

quarter Sess. of Clearfield
No. 8 Feb'y. T. 1908.

In re vacation of road

in Bloom Township

Testimony of Petitioners.

All costs inside

Rule to Take Depositions.

Clearfield County, ss:

*In Re Vacasim
Road
VERSUS in
Broom Trap*

In The Court of Common Pleas of
of Clearfield County, Penn'a.

No. 3 by ss Term, 1908.

AND NOW, to wit, the 28 day of December, in the year

of our Lord one thousand nine hundred and eight.

October, the 28th, 1908
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 *Petitioner* on
June days notice.

Roger Thompson
Prothonotary.
Clearfield Pa.

To *Geo. Bilger*, Esq:

Clearfield Pa.

You will please take notice, that in pursuance of the foregoing Rule depositions will be
taken before *W. C. D. Myers*, or some other person authorized to ad-
minister an oath or affirmation in Pennsylvania, in and for the County of *Clearfield*,
at the office of *B. F. Chase* in the *Reystone Building*
of *B. F. Chase*, in the county of *Clearfield Pa.*
and State of Pennsylvania, on the 7th day of Jan., A. D. 1908,
between the hours of 10:00 o'clock A.M. and 1:00 o'clock P.M., when and where you may
attend and cross-examine.

Clearfield, Pa., Dec. 28th, 1908.

*Dec 28-1908 service of Rule accepted
and personal service made*

*George M. Bell
V. J. G. Co.
W. H. Thompson*

No. Term, 190...

VERSUS

Rule to Take Depositions.

In the Court of Quarter Sessions of Clearfield County
In re Vacation of Road

in Bloom Township

8 Feby. Sessions, 1908.

Deposition of witnesses taken before me this 7th day of January, A.D., 1908, at the office of Benjamin F. Chase, Keystone Building, by virtue of a Rule hereto attached and regularly issued out of the Court of Quarter Sessions of Clearfield County, with service accepted thereon, ex-party rule of petitioners and also by agreement of Counsel to continue the taking of testimony from time to time so that exceptant's testimony be taken under the same Rule.

Geo M Belger & B Chase
city to be vacated
John H. Weber
-----Depositions----- for Petitioners

L. H. Weber being produced examined and sworn on the part of the Petitioners, doth depose and say:-

By Mr. McCracken:-

Q. Where do you live ?

A. In Bloom Township.

Q. How old are you ?

A. 56 years of age.

Q. Are you familiar with the road in question, proposed to be vacated ?

A. Yes, I am.

Q. Have you taken any measurements on that road ?

A. Yes I took a measurement by driving over it with a buggy and counting the rounds of the wheel.

Q. What is the length of the road, part of which is to be vacated ?

A. 614 rods.

Q. Is that the entire length of the road from the beginning to the end at Gramppian ?

A. Yes.

Q. Is there another road practically parallel with that road?

A. Yes.

Q. What is the length of that road?

A. The length of that road from Marshall's house to Walburns is 858 rods.

Q. That is a difference of how much?

A. 244 rods.

Q. What is the condition of the road in question, proposed to be vacated?

A. It is a very rough road and always has been.

Q. What can you say as to the grade?

A. I cannot tell you, but the road is very steep.

Q. In your judgment, what would it cost to put that road in a first class condition?

A. Well, I could hardly tell, but would consider it close on to \$1000 anyhow.

Q. How far apart are these two roads?

A. At the Bilger mill down the railroad they lack 38 rods of being a half mile.

Q. Any person coming from Curwensville would have to go how much farther by going on this road than on the other?

A. 244 rods according to our measurements.

Q. Is there any industry or anything on that road that would cause people to travel that road?

A. None.

Q. What was the reason for making that road through in the first place?

A. I do not know.

Cross examined by Mr. Chase.

Q. How long has the road proposed to be vacated been used by the citizens of Pike, Penn and Bloom Townships?

A. I could not tell you how long it had been used, but it was before I was there, and I have been there in the neighborhood

20 or 22 years.

Q. Was it an established road when you first knew it ?

A. They called it the public road. .

Q. Where does this road start ?

A. Out on the Curwensville pike right opposite Marshall's house.

Q. Where does it end ?

A. Walburns, as we call it.

Q. How many people live on the line of this road between Marshall's house and Walburns ?

A. There is Marshall lives on it; A.O.Bilger and George Cleaver, and Joeb Spencer at the lower end of it.

Q. Are any of these men on the part of the road that is to be vacated ?

A. No, I do not think so.

Q. Does the part proposed to be vacated effect them as to the distance in going to any other centre ?

A. It would effect them in the distance of 244 rods, and of course, A.O.Bilger more than that.

Q. Are there any children going to the school at Locust Grove? who go on the part to be vacated ?

A. No.

Q. When was this parallel road built ?

A. I cannot tell, it was before I got into the Township.

Q. What is your position up there ?

A. I have no position. I am a farmer.

^{Purchased}

Q. Has anybody ^{...} farms recently on the line of this vacated road, that you know of ?

A. I do not know, as I do not know the exact country there.

J. S. McCreary being affirmed, examined and produced, deposes and says:-

Q. Where do you live ?

A. Kerrmoor.

Q. Are you one of the viewers in this case ?

A. Yes, I was one of the viewers in April, 1908,

Q. Have you the length of the entire road, part of which is to be vacated ?

A. My notes give something like 3093 feet, if I remember.

Q. Is there a road running practically parallel with that road?

A. Yes.

Q. Did you measure the length of the other road ?

A. No.

Q. Did you take the grades on this road ?

A. Yes, in two places.

Q. What were the grades ?

A. I have my notes here and from that, we began at the Pike Township end of this and went West of the survey and I have no grade after crossing Huey Run. From the railroad to the Quarry, grade 10 degrees, then the other point as we went up hill to Penn Township line at the point South 75 degrees, West 192 feet, I have noted a grade of 7 1/2 degrees.

Q. would it be possible to survey the road down through there to get better grades ?

A. By intersecting the road that goes by Woods, a better grade could be gotten, but it would practically run into another road now in use. To go over that hill there is no place that I could find that a better grade could be procured to reach the points.

Q. What is the character of the route laid out there as to expense and ability to make a good road of this ?

A. I would not recommend it for a new road because of the grades and the position of the bridge at the Run. I do not see how it

how it could be put in a good condition at even a big expense but what it would be taken out by a heavy rain or flood.

Q. Could you give an estimate for a bridge for the public road?

A. I could not give a correct amount, but would estimate it would require \$600 or \$700.

Q. That is for the bridge?

A. Yes.

Q. Is the grade rocky?

A. On the Pike Township side it is rocky and for a short distance from the creek run to the hill it is rocky.

Q. How would the road be there with regard to ability to draining it?

A. Judging from the condition of the road as I found it, the water would run down the road; there is a deep gully there or was at the time we were there.

Q. Can you give how far it is from Austin Bilgers to the end of the road?

A. I would say about a quarter of a mile from the Pike Township line. We did not take into consideration anything outside of Bloom Township?

Q. What would you consider a fair estimate of the cost of putting that road in repair, outside of the bridge, keeping the grade in the same location as it is?

Question objected to for the reason that witness is not an expert and incompetent to give such an estimate.

Q. Have you had any experience in estimating?

A. Yes, that has been my profession.

Q. How long have you been a Surveyor?

A. I graduated in 1875 but did not follow the profession until 1891, and then I took the profession up as a regular surveyor.

Q. Then what would you consider the cost in this case as above stated?

A. I made no estimate, but from my experience from other roads, I would think it would cost \$500 outside of the bridge to make the road in a good condition.

Q. Would it avoid this steep grade that you mention?

A. No.

Q. Are there other grades along the road that are steep?

A. Yes, in Penn Township, coming up the hill on one side to the place where we ended the survey. I think there are other grades equally as steep.

Q. Have you been over the road that runs parallel with the road in question?

A. Yes.

Q. How is that road compared with this one in regard to grade, etc.?

A. With the exception of one point, as I recollect, the grade is very easy. There is one pretty steep place on the other road.

Q. Is that long?

A. No.

Q. About how long is it?

A. I would not be able to answer that approximately, but would say about 250 feet.

Cross examined by Mr. Chase.

Q. In surveying to vacate this line you stopped at the Township line and used it as a basis without regard to the other part of the road?

A. Yes.

Q. And in another place you skipped a piece of this road and vacated another short section that came in a turn at Bloor Township?

A. Yes.

Q. So that there was a portion of the road left unvacated in Pike Township?

A. Yes, with both ends vacated.

Q. Was there any communication between that portion of the road and the outside country?

A. No.

Q. It is simply a road beginning in a cul-de-sac and ending in a cul-de-sac?

A. Yes.

Q. Then the vacation of this road amounts to the destruction of value as to that portion of it?

A. Yes, to that portion.

Q. The other piece that is in Pike Township is simply a cul-de-sac, is it?

A. Yes.

Q. How long is it?

A. I do not have the measurements but presume out to Marshall's it would be a half mile.

Q. Then the road from Bilgers is nearly East through to Marshall's?

A. Yes.

Q. And he has no road the other way with this one vacated?

A. No.

Q. The portion in Penn Township, where does it end?

A. At what we call the Grampian road, running from Grampian to C. A. Woods.

Q. How far from C. A. Woods?

A. A Half mile.

Q. And it is left in the same condition as the piece from Pike Township to Marshall's?

A. with the same condition except that it is a very different kind of road.

Q. It is the same condition so far as closing it is concerned and rendering it useless ~~xxxmxxmxx~~?

A. Yes.

Q. Does it leave a cul-de-sac there?

A. Yes.

Q. Did you give any notice to the Supervisors of either Penn or Pike Township as to this proposed vacation?

A. There was no notice given to the Supervisors of Penn and Pike Townships except public notices posted.

Q. This is an old established road?

A. Yes, I presume so.

Q. In your experience do you find many of the old roads of the County have grades equal to this one?

A. Yes.

Q. Many of the roads now in use in the County have equally steep grades?

A. I would not say many, but some.

Q. What about the condition of this bridge you referred to?

A. It is in an unsafe condition from neglect, and more than that it is unsafe from the fact that it is so near the low water line that the floods can take it away.

Q. Do you know how long that bridge had been built?

A. I do not know.

Q. The original bridge had been there for several years?

A. Yes, there was evidence of that.

Q. It is just a small run, is it?

A. I do not know as to it being a small run, because it drains a very large area.

Q. Is it a fordable run?

A. I do not know, but would think it would be a very hard stream to ford, although suppose it has been forded at sometimes.

Q. The condition of this road as you found it would indicate that there was evidence of neglect?

A. Yes, as though it was in mis-use; there was grass growing up on either side of it, and really the same condition would apply to the entire road, other than from Bilgers out to the road where it was travelled more.

Q. But this road was in some use?

A. Evidently some use.

Q. Do you know if that use was confined to Bloom Township or by the citizens of the adjoining township?

A. I do not know.

Q. How many residents would you find along that road in Bloom Township?

A. No any.

Q. How many roads did you find that entered that road or crossed it?

A. Not any.

Q. Did you make the draft attached to the report?

A. I did.

Q. Does that correctly represent the location on the ground?

A. Yes.

Q. Does the double dotted line indicate the part not vacated?

A. Yes.

Draft offered as part of Cross Examination.

Re-direct by Mr. McCracken:

Q. With regard to this portion that you cut off both ends of which you testified that the vacation of it according to your draft worked a practical destruction of the value of that piece, did it have any value before this vacation?

A. I do not know that it had.

Q. Then there was no destruction to value there?

A. The vacation of the other part of the road would practically throw that into dis-use as a road, but I do not know how it would be any benefit to any person if the other part of the road was not. That portion and the part vacated having no value, that part would have none. The amount of use in my opinion of the viewers that day was one of the things that we based our recommendation on, because the road had not been used enough to justify the maintainance of it.

Q. What in your judgment would be the cause of the dis-use of that road?

A. The impossibility of grading, another road parallel that was good.

Re-cross examination.

Q. Pike Township could not use that small portion of this road with this other vacated?

A. No.

Q. And this road fell into disuse because of its bad condition?

A. Yes, that and what I already testified as to the fact of another road parallel.

Q. Do you know how long these roads ran parallel?

A. They are both old established roads and both public highways.

Q. And this one road was abandoned from use practically from not being kept in repair?

A. I could not say that because it could not be kept in repair except for a big expense, and it could not be made a good road because of its grade.

Q. And anything else?

A. The nature of the ground, rocky, the condition of the ground at the run, and it would be hard to fill up.

Q. You only know that road from going on it for examination?

A. No, I was never on it before or since.

A. O. Bilger being produced, sworn and examined on the part of petitioners, doth depose and say:

By Mr. McCracken:

Q. Where do you live?

A. In Pike Township.

Q. How far from here?

A. About ten miles.

Q. Do you live along this road, part of which is in question for vacation?

A. Yes.

Q. How far do you live from the lower end of the road?

A. I suppose about a fourth of a mile.

Q. I mean from your house to the lower end of the road?

A. I judge it is about a third of a mile from my house to the Pike.

Q. Is there anybody who lives West of you between you and Bloom Township?

A. No.

Q. Do you know how much farther round you have to go to get to the west termini of this road than by going down around by Marshalls and up the other road?

A. I would judge in the neighborhood of one mile.

Q. And you have farther to go than Marshall?

A. Yes I would have the distance between my place and Marshalls which is between a fourth and a third of a mile.

Q. Do you use this road any from your place West up through the western termini of the road?

A. No.

Q. Is that road much used?

A. No, it is not much used.

Q. For what reason is it not?

A. For the reason that I cannot see that it is any use, except that possibly sometime maybe a person who was walking would

want to go on that road and it would save him a short distance.

Q. Is that road any benefit to you at all West of your place in the condition it is now?

A. No, not in the condition it is now.

Q. If that road were put in a good condition, as to grades etc., would it be much used?

A. I suppose I would go over it when I had to go to Grampian.

Q. Do you know how that road is in hauling a very heavy load?

A. If it is a very heavy load, it would be hard to go that way, but going to Grampian with a light rig, would be all right, as I have used it with a light rig.

Q. Have you had any experience in making roads?

A. Only as a laborer.

Q. In your judgment would it cost any great amount of money to make that road passable?

Question objected to for the reason that witness is incompetent to make an estimate.

A. To make it passable so a man could travel it well would cost quite a sum of money.

Q. And even if it was made passable, would it be a desirable road to travel?

Question objected to as being leading.

A. There would be nothing desirable. It is all through woods from my place to the other road.

Q. And anything else that would make it unpassable?

A. Grades on either side of the hill.

Q. Anything else?

A. Not that I can think of now.

Q. How about the rocky condition of it?

A. If it were made passable it should not be rocky.

Q. What about the matter of drainage?

A. Where the road is now it could not be drained. The water in case of a heavy rain all drains in the road.

Q. You live in Pike Township?

A. Yes.

Cross examined by Mr. Bilger.

Q. How far is it from the residence of C. A. Woods to the Walburn end of the vacated portion?

A. About a half mile.

Q. How far is it from your present residence to the Walburn end of the vacated road?

A. Suppose it is in the neighborhood of a mile and a half or two miles.

Q. How far do you live from the East end of the vacated portion?

A. About one mile.

Q. How far in travelling by the other road is it from your present residence by way of Marshalls and the Erie Turnpike to the residence of C. A. Woods?

A. Judge it is about three miles to this other road.

Q. So travelling from your place to Grampian by the road via the residence of C. A. Woods, you estimate it would be a little farther to Grampian?

A. Yes, about one mile.

Q. How much of this road is left unvacated in Penn Township?

A. I never measured it, but I claim there is as much left as vacated.

Re-direct by Mr. McCracken:

Q. Do you want this road at all; would you just as soon it be vacated?

A. It is immaterial to me.

Re-cross examined by Mr. Chase:

Q. If the road were out in shape, would it be of value to you?

A. It would be a gain of say fifteen minutes in a month in travelling.

John Woods being produced sworn and examined on the part of the petitioners, deposes and says:

By Mr. McCracken:

Q. Where do you live?

A. In Pike Township.

Q. How many miles from here?

A. About ten miles from here.

Q. Do you live along this road part of which is under consideration for vacation?

A. My farm adjoining it.

Q. Which end of the road?

A. The east end that is vacated.

Q. How far do you live from the western termini of this road?

A. About 3090 feet, and the difference between my residence and the eastern termini is 1000 across the farm.

Q. Have you had any opportunity of observing the amount of travel over this road?

A. Not a great deal. I walk across the road once in a while, and do not know that I ever met a rig on it.

Q. Do you ever travel with a rig?

A. Not of late. I did a time or two.

Q. How much farther would it be for you to get to the termini at the Walburn road if you were going to Gramian?

A. I do not know exactly, but if I go by the public road according to the ~~xxxxxx~~ reports to go the vacated road, it would be farther. I would have to go down the Pike and in by Marshalls. If there is any difference at all it would be very little.

Q. Did you ever do any hauling over that road?

A. I did haul a small load of sand for the green house last Fall.

Q. Have you done much hauling?

A. No, I never did any hauling except sand.

Q. Have you done much hauling over the other road from Gramian?

A. Yes, I have hauled lime and some phosphate at different times.

Q. Why did you take the other road in preference to this one when in a passable condition?

A. It was more convenient to travel the other road on account of coming on a place where there was less grade.

Gross examined by Mr. Bilger.

Q. Do you live on the Erie Turnpike?

A. Yes, I front on Erie Turnpike.

Q. How far is it from your residence to the intersection of this road with the Erie Turnpike at the School House?

A. It might be four or five hundred yards.

Q. How far is it from your residence to the intersection of the other road at the Erie Turnpike at the residence of Geo. Ellinger?

A. I judge it is twice as far.

Calvin Bilger being produced sworn and examined on the part of the petitioner, deposes and says:-

By Mr. McCracken:

Q. Where do you live?

A. Bloom Township.

Q. How far from here?

A. 14 miles from here.

Q. Have you been Supervisor up there at different times for a number of years?

A. Yes.

Q. Are you acquainted with the road proposed to be vacated?

A. Yes, I have been over it quite a number of times.

Q. Do you live along the road?

A. No.

Q. Has that road ever been a road much travelled?

A. It has never been travelled very much since I can recollect.

Q. Have you paid a good deal of attention to the construction of roads?

A. I have been supervisor eleven years in my life.

Q. Are you acquainted with the question of costs of construction?

A. I have had quite a bit of experience in that?

Q. What would it cost to put this road in a passable condition?

A. It would be hard to estimate it on account of the bridge.

Q. Excluding the bridge?

A. I would judge to put it in condition would cost \$500.

Q. What kind of a road would you have when through?

A. You would have a pretty steep road.

Q. Anything else wrong?

A. It would be rough and rocky.

Q. How about the drainage?

A. Where the road is now from Pike Township road west, you would have to drain it, as there is a great gully there and it would be hard to drain.

Q. Have you any knowledge as to the amount of travel over that road?

A. There has never been much travel over the road since I can recollect.

Q. How long have you been acquainted with that road?

A. Everysince I was a boy.

Q. Was there a time when it was more needed than at the present time?

A. Yes, there was a saw mill there at one time and it was used them.

Q. That was years ago?

A. Yes that was many years ago.

Q. Was that the purpose of laying that road out in the first place ?

A. I could not say exactly as to that, but the mill was there.

Q. Do you know which road was put in first, this road or the one running parallel with it ?

A. I could not tell which one was built first.

Cross examined by Mr. Bilger.

Q. What work if any has been done by Bloom Township in keeping this road in repair within the last twenty years ?

A. Very little. The most work I ever did was to haul some planks and put them on the Bridge.

Q. Why was it let go to destruction or dis-repaired ?

A. There was never any demand made for repairing it, and nobody to use it, and if I would ever ask any person to help fix it, they would not do it as they did not use it. That was the only reason I know.

G. W. Bell being produced, sworn and examined on the part of the petitioner, deposes and says:

By Mr. McCracken:

Q. Where do you live ?

A. Bells Landing.

Q. How far from here ?

A. 21 miles.

Q. Are you one of the viewers of this road, Mr. Bell ?

A. Yes.

Q. What is the nature of this road, part of which is proposed to be vacated ?

A. I would call it hilly and rough. There is no dirt to cover the rocks.

Q. Have you had considerable experience in the cost of

construction of roads ?

A. Not very much, but I have been supervisor.

Q. Would it cost a considerable sum of money to put this road in a passable condition.

A. Yes, I think quite a bit.

Q. What would have to be done ?

A. There would have to be a new bridge built, and filled in on the East side quite a ways, and it would have to be a lot of dirt hauled and piled over the stones, and there is a large gully there and I would think that in a big storm it would do great damage to the road.

Q. And how about the rocks ?

A. It is rocky on both sides and is practically all rocky.

Q. In your judgment, should the road be vacated ?

Objected to because he is a viewer and already made report.

A. Yes.

Q. For what reason ?

A. I do not think it is necessary there at all for the reason that there is another one so near. I would rather drive farther around on a good road than to go over a rough one for a shorter distance.

By Mr. Bilger:

Q. Were you ever on the road except on one occasion ?

A. That was all.

Q. How long were you there ?

A. Two or three hours.

Q. You have heard the testimony of Mr. McCrea with reference to these portions that are left unvacated ?

A. Yes.

Q. Was his statement made, correct ?

A. Yes, believe so.

By Mr. Chase, cross examined:

Q. In vacating this road, did you in any way consider the portion of Pike and Penn Townships?

A. No.

Q. You vacated it with reference to the Township lines and not with reference to the effect on any other portions of the road?

A. Yes.

Q. Do you know if any notice was given to authorities of either Pike or Penn Township?

A. No.

Q. Did you take any testimony?

A. No.

Q. Did you call any witnesses?

A. No, there were some parties there who objected to the vacation and they told why they thought it should not be vacated, but there was no testimony taken.

Q. Did the road have evidence of destruction and neglect?

A. Yes.

Q. That it had gradually gone to destruction from neglect?

A. Yes.

Q. Who were these parties that were there from other Townships?

A. Charles Marshall and his son or his son-in-law.

Q. Was Lawrence Dale there?

A. Yes.

Q. These men objected to the vacating of the road?

A. Yes.

Q. You heard all the objections they had to offer?

A. Yes.

Q. You decided after hearing them that there was not sufficient to warrant Bloom Township in keeping up the road?

A. Yes.

Q. This road had been convenient to people when passable?

A. I could not say as to that.

John Y. Rafferty, being produced, sworn and examined on the part of the petitioner doth depose and say:

By Mr. McCracken

Q. Where do you live?

A. Grampian.

Q. How many miles is that from here?

A. Twelve miles.

Q. Was the testimony you heard with regard to this road and notices sent out, correct?

A. I think so, so far as I heard.

Q. Who was present there from Penn and Pike Townships?

A. I do not think there was any one from Penn Twp. From Pike Township there was Lawrence Dale, Henry Marshall and Fred Marshall, and the Bloom Township supervisors, C.A. Woods, Mr. Wagner and Joel Spencer.

Q. You heard their suggestions as to this road, did you?

A. Yes.

Q. In deciding to recommend the vacation of the road, you considered the effect of such vacation on the remaining portion unvacated, did you?

A. Yes.

Cross examined by Mr. Bilger.

Q. When were you over this road?

A. On the average of one or two times a year for the last seventeen years.

Q. Did you drive through there?

A. Drove through there once.

Q. The other times you walked?

A. Yes.

Q. Did you notify the supervisors of Pike and Penn Townships of the proposed hearing?

A. No, none but those in Bloom Township.

Q. You do not know if they had notice?

A. Nothing other than the notices published,

Q. You posted the notices ?

A. Yes.

Q. When?

A. Ten or eleven days before the view. I do not remember just what day it was.

Re-direct by Mr. McCracken:

Q. Do you have any idea as to the length of bridge that would have to be put in there?

A. No, I do not have any idea. I do not really know how high it does get in the wet season, but I have seen it very high, and a good deal higher than the present bridge or the one that was there.

Q. The bridge was in the same location it has been for years was it, with possibly the dis-repairs?

A. It was not a safe bridge because it was out of repair.

Q. Had there been a bridge there for years?

A. Yes but it has not been a safe bridge in the seventeen years that I have been over that ground.

Q. Were there abutments on the bridge?

A. No.

Mr. McCreary called by petitioners for further testimony:

My Mr. McCracken:

Q. You testified in your cross examination that the viewers had regard wholly to that part of the road in Bloom Township, because that was set out in the petition, did you take into consideration the effect that the vacation of that portion of the road would have on the remaining portion of the road?

A. Not so much on the road as to the general public with reference to the remaining portion of the road.

Q. How long bridge would have to be put in there?

A. 40 feet, as I have on my notes.

Q. Could it be put in there so it could be left without stone abutment?

A. It could not.

Q. Had there been any repairs put on the bridge?

A. There must have been as it looked as though there had been new planks put on it.

G. F. Wagner being produced, sworn and examined on the part of the plaintiff, deposes and says:-

Q. Where do you live?

A. Bloom Township.

Q. How far from here?

Nineteen miles.

Q. Are you one of the Supervisors up there?

A. Yes.

Q. Are you acquainted with this road?

A. I am not so much acquainted with it, but have been over it a couple times.

Q. You have heard the testimony of the viewers with regard to the condition of the road and the impossibility of keeping the road in good repair?

A. Yes.

Q. Is that testimony correct in your judgment?

A. As nearly as I can tell to the best of my knowledge and views, which are just about the same.

Q. Have you any other additional reason why the road should be vacated there, that have not been set forth.

A. I do not know that there is. On account of the grade, that is the main thing. I started across there at one time before the Supervisors were there. I was down to my son-in-laws and started to Crampian and when I got back there was a fence across the public road.

Q. Would you consider the grade a greater reason than the parallel road, why it should be vacated?

A. I do not think there should be two roads so close together. My opinion is to keep the one in good condition.

Q. Why has this road not been kept up in better condition?

A. I cannot tell you that.

Q. Why did the supervisors allow it to get in that shape?

A. On account of the condition of the road, because they could not keep it up. The road had a deep and large gully in it.

Q. If it had been a road largely travelled, it would have been made passable, would it?

A. Yes, travelling done on it was the main reason.

Cross-examined by Mr. Bilger:

Q. Do you know where Bloom Township line crosses that road at Huey Run?

A. I do not.

Q. Do you know about where?

A. I suppose I could show it to you if on the ground, but could not explain it to you here.

Q. On the draft, the Bloom Township line is shown as crossing this road at point "B" about 718 feet East of Huey Run, and according to the draft, a short portion of the road is unvacated as lying in Pike Township, and then an additional portion of 834 feet is vacated as lying in Bloom Township. Have you any knowledge of any portion of this road East of Point "B" lying in Bloom Township?

Question objected to for the reason that the witness has already testified that he does not know where the Bloom Township line is; and further for the reason that the Surveyors who were on the ground have returned this as being in Bloom Township and that any evidence that this witness might give would not serve to convince the court that the Surveyors were mistaken and not correct.

A. No, I do not.

Q. You are one of the supervisors?

A. Yes.

Q. Have you ever known of the supervisors of Bloom Township doing any work on any portion of this road East of that point "B"?

A. No, I do not.

Re- direct by Mr. McCraeken:-

Q. Have they ever done any work along there at all?

A. No, not that I know of. The last time I was over that road to view the road, Pike township had worked up the road to point "B", from the East up to point "B".

Mr. Bilger-Q. To the best of your knowledge, information and belief, is there any portion of this road East of the oak or point "B" in Bloom Township?

Objected to for the reasons mentioned above.

A. I do not know that.

George Spencer being produced sworn and examined on the part of the petitioner, deposes and says:-

By Mr. McCraeken:

Q. Where do you live?

A. In Penn Township.

Q. How far from here?

A. Thirteen miles.

Q. How far do you live from this road in question, part of which is vacated?

A. About twenty five ~~mix~~ rods from the part of road in Penn Township.

Q. Do you have an outlet to it from your house to this road?

A. Yes.

Q. Do you use this road?

A. Yes, from my place out to Walburns.

Q. Do you use any portion of the road that has been returned as vacated?

A. No.

Q. To your knowledge, is that road much used?

A. No, not much used.

Q. You have heard the testimony of these men with regard

to the expense and grade and difficulties in the way of keeping the road open; to your own knowledge, is that testimony correct?

A. Yes, I think so.

Q. Do you have objection to the portion of road vacated in Bloom Township?

A. No.

Q. Does it not effect you in any way?

A. No.

Q. How long have you lived there?

A. Eight years.

Q. Do you own your property there?

A. Yes.

Cross examined by Mr. Bilger:

Q. How far do you live from the portion of road vacated?

A. a half mile.

Q. Do you live in Bloom or Penn Township?

A. Penn.

James Spencer being produced sworn and examined on the part of the petitioner, deposes and says:

By Mr. McCracker:

Where do you live Mr. Spencer?

A. In Bloom Township.

Q. How many miles from here?

A. Seventeen miles.

Q. You are one of the supervisors of Bloom Township?

A. Yes, they nominated and elected me.

Q. Are you acquainted with this road, the portion of which is in question for vacation?

A. Yes.

Q. You have heard the testimony of the witnesses as to the expense of keeping up the road and the practical difficulties in the way and the uselessness of the road, have you?

A. Yes.

Q. Do you consider the testimony correct?

A. Yes, only some of them do not give it strong enough.

Q. Are there any additional reasons why the road should not be there?

A. Well, one thing it costs too much to keep the road up for the way the road is and for what it is used. For years back nobody ever said anything about getting the road fixed up or repaired until of late. Years ago they used the road to get stuff out from the woods, and I consider that it is useless to keep up such a road now, but it seems to be a benefit to some now that it never used to benefit.

Q. Why have the supervisors never kept the road in repair?

A. Because it is impossible to keep up the road.

Q. Any other reason?

A. The road would be hard to keep up because you cannot cross it with a wagon with a heavy load unless there is a bridge put in there to make it safe for crossing; therefore I would prefer to travel around a distance farther over good roads.

Q. Is there any other reason?

A. I don't know as there was, but there were no complaints laid about the road until this vacation had been entered into.

Before that I never knew there was a township road there. I always thought it was an old timber road or lumber road, and never knew it was a township road.

Q. A. Woods being duly called, sworn and examined on the part of the petitioner, doth depose and say:

Q. Where do you live?

A. In Bloom Township.

Q. How many miles from here?

A. About fourteen.

Q. Are you one of the Supervisors of Bloom Township?

A. I am.

Q. You have heard the various witnesses in regard to the enormous expense and practical impossibility of keeping up this road and the reasons why it should be vacated?

A. Yes, I have.

Q. Do you consider the testimony of all correct and reasons valid?

A. Yes, so far as I know.

Q. Do you have any additional reasons why the road in your judgment should be vacated?

A. I do not know that I have any additional reasons, than the ground that has already been gone over with regard to the grade and with regard to the difficulty in making the road and keeping it up when made, and as to the first opening of the road, I remember years back when the road was first made, the purpose of it was to get timber or lumber of various kinds out from the saw mill that was then there, and that the road was made for the purpose of getting the lumber out of there chiefly. The timber is now all cut and the mill gone. As to keeping it up, there has been a great deal of work done on that road. Bilger himself and I worked together on that road when the mill was in there. The road toward the oak tree or the "B" point runs up a ravine, and if you were to remove to either side of that it would be extremely rocky and a very steep grade because of it being in that ravine. the water from my son's place and other pieces of land in there is washed down through there and tears the road out during the

high floods. At to the bridge, I helped to put it in there at various times, but do not remember how often. It was taken out at the time of the Johnstown Flood and once before that. It is now gone again and because of the condition there it would be almost impossible there to keep the bridge unless high abutments were in each end so the water would have plenty of room to pass through, and that would incur an immense expense, in my judgment, too much for the amount of travel. There are no settlers along that road from Joeb Spencers to A.O. Pilgers. They are also putting a road measured by L.H. Weber and myself within 128 rods of where this road would cross the Run, with a good bridge built by the County.

Q. Do you have any approximate idea as to how much expense that road has been to Bloom Township for the last three or four years back?

A. It has not been a very great expense, and the expense they did put on it was not at all adequate to keep the road in a safe condition.

Q. Then it has not been on account of the little expense that the road has been to Bloom Township, these proceedings were brought?

A. No, the fact was that with the great difficulty owing to the lay of the ground and condition of the ground over which the road passed and the difficulty in keeping the road up there that was safe at all for the small amount of travel, we felt that some one might travel across the road and sustain damages and the Township would have to pay it, hence we brought this proceeding to have it vacated.

Q. As a matter of fact, the road has been vacated for how long?

A. Every since Bilger's mill was out of there and the lumber all gone.

Q. And as I understand it, has been practically abandoned every since that?

A. Yes, although there has never been a township road that has not been travelled some, and we did not consider that had been travelled, and I understood it had been practically abandoned.

By Mr. Bilger :

Q. What is the effect of this vacation on the part of road left in Penn Township? How does it end?

A. It ends at Bloom Township line at one end and the other at Walburns; road leading from my place to Gramian.

Q. In a cul-de-sac?

A. Yes.

Q. On private property?

A. I suppose so.

Q. And the effect is the same at the Pike Township side?

A. Yes, I think so.

Q. What is your knowledge of this portion of the road that is vacated?

A. East of the Point "B" on the draft or the oak tree?

A. Yes.

Q. I have no particular knowledge of it until the day of the view there and my attention was never called to anything of the kind. I did not know that Bloom Township had a little strip of land in there. No one ever asked us to work on the road and no one made complaint to us at anytime, because of the bad condition of the road, until we brought this action to have it vacated.

Q. What authority took care of the road East of the oak tree?

A. I do not know, that very much work was done, but I do remember at one time somebody had driven out there with a road machine and had trouble over this portion of the road, but do not know whether they did it to work on the road or because they had to go out of there to turn around to come back.

Q. Do you understand that any work ever done on the road was done by Bloom Township?

A. I could not say, but the fact is to my knowledge is that there might have been work done there, but for many years

very little work was done there by anybody on any part of this road.

Q. Who did what work was done ?

A. I do not know, but perhaps Pike township.

Mr. McCragary re-called by Petitioners, and testifies as follows:

By Mr. McCracken:

Q. When you made this view, did you hunt up the township lines there ?

A. I hunted up what was represented to me to be the Township lines, and I had no reason to dispute that they were not the Township lines, for the fact that I knew the location of the lines and these lines were there, dividing the property and being represented as the Township lines.

Q. In your report do you recommend the vacation of any part of the road not in Bloom Township ?

A. No I do not.

Cross examined by Mr. Bilger :

Q. Were you ever called upon to do any surveying along the Township lines at that point ?

A. No, never.

Q. Were there any marks on the ground, indicating the difference between the Township lines and the boundary lines ?

A. No, there rarely is. The township lines in Clearfield County are usually marked as boundary lines.

Q. From your knowledge of the lines in that section, would you be prepared to swear that the portion of the road between the points "C" and "D" lies in Bloom Township ?

A. No, I would not be prepared to swear to it, because I took the information that I could get on the ground, but that line as shown by the dotted line is on the ground.

By Mr. McCracken:

81.

Q. From your general knowledge of the approximate place for those lines, and having hunted up the lines which you thought would be the Township lines, to the best of your knowledge and belief, do you believe every part as shown by the map would be in Bloom Township?

A. Yes, I think so, within a very few inches or possibly might say feet. I did not go very carefully over that.

By Mr. Chase:

Q. Did you follow the line running North and South and marked on the draft as the township line that intersects the point "B"?

A. Yes.

Q. Did you follow that line South to see whether it was continued beyond the right angle?

A. No, I did not. There were some persons familiar with that country took me in to show the corner to me, but failed to find it.

Q. Then you did not find the corner at the right angle?

A. No, I did not.

Q. Did you find the corner that appears East of the point "C"?

A. No, I did not go to that.

Q. Are there any marks upon the ground to indicate points B, C, and D?

A. B, C, and D. are all on line of the road surveyed. There is a fence on the line and where the Woods property comes to the line was the place pointed out to me as the Township line.

Q. I understand you have no knowledge of this Township line obtained from prior surveys?

A. I have obtained some prior surveys in the vicinity.

Q. How far from that?

A. A half mile from this point.

Q. You did not locate any of these corners marked on this draft?

A. I located corners but not with reference to an actual survey on the ground for any distance.

I located the corners where the lines crossed the road.

Q. Is there any marks on the ground to indicate the corners?

A. No, but where I find two lines at right angle, I can very easily locate where the corner ought to be. If those lines are right the corner is right,

Q. You have no knowledge of that line in that particular location excepting as the information was given to you by others present at the time of the view?

A. I have no information further than that represented at the time, excepting that I found lines on the ground that corroborated the information given to me by these parties at the time.

Cal Bilger being recalled, deposes and further says:

By Mr. McCracken:

Q. You have testified that for many years you were Supervisor of Bloom Township?

A. Yes.

Q. Have you any knowledge of any portion of the road lying East of the point "B" at the oak tree on this draft, being in Bloom Township?

A. I could not say from my own knowledge just where the Bloom Township line is, but I had that road in my charge for a good many years. I never done any work there only what I did on the bridge and that was at the Run.

Q. Did you ever know of the Supervisors of Bloom Township having any charge or supervision over any piece of road East of point "B".

objected to for the reason that the work done by the supervisors does not establish township lines. Supervisors may easily be mistaken as to where township lines cross and may easily work from one Township into another.

A. The oak was as far as I ever did any work up to that road and never did any work above it, and as to swearing to the exact

location of the lines, I could not do that.

George Cleaver, subpoenaed and present but not called, because of it being simply an accumulation of testimony.

Cleaver, mileage 10 miles.

It is agreed between the Counsel that the testimony shall be transcribed by the Stenographer and her copy thereof shall be filed and used in this case with the same force and effect as if testimony had been signed by each of the witnesses called.

A. O. Bilger being produced, sworn and examined on the part of the petitioners, deposes and says, further:

By Mr. McCracken:

Q. You are the road-master in Bloom Township?

A. I am.

Q. What is the condition of that road, the parallel road, I mean, as to drifts?

A. It drifts some, the same way as on all other roads.

Q. How long at any one time was it so there was no way to get through?

A. I think about two days. If the road would drift as we would rake a new road through a field and in that was get through.

Q. How often do you go over the road in the winter?

A. I have to go over them every time there is a snowstorm, and if there are drifts I make it my business to go over them in my district just as soon as the storm is over.

Q. Does this road get muddy so that it is hard to travel?

A. It does not get any muddier than any other road, and do not think it gets any worse than any other road.

Q. How does that road compare with the other roads through the County?

A. It is mostly as good as any road through the County.

Squire Woods being produced, sworn and examined on the part of the petitioners, deposes further and says:-

By Mr. McCracken:-

Q. You have said you were Supervisor up there; now tell what action you take up as to drifts?

A. Just as soon as the storm is over or soon thereafter, I either notify Mr. Bilger personally or send him word and he goes out and opens the roads that are drifted, and I know at no time when the roads were not opened within one day or two days after the storm had ceased, and we would then try to open through the fields until we could get the road opened itself. We often let them travel through my fields and through Mr. Dales fields. On one occasion last winter the mail carrier did not go through for several days but it was not because the roads were not opened in our Township, as I know he turned one day and did not go any farther, but went back to Grampian.

Q. Is there any part of this road which we propose to vacate travelled from Erie Turnpike to Walburn road?

A. Yes it is travelled through to the Cleaver place.

Cross examined by Mr. Bilger:

Q. Were the drifts so you could not get through with a rig?

A. Yes, suppose so.

Q. Does any portion of the road proposed to be vacated, drift?

A. No, I do not know of any portion.

State of Pennsylvania
County of Clearfield

I, Odessa P. Sliger, Notary Public and stenographer, do hereby certify that the above and foregoing testimony was taken by me at the office of Benjamin F. Chase, on the 12 day of January, A.D., at the hour of 11:30 o'clock, A.M., by virtue of the Rule and Notice for the taking of the same hereto attached; that the witnesses were produced, affirmed and examined and his testimony taken stenographically by me by agreement of counsel and afterwards reduced to typewriting, and that the above is a true and correct report of the testimony so taken.

In Testimony Whereof, I have hereunto set my hand and
seal this 11th day of January, A.D., 1909.

Dessa P. Higgin (seal)
Notary Public.

Petitioners' Costs.

Stenographer, O.R. Sliger,		\$7.20
L.H. Weber, mileage and witness fees,		2.84
J. S. McCreary, "	" "	2.76 <i>Expert, \$350 extra</i>
A. O. Bilger, "	" "	3.10
John Woods, "	" "	3.10
Calvin Bilger, "	" "	2.84
G. W. Bell, "	" "	2.76
John Y. Rafferty, "	" "	2.22
G. P. Wagner, "	" "	2.64
George Spencer, "	" "	2.28
James Spencer, "	" "	2.52
<i>Geo Cleaver</i>	" "	2.10
C. A. Woods, "	" "	2.84
C. A. Woods, cost of serving subpoena,		
10 persons service, 2.40		
48 miles at 6 cts, <u>2.58</u>		
		4.98
		<i>40.68</i>

Exemptants costs,

Stenographer, O.R. Sliger,		4.00	Paid
Charles Marshall, mileage and witness fees,		2.10	
Lawrence Dale, "	" "	2.04	
Ernest Horn, "	" "	2.04	
Fred Marshall, "	" "	2.10	

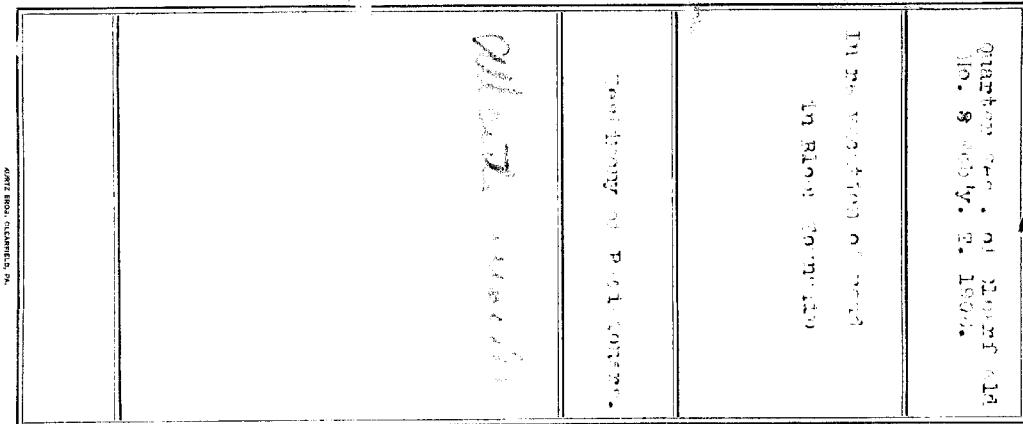
Lap-over Margin

quarter sec. on Sept. 15
No. 8, 1856.

Tr. 20 sec. 47000 0 22-12
in Rio Conchito

1000 ft. above Rio

1000 ft. above Rio



ADAMS BROS. CLEVELAND, OH.