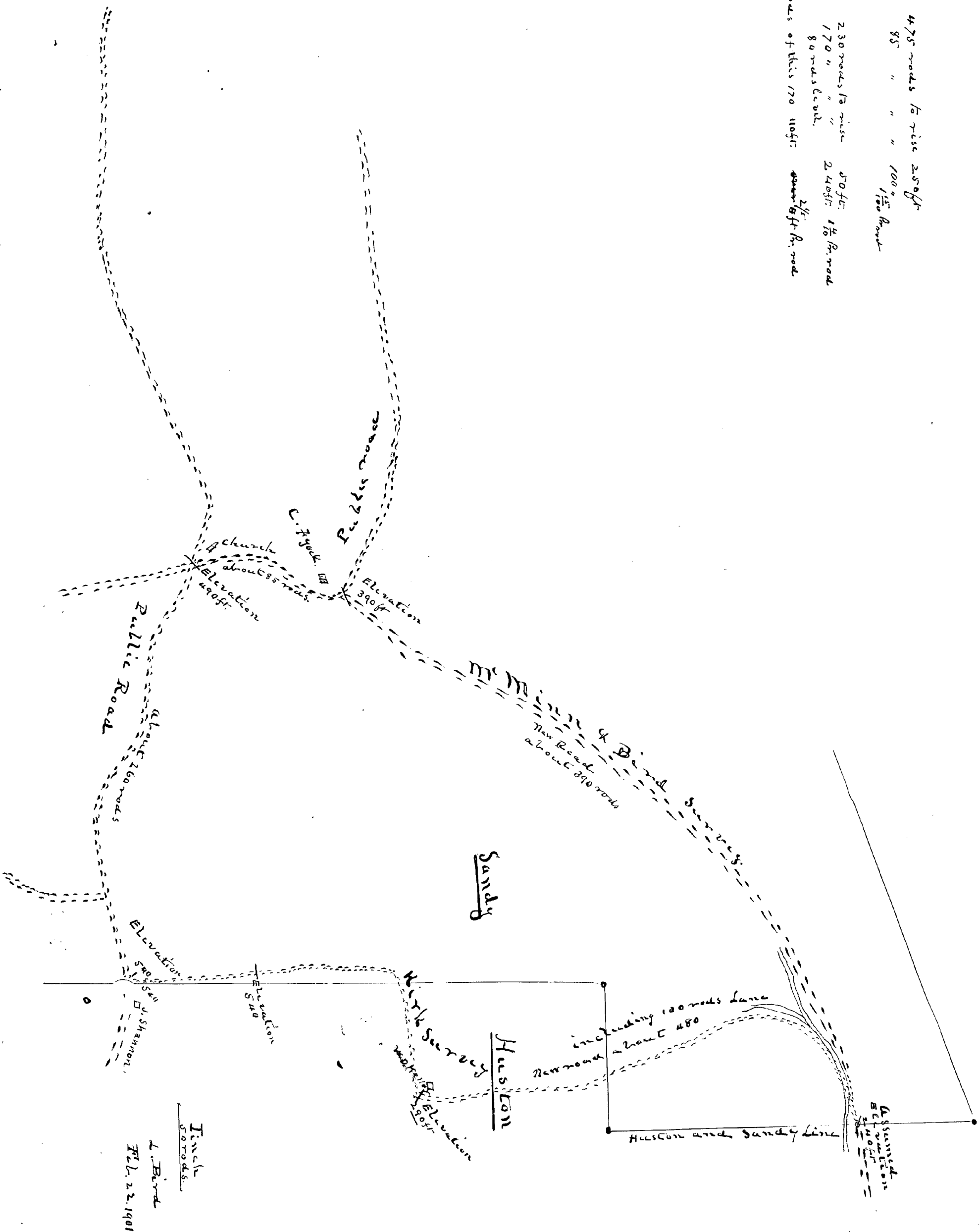
$1\frac{15}{100}$ Prod.

By Kellers

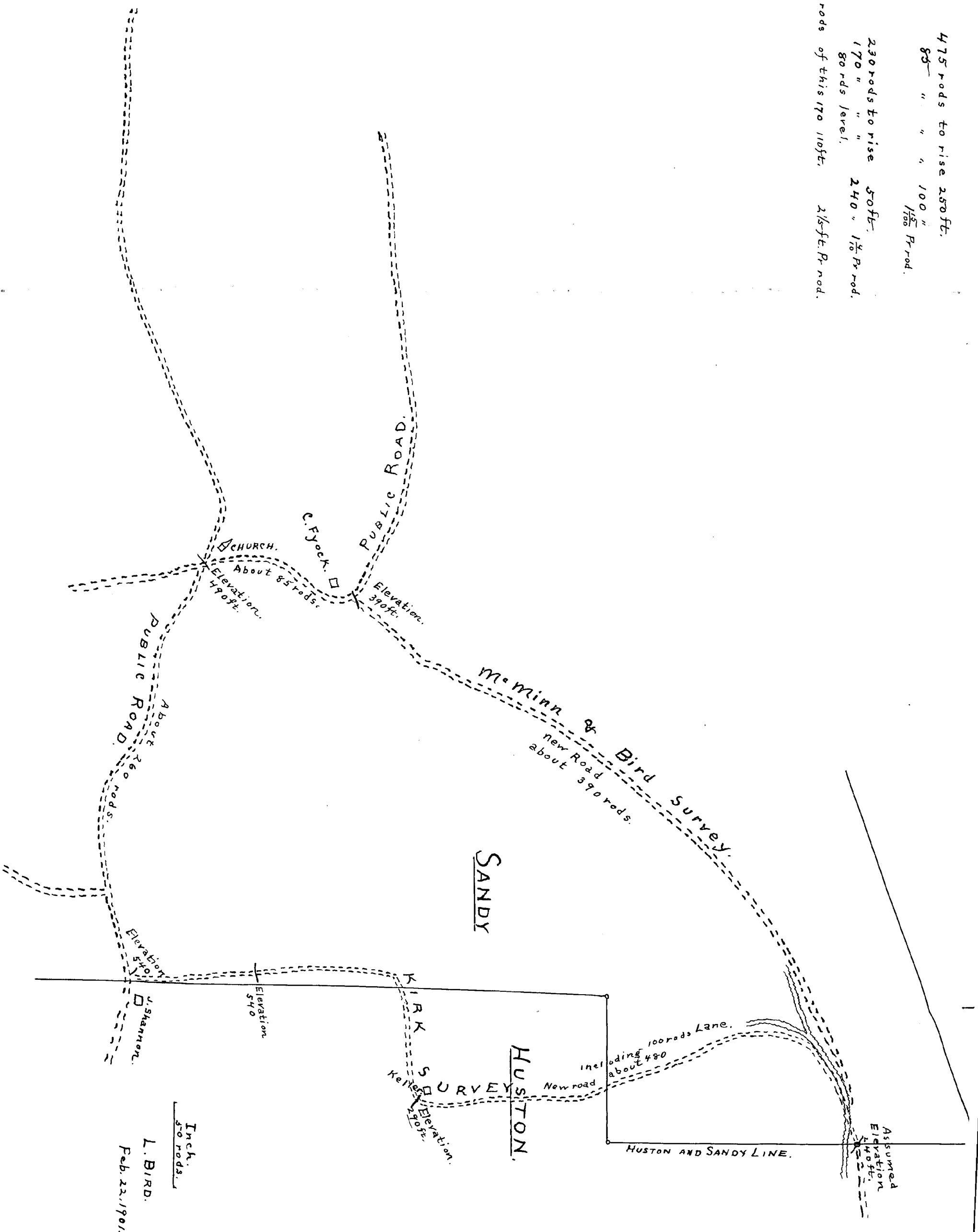
230 rocks to mass
170 " " "

50 ft. 1 1/10 ft. rod
240 ft.

about 450 rods of this 170 110ft: ~~over~~ $\frac{7}{8}$ ft. h. rod



| | | |
|-----------------------|------------------|---------------------|
| By Keller's | 230 rods to rise | 50 ft. |
| | 170 " " | 240 " 1 1/2 Pr rod. |
| | 80 rods level. | |
| About 50 rods of this | 170 110 ft. | 2 1/2 ft. Pr rod. |



Mountain Run Road.

to the Honorable, the Judge of the Court of Quarter Sessions of Clearfield County:

The petition of the undersigned respectfully represents:

That they labor under inconvenience for want of a public road, to begin in a public road known as the "Hickory Road" at a point near James Shannon's Farm in the Township of Sandy and to end in a public road known as the "Mountain Run Road" at a point near the Sandy and Huston Township line in Huston Township: The Petitioners therefore pray the Court to appoint three persons qualified according to law to view the grade according to such road. And if they should see occasion to lay out the same, to inquire of and vacate the public road now laid out but not opened, from the road leading from Sabula to George Biers at a point near the Pialk Farm in Sandy Township to the Huston Township line on the line of the proposed road in said Township, which last mentioned road is known as the "Mountain Run Road", and will by reason of the laying out of the proposed road become useless; and make report of their proceedings to next Court.

And they will ever pray.

Chas. L. ...

...

J. L. Todd

S. C. ...

J. L. ...

W. W. ...

W. W. Hoover Jr

A. R. ...

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Geo. ...

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Edgar ...

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J. B. Sherwood

W. M. Newell

E. C. Hoyt

C. E. Burk

W. H. Kilmer

A. Heckman

Wm. Shoemaker

W. A. Shoemaker

J. Heckman

Henry E. Heckman Jr

Charles Bundy

Mrs E. Towne

Geo. R. Eastman (Nursery agt.)

C. A. Hammond Butcher

W. F. Brown

S. Bundy

J. Reddy

John Hackett

L. B. Sisco

A. H. Rosenkrans
C. Yetzer Town Clerk.

G. W. Idings

Thos. J. Lowell

L. H. Seabird

V. V. Smith

W. D. Woodward Jr

M. J. Johnson

Twp. Treas.

Ms 6 May 1860

Return for same
to H. H. H. H. H.
L. H. H. H. H.

21 May 1860
Town of H. H. H.
L. H. H. H. H.
L. H. H. H. H.
L. H. H. H. H.

are enclosed
reachable for the
first time. H. H. H.
H. H. H. H. H.
H. H. H. H. H.

W. C. H. H. H.
Attorney at Law,
DU BOIS, PA.
EXPRESS PRINT, DU BOIS, PA.

HERMAN S. MacMINN,
CIVIL ENGINEER AND SURVEYOR,

DuBois, Pa., May 13th, 1902,

Mr. Grant H. Thomson,

Clearfield, Pa.,

Dear Sir:-

I return enclosed herewith the "Mountain Run road matter"
you have kindly sent me, having copied the notes of survey to Plot on
my map of the region of country through which the road is intended to
pass. Please accept thanks for same,

Yours truly,

A handwritten signature in cursive script, reading "H. S. MacMinn". The signature is written in dark ink and is positioned to the right of the typed name "H. S. MacMinn".

Rule to Take Depositions.

Clearfield County, ss:

In Re Robert Rorer
vs
Hansley & Hunsicker
versus
Group

Quarter Sessions
IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PA.:

No. Term, 1890

AND NOW, to wit, the 17 day of June, in the year
of our Lord one thousand eight hundred and ninety
one, the Prothonotary enter a Rule to
take the Depositions of ancient, infirm and going wit-
nesses, to be read in evidence on the argument
of this case. Ex parte rule of Prothonotary on
17 days notice.

Chas B Thompson

Prothonotary.

To A H Woodward, Esq.:

Atty for Rorer & Hunsicker

You will please take notice, that in pursuance of the foregoing Rule depositions
will be taken before J. R. Rorer, or some other person
authorized to administer an oath or affirmation in Pennsylvania, in and for the
County of Clearfield, at the office of J. R. Rorer
in the Bar of Clearfield, in the county of
Clearfield and State of Pennsylvania, on the 26th day of
June, A. D. 1901, between the hours of 9 o'clock
A. M. and 9 o'clock P. M., when and where you may attend and cross-examine.

Clearfield, Pa., June 17, 1901

Served on me June 17, 1901.

A. H. Woodward.

No. Term, 189.....

versus

Rule to Take Depositions.

| | | |
|--------------------|---|--|
| In re. public Road | § | In the Court of Quarter Sessions of |
| in Sandy & Huston | § | Clearfield County. |
| Townships. | § | No. Term 1900. |

Depositions of witness produced and sworn before me this 26th day of June, A.D. 1901, at the office of W.C. Pentz in the Borough of DuBois, County of Clearfield and State of Pennsylvania, between the hours of 9 o'clock A.M. and 9 o'clock P.M. on the part of the Petitioners, in accordance with the annexed Rule of Court and notice hereto attached.

T.C. Hoyt called on the part of the Petitioners,
affirmed, says:

I live in Huston Township. I have lived there since '44. I know James Keller, I am somewhat acquainted with him. I know where he lives. I have been acquainted with that country to some extent since my boyhood. I am acquainted with the location. Mr. Keller has no outlet that I know of. So far as the Kirk survey is concerned, I have no knowledge of where it starts in. That road will accommodate with outlets, the two Kellers and I think Alex Bundy, George Newell, Oran Flock. What is known as the Mountain Run Road as laid out or to be vacated, runs entirely through state lands. As a citizen and from my knowledge of that community, in my judgment the road that runs past Kellers, I look at it as very essential, as I cannot see any other way for these persons to get out. The road they have now to get out ^{at} ~~in~~ I have been on it a few times. I have never been down on that road clear to Mr. James Keller's, but as far as I have been I should call it next to impossible to draw a load with an ordinary team over it. Mr. Keller has lived in there I think between two and three years, about two years.

William Hoyt affirmed, says:

I live in Huston Township. I have lived there fifty seven years last November. I will be eighty two years old on the 7th of November, coming. I am acquainted with the country in which James Keller lives.

Keller's place from mine is only a half mile, or a little over that. I am not acquainted with the country from which Kirk's survey is made. I never went over that road at all. This road would let out and would be an accommodation to George Dodd, Silas Keller, James Keller, Oran Flock and George Newell. In my judgment I think the road is necessary through there, as there is no way that I know of to get out. A public road ought to be built to accommodate the people in their territory.

Mr. *Jacob* Bessler, affirmed, says:

I live three miles above Huston Township, in Sandy Township. I am one of the present Supervisors. My township is in debt a little. We have a cash tax of ^{four} ~~xxx~~ mill. It is not for paying debts. We can use it for building bridges, etc. The work tax is 6 mills, that makes a ten mill road tax on the present valuation. That tax is not sufficient for opening both these roads and keeping them in repair.

Geo. C. Kirk affirmed, says:

I live at Luthersburgh, Brady Township. I am the surveyor who laid out the Kirk road that is in dispute. When I laid ~~out~~ the road I found the grade of the road alright. It is as low a grade as any one can get from Mountain Run up to the summit. The grade ^{on} ~~is~~ what is known as the Mountain Run Road is alright up to George Flock, and from that up to Dunkirk Church the grade is very heavy. The road is not opened from the Huston Township line up to Flock, but from Flock's to Dunkirk Church it is opened. From Flock's to Huston Township, it is not opened. On the present road that is there, it is a heavy grade from a little above Flock's up to the Dunkirk Church, it runs about 13 feet to the hundred. It is a little heavier from the ~~xx~~ grade I laid out, about 3 feet to the hundred. The grade that my view established is a better grade than the other. The grade on the road I run up there from James Keller's to Shannon's would average about 11 feet to the hundred, and the other from that on out down to the Huston Township line, is

about a mile and over low grade. There is about 20 feet fall from the James Keller's to the mouth of the Newell run. I took the grades yesterday on the two roads. The difference between the elevation at the Dunkirk Church and at Shannon's, is fifty five feet. The Shannon is fifty five feet lower than the Dunkirk Church, that is, where the Kirk road terminates at Shannon's. The distance from the Dunkirk Church to Shannon Summitt is about three quarters of a mile, it might be a little longer than that. The grade is gradual going up the Shannon Summitt; there is ups and downs in it. The highest point on the Kirk road is at Shannon's at the Hickory Road. From there it falls toward the Huston Township line and toward the Dunkirk Church, and that is fifty five feet above Shannon's. The difference in grade between the Shannon Summitt and the Huston Township line where we connect on to the road is 275 feet. The distance we travel to get to that point is a little over a mile and three quarters. That grade is not gradual. The heaviest grade I think on that line, is eleven feet to the hundred. The Mountain Run Road that is vacated by my view, the heaviest grade to the hundred on that road, to reach the point at the Dunkirk Church is 13 feet to the hundred. The Kirk road is good ground to build a road over. It is a side hill from Shannon's down to James Keller and from that down to Huston Township line. It follows the water level down and is also off the low land. There is no swamp on it. As it is now laid out, as to material for building I think it is better than the Mountain Run road, equally as good at least. Part of the way this Mountain Run road runs through state lands. On the new road that is laid out, we run through lands of Silas Keller, James Keller, also Lands of Lucien Bird, but he don't live there, and George Newell we don't run through his lands but the road runs right by his place, and Alexander Bundy. These men have no means of getting out except by this road. There is no material difference in the lengths of the roads. From the Huston Township line to James Shannon, is one mile and 76/100, and from Huston Township line to Dunkirk Church is a mile and three

quarters exactly. I have my distance counted from the Hustown Township line from the intersection below the Dunkirk Church, that line coming up from James Shannon's is two and 6/10 miles and to go ~~up~~ round by Dunkirk Church and Fieck's, is two and 9/10 miles, then the distance would be decreased three tenths miles going to DuBois. My survey would shorten the distance a little bit.

cross-examination by A.L. Cole for A.H. Woodward,
Atty. for Remonstrants.

I laid out the road from the Dunkirk Church to the intersection down a little below Fieck's and it is 2167 feet. The route I adopted will not increase the distance from Bennett's branch to DuBois. It will not increase the grade. The grade of course will be longer, but for the hill you have to climb it is not so steep. This road that I laid out is not through a country that is likely to drift. It might drift along the Hustona and Sandy Township line from George Newell's to James Shannon. So far as the comparative expense of these two roads is concerned, I do, not think that it would cost any more to build the one than the other.

RE-DIRECT.

In regard to the drifting up there by Newells, that would not drift if there were not a fence built, but if the fence were there, it would drift. Where there is a bluff the drift is up at the bluff but not at the foot of it. That bluff along there would protect the road from drifts for a part of the way. I have looked over the map attached to the testimony of the exceptants in this case. That ^{does not} represents the roads as they are on the ground. I would consider the map very inaccurate. It does not give the proportionate distances as they are on the ground. It seems to me to be a common sketch. I went on the ground and took these grades I have given, yesterday.

S.D. Keller, affirmed, says:

I live in Huston Township. I am Silas Keller I live along the line

of what is known as the Kirk road. I do not live there but I have a farm there, and have a shanty on it. I am opening up a farm there. The Kirk road runs right through my land. I am opening up my farm along the Kirk road. I have no other out-let except the Kirk road, only by road through the woods. I travel along the private road but have no out-let. I haven't been over the Kirk survey. I haven't been over it but I know where it is. So far as I can say the grade is good. The material for building a road is good, and I do not think it would be very expensive to build it. So far as cost is concerned, I do not ~~the~~ think it would cost so much to open this road as the Mountain Run road as laid out and opened. It is all along dry land. I would think the Kirk ground would be better for a road. As to distance between DuBois and Bennett's Branch Valley, I would think the Kirk road would be shorter. From what I know of this road I think it would have just as good a grade as the Mountain Run road. I have lived there thirty-nine years. I was raised there. This Kirk road would accommodate besides myself, James Keller, George Dodd, Oran Flock, Alex Bundy and George Newell, none of them have public roads all live back and it would accommodate them. As they are now located, none of them have a public road. This Mountain Run road as vacated would not catch any of these men. That runs through state land up there in Sandy Township. The Sandy Township end of this Mountain Run road has never been opened.

Cross-Examination by A.L.Cole for A.H.Woodward,
Atty. for Remonstrants.

I do not know which one of these roads would be shortest. I am just guessing at it; I am guessing at the grades also, I did not take the measurements. I am not prepared to say that the Kirk road can be built any cheaper than the other. This Kirk road does not go through a country that drifts a good deal. These parties that I mentioned that this road would reach, they are all wanting this road. I know what some of them say. I never talked with Oran Flocks. I talked with Mr. Dodd, Keller and Newell, and they all want it. I have heard them say it is a better road and better grade. It reached the same point

and starts at the same elevation. I do not know as there would be a great deal of difference in the grade. I think that Kirk's road would be the shortest. There is no hill on either one of these roads.

Re-Direct.

I heard George Newell say that he wanted this road. I think he said the grade of this road was better than the Mountain Run Grade to get to Dunkirk Church.

Ames Kline, Sworn, says:

I live in Sandy Township; I have lived there ever since there has been a Township. I have lived where I do now for thirty years. I am acquainted with the Kirk road as laid out in controversy; I am acquainted with the Bird and McMinn road. I have known the roads along about two years. In my judgment I would consider the Kirk road would make the best road for all purposes. The Kirk road would accommodate George Newell, George Dodd, James Keller, Silas Keller and Oran Flocks and Alex Bundy, these people now have no public road. The road they have to get out on now I do not know much about. It is pretty near impossible to get out on the road they have now. This Bird and McMinn road I understand that the state owns it. As to grade, my judgment as to the two roads, is that there is not much difference as to the grade. As to distance, the McMinn road is the longest, I have gone over it a dozen different times. As to the cost of construction so far as making them would be, laying them out and grading them, I do not think there would be much difference for just grading them, but the McMinn road is all the way through swampy land; the other road is dry ground and has a good foundation all the way. The other road would cost much more than the Kirk road. There are twenty or twenty five bridges to be put in on the McMinn road. As to keeping up, the Kirk road would not cost much to be kept up or made, because it runs right along a side hill. The drift in the Kirk road, I could not see any likelihood of it drifting any more than on any other road. The bluff that is there that they say would cause it to drift, this road runs to the top of the bluff.

I am a citizen of Sandy Township. I have been supervisor of Sandy Town-

ship four years. I am familiar with the expense of building roads. I have had roads to build across swampy lands like this while I was Supervisor. The Township ~~road~~ tax rate at the present time is high enough. It would be burdensome to the people to make and keep up both these roads. In my judgment there would be no necessity for the McMinn road if the Kirk road were built. As to the comparative distance of the two roads to reach the same point, the Kirk road would be a little shorter. The building of the other road would create an unnecessary burden in Sandy Township. If that road were opened, the Township would be compelled to put the Kirk road in in a short time for these people, I don't see how they could get rid of it. I do not know the tax rate these last couple of years. We have a cash road tax and work tax. We have been paying a cash road tax for the last couple of years.

Cross-Examination by A.L. Cole for A.H. Woodward,
Atty. for Remonstrants.

There is very little difference in the distance, between the two roads. There is no substantial difference in the building of these two roads. The McMinn road is laid through swampy ground. I should judge it would take twenty five bridges to be built on that road. I could not say exactly about the measurement of the bridges, they would average twenty feet anyway. I think there would be probably twenty five bridges that would average twenty feet.

George Dodd sworn, says:

I live in Huston Township, have lived there twenty one years about. I am along the line of the Kirk road. This Kirk road runs through Kellers line and mine joins his. This would give us an outlet; it would be a big benefit to us in the winter time. This road in my judgment would not drift. I have lived in this vicinity and where I live now, about thirteen years. My opinion is that the Kirk road would not drift with the exception of that little place up there on the hill by Shannons. I do not think it would drift if there were no fence around it. Near George Newell's house it might drift a little bit. The steep bluff would protect the road, in my judgment. In my judgment a bluff in place

of causing a drift would protect the road from drifting. This road would accommodate in there, the two Kellers, Flocks, myself, George Newell, Alexander Burkey, Mr. Shannen, Mr. Brown and probably other ones. I have been over a good share of the McMinn survey. I have never been over it I don't know where it is, but I have been told it runs across a creek. It is a swampy country I know. The Kirk road would make a good dry road because it runs along above the water, along the bank. It is a good dry road. It would not be a hard road to keep up. I do not think there is any hard grades. It is a gradual grade. I have not been up over the survey of the main part of the grade. So far as I know the part I have been over is good grade. The Shannon Summit seems about the highest point. It is gradual grade most of the way. I don't know of any road Mr. Keller and these other people have to get out on now. They cannot haul anything through to their place. They might go down but it would be impossible to haul anything out. They cannot get anything into their place ~~xx~~ without going over other people's land. They have no road whatever that it would be possible to travel.

Cross-Examination by A.L. Cole for A.H. Woodward,
Atty. for Remonstrants.

I am not exactly acquainted with the lines of this road. I do not know of my own knowledge whether these roads are swampy or not. Only the Mountain Run road I know. On the Kirk road I do not know of any swamp, only just where it crosses a little stream. I have never been over the line of either one of them all the way, I have part of the way.

David Newell affirmed, says:

I live in Huston Township. I have lived there since '59. I am acquainted with the Kirk survey of this road, that is in controversy. I know just about where it is. I have gone by the Mountain Run survey. I don't know the grade exactly where it is laid. In my judgment there is a necessity for the Kirk road, as there are about five families in there that have no way of getting out. Mr. Keller wanted me to thresh for him last fall. I told him there was no way I could get down with the machine

machine. He then stated he would haul his grain up to George Newell's. I went with him down to his place and it was so bad we could scarcely get along a foot. The road he had to get out over was through a swamp, and was in such a condition that he could not haul over six dozen grain out. It would accommodate Silas Keller, the two Kellers, George Dadd Alex Bundy, and goes right by George Newell. He has no public road, George Newell has n't. It accommodates the people ~~xx~~ who are actually shut out. The Kirk road is the only one that is really needed. This road will answer both purposes, but the other road I do not see really any necessity for. I consider this road just as near from DuBois to Penfield to accommodate public travel. There is no one along the other road at all to accommodate. The road that is vacated goes through State lands. That is nothing but barren and swampy anyway. The distance between DuBois and Penfield would be a little nearer over this road. I think the grade would be just as good. The grade up by the Dunkirk Church is pretty heavy. It is about as good a grade as from George Newell's up. The grade up to the Dunkirk Church is heavier than the other. This road would avoid the Dunkirk Church grade between DuBois and Penfield. About every fall or winter George Newell has me haul in coal and on account of no one having driven in there for months, it would be a little drifted, and that is because there is no travel in there. It drifts for about four rods I think. When you get to Shannon's it drifts there. There would be only one point on the road that would drift. I have lived there for years, a good many years. There is a little bluff there, but that is what I was telling you about, it is four rods long. That does not drift bad at all. If it were travelled it would be beaten down all the time and the drift would not interfere. I do not see why it should be expensive to keep up, it is on a side hill and good ground.

Cross-Examination by A.L.Cole for A.H. Woodward,
Atty. for Remonstrants.

On this Kirk road I don't know how many bridges there would be. I have lumbered on every foot of that land, I am acquainted with all the

-60
ground in there. It crosses some streams. The ground is good.

Alexander M. Bundy affirmed, says:

I live in Huston Township. I live on the line of the Kirk survey. This road would be a benefit to me to have it there. I have no public road out now. This new road would accommodate Jmes Keller, Silas Keller Oran Fiox, George Dodd, George Newell and myself. The road proposed to be vacated would not accommodate anyone. I am familiar with that country, I have lived there for the last eighteen years. I do not know the McMin.n survey. I was never along the Kirk survey. As to the necessity for the roads I should think the Kirk survey, would be the best. If the other road were built, it would be necessary to build the Kirk road in addition anyway. They would have to have a road there at all events.

James Keller affirmed, says:-

I am one of the petitioners for this road. This road runs through my land. It accommodates besides myself, Silas Keller, George Dodd, George Newell, Alex Bundy, Oran Fiox, Sam Brown, George Shoemaker and James Shamon. George Shoemaker has a public road, Mr. Brown and Mr. Shannon. The first men I mentioned have no public road at all. I have no road to get into my place. I could not haul a load in, I can simply drive in and that is all. This road that is vacated there is no improvement on it. I have been along the grade and there is very poor ground. It is swampy and there are lots of little runs ~~along~~ across it. Mountain run drains a large country up there. This road runs along the foot of Mountain Run. These streams come down and cut across this road. There are several of those streams there. I have been down across this road. If the road were built it would be expensive to keep it up, because it would be muddy and swampy. The Kirk road is on very nice dry ground all the way, with the exception of three little streams to cross. The rest is all dry. Where this road joins the Mountain Run road the ground we have there for a road is solid ground with the exception of a bridge to build. The grade is nice in my estimation. I would not judge there would be any harder grade than the other road. I have been

along there several times and I have never seen it drifted but what I could drive through. At the bluff is the only place I believe that it would be liable to drift. I have talked to George Newell about this road and he ~~wants~~ wants it. Just a few days ago he said he thought this was the best road. He thought that it ought to be built and hoped that it would be. He lives on this proposed road. I think this Kirk road would be the shortest. The grade when you go up to the Dunkirk Church would be a better grade. As I am now located I cannot haul a load in or out to my place. Silas Keller cannot get in or out. I helped him haul and it tipped a load ^{two} or three times. When we want to ~~get~~ get in or out we have trouble.

Cross-Examination by A.L. Cole for A.H. Woodward,
Atty. for Remonstrants.

I have been along part of the survey of the McMinn road. It is located through a swamp. There are several bridges needed. There would be more than five. I could not say whether there would be ten or more than ten. I do not know how long they would be. I have never had much experience in building bridges. I have been over the road. I know it is a very swampy road, laid right through the swamp, but I do not know how far. There are several bridges and about one and one half mile of swamp on this McMinn road. There is no swamp on the other road.

I hereby certify that the above witnesses were duly qualified and examined at the time and place stated in above caption, in my presence.


Commissioner.

No. Term 1900.

In re. Public Road
in Sandy and Huston
Townships.

Depositions taken on part
of the Petitioners.

W. C. PENTZ,
Attorney-at-Law,
DU BOIS, PA.

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