

Quarter Sess. of Clearfield  
No. 3. Feby T. 1908.

In re vacation of road in  
Bloom Township.

Testimony of Exceptants.

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY

In re vacation of Road

in Bloom Township,

No 3 Feb'y. Term, 1908.

It is understood and agreed by the Counsel in the above entitled case that the testimony of the Exceptants shall be taken at the same time and by adjournment to Saturday January 9, 1909 under the same Rule to be used in the argument of the case with the same force and effect as if an additional rule had been taken out and notice regularly given, and that the same shall be transcribed and used under the same conditions.

*Edw. M. Kilgus & B. F. Chase*  
*Attys. for Exceptants*  
*John W. McCracken*  
*Attorney for Petitioners*

Charles Marshall being produced, sworn and examined on the part of the exceptants, deposes and says:-

Q. Where do you live ?

A. In Pike Township.

Q. How long have you lived there?

A. Over twenty years.

Q. Where do you live with reference to the intersection of this road with the Erie Turnpike ?

A. I live at the intersection.

Q. Are you familiar with the location of this road, proposed to be vacated ?

A. Yes.

Q. Have you been over it frequently ?

A. Yes nearly every week, two or three times.

Q. Do you know anything about the location of that point "B" on this draft ? (Draft shown witness).

A. Yes, I know it.

Q. Do you know of any part of that road East of point "B"?

lying in Bloom Township ?

A. No, I never knew that.

Q. Who has had charge of that from your place up to point "B"?

A. Pike Township Supervisors.

Q. Do you know the location of the Township lines at that point

A. Yes.

Q. To the best of your knowledge, information and belief, is that portion of the road East of point "B", and shown upon this draft as vacated in Bloom Township or Pike Township?

A. East from the oak tree I am in Pike Township to my knowledge and we always worked up to that tree.

Q. Have you ever made use of this road, proposed to be vacated ?

A. Yes, I made use of it .

Q. How often.

A. That depends. Two or three times a week and sometimes once in two weeks. It depends upon the work in Gramscian.

Q. Did you ever haul loads over it ?

A. Yes, I have gone over it with a ton and a half more than once.

Q. Do you think the road necessary for public use ?

A. Yes.

Q. What do you know about the condition of this road ?

A. Its condition was always poor as Bloom Township never worked on it. I told them a couple times to look after it and fix it but I always got an excuse that it was a hard time to work on it and they never did any work on it that would amount to anything.

Q. Is the vacation of this road going to inconvenience you and put you to trouble ?

A. Yes, of course, I will have to go around that much farther, and in the winter time the other road drifts and gets very muddy, and this vacated road never gets muddy nor drifts.

Q.

Q. Then this road drifts up in the winter time and in the summer becomes very muddy ?

A. Yes, when it rains hard it gets very muddy.

Q. Does the road proposed to be vacated ever drift ?

A. No, I never went through it when it was drifted , except a little piece where Mr. Cleaver used to live.

Q. How much farther will you have to travel to go to Granbrian if they vacate that road ?

A. About a mile and a half one way.

Q. Where do you get most of your stuff ?

A. That depends; sometimes in Granbrian and sometimes in Durvansville.

Q. Which is nearer for you ?

A. One is the same as the other when I can go that road. They are both three miles.

By Mr. McCracken:

Q. Did you say you knew where these township lines are ?

A. Yes.

Q. How did you find them ?

A. I got the Surveyor there who surveyed the property where Mr. John Woods lives, and that is the way I know where the line is, and then I was there when Jacob Bilger had the Surveyor on the ground and the lines run the same way. I told Mr. McCreary and the other fellow where the line was at the time they were over there in Pike Township .

Q. You told him where you thought the Penn Township line was?

A. Yes.

There was a little stone pile on the side of the road but I did not find it at the time below the oak tree.

Q. You were present when the viewers were on the road ?

A. Yes.

Q. You stated your objection to them ?

A. Yes, I did.

Q. You say it is a mile and a half farther from your place to Grampian around the other way ?

A. Yes.

Q. You never measured it ?

A. No.

Q. You heard the testimony of Mr. Weber??

A. Yes.

Q. As to the distance ?

A. Yes but I could not tell much about it as I never measured it with a wheel.

Q. Can you get out from your place to Grampian by another road ?

A. Yes.,

Q. Is there any place on this road that you can reach that could not be reached on the other road ?

A. Not that I know of; one is farther around than the other.

Q. And you want this road kept up for the sake of a mile and a half?

A. Yes, of course, not only for the convenience of myself but for all the people around there.

Q. Who are they ?

A. All that live on Pike Township side of the School House.

Q. Name them.

A. Samuel Horn; Chas. Shugarts; Stewart McCully; Manuel Hawk; Cyrus Cleaver; Shawn Hawk; Amos Passmore; Lawrence Pale; Zachariah Bailey and Simon Wolfe.

Q. Where do they live ?

A. All in Pike Township.

Q. Do they keep teams ?

A. Some keep teams and some do not.

Q. How many of them keep teams ?

A. Maybe three, four or five of them.

Q. Do they all live up there ?

A. Yes, ~~now~~.

Q. Don't Cleavers live in Clearfield now.?"

A. Yes, I guess they do now.

Q. Do these men live along the road proposed to be vacated ?

A. No, not along the road vacated, but they would use that road .

Q. How many times have you seen these people pass this road?

A. A great many times.

Q. On foot?

A. Yes, when they did not drive a horse. I did not pay much attention to the number of times, but they passed a lot of times.

Re-direct by Mr. Bilger:

Q. You have seen people pass it though ?

A. Yes, I have known of physicians from Grampian coming on that road .

Q. How long ago was that ?

A. One last year and one two years ago.

Q. Who were they ?

A. Dr. Currier and Dr. Miller. Of course they could not go through now.

Q. What do you know about this parallel road being drifted up by snow ?

A. I know that the mail man could not get through there for some time to deliver the mail.

Q. For how long a time ?

A. Five days.

Lawrence Dale being produced, sworn and examined on the part of the petitioners deposes and asys:-

Q. Where do you live ?

A. In Pike Township.

Q. How far from this road in question?

A. A half mile going to the road going past Charley Marshall .

Q. In order to get on to the road, where do you go from your place ?

A. I could go down around past Holdens and up to the Erie Turnpike to the School House.:

Q. Have you used this road ?

A. Yes I have.

Q. Do you think the road necessary for the use of the public?

A. Yes I do.

Q. Within what length of time have you used this road ?

A. Last Spring, or summer rather. I hauled some lumber from Grambsian that I had planed.

Q. Did you haul it through this road ?

A. Yes, I did.

Q. What do you know about these roads drifting ?

A. I know that the other road drifts, and so far as this road to be vacated is concerned, I do not think it ever drifts, and very little if any.

Q. Then it does not drift as much as the parallel road ?

A. No, it does not drift at all so as to become impassable.

Q. Does it ever become muddy ?

A. That part they propose to vacate does not.

Q. Does the other road that goes in by Charley Marshall?

A. Yes, it does.

Q. Are there times, Mr. Dale when this other road that is called the parallel road, become impassable by reason of drifts?

A. It certainly does.

Q. Hav- you known of this road being drifted up so people could not drive through ?

A. Yes, I lived on that road for the first twenty-five years of my life and know that it frequently drifts.

By Mr. McCracken:

Q. Where does the road that comes out from your place come out on to this road ?

A. Erie Pike.

Q. How far to you live from Charley Marshalls via the road that you drive?

A. I suppose it is a half mile.

Q. On what road are you when you come out to Charley Marshalls.

A. Erie Turnpike.

Q. If you go to Granovian via the parallel road, you do not get on this road at all ?

A. No.

Q. You just pass it at Charley Marshalls ?

A. Yes.

Q. How much farther do you consider it to go around than it is to go through that one?

A. I think about one and a half miles.

Q. Did you ever measure it ?

A. No, I never counted it by wagon wheels, but I judge from the time it takes me to drive it.

Q. Did you ever time yourself ?

A. No, I never did.

Q. You said that this road, part of which we expect to vacate never gets muddy ?

A. No, not very much.

Q. Any part of it ?

A. Well it gets some muddy in toward A.O. Bilgers.



Q. Does it drift in any place ?

A. It may drift along by A.O. Bilger's farm or fields.

Q. Do the Supervisors keep up the other road in a good condition ?

A. Yes very well for a township road.

Q. Do they open the drifts when they come in there ?

A. They do when they get time.

Q. The same as any other public road in the Township?

A. Certainly.

Q. To your knowledge, how long has that road ever been drifted so you could not get through at any one time ?

A. I would not say more than two days but what the mail could get through.

Deposition of exceptants taken January 9, 1909, in accordance with agreement at the former date.

Ernest Horn being produced sworn and examined on the part of the exceptants, deposes and says:

By Mr. Chase.

Q. Where do you live ?

A. In Pike Township about nine miles from Clearfield.

Q. Do you know where the road they are seeking to vacate is located in Bloom Township ?

A. I know the road from one end to the other but cannot tell just what part altogether Bloom Township controls. I know part of it but cannot tell where the lines are. Cannot tell anything about that.

Q. Did you own some property on the line of this road ?

A. I bought a piece of land that laid back on that road ?

Q. How long ago ?

A. In October last.

Q. Are you improving that land ?

A. We have commenced to clear it this last Fall and have some done now.

Q. If this road is vacated, will it leave you any means of entrance to your land ?

A. I cannot see how it will. It will shut us off going both ways, toward Grampian and Curwensville both.

Q. In buying that land, did you buy it considering the use of this public highway ?

A. Yes.

Q. Who else has land near you there ?

A. My father and myself own one piece and Charles Schuberts of Pike Township has another piece, all to be improved.

Cross examined by Mr. McCracken:

Q. How far is this land away from this road ?

A. About 200 feet I judge.

Q. Who lies between ?

A. Squire Woods.

Q. Have you any road into it from this road ?

A. No.

Q. That is in what Township,?

A. The agreement says in Penn Township, but think it is in Pike. I bought it off of the Bigler lands.

Q. Is it South of the Austin Bilger land ?

A. Yes I think it lies South.

Q. If you were to make a road there, where would you come out on this road ?

Q. The best way would be to go up through Squire Woods or his son John's property I suppose.

Q. About where on the road would you come out ?

A. On the other side of this Bilger or Cleaver land in Pike Township.

Q. Where, with reference to the Cleaver property would such a road come out for an outlet ?

A. It would come, the best way I suppose would be to go up the line between the Bilger and Woods property in Pike Township.

Q. If the road would be vacated down as far as the wire fence that comes down from John Woods property, the outlet would come out on to this road between that point and Marshall's ?

A. It would only leave an outlet to Ourwensville without going five miles to get to any place else.

Q. You say it would give you five miles around ?

A. Almost, I say.

Q. How far is it from that point to Gramblin ?

A. Two miles, I suppose.

Q. How far would it be the other way ?

A. Four and a half miles or something like that. By going around that way you would be just making a circle to get to Gramplan.

Q. Then if it is two miles one way and four and a half the other, the one way would be five miles longer ?

Objected to as a matter of argument.

A. Well it would be a mile and a half or the difference in the two ways, as I guess at it.

Q. Then it would not be five miles ?

A.. It would be very near it.

Q. You testified that you would have absolutely no outlet if the road were vacated ?

A. Yes.

Q. If vacated down as far as the wire fence you would have an outlet to Curvensville, would you not ?

A. Yes that is all,

Fred Marshall being produced, sworn and examined on the part of the exceptants, deposes and says:

Q. Where do you live.

A. In Pike Township, nine miles from here.

Q. Are you acquainted with the road through Locust Ridge School House to the old Pike, on which they are trying to vacate in Bloom Township?

A. Yes, I am.

Q. In the piece of road from Point "B" as shown to you being the oak tree through point "C" to point "D", in which township is that road?

A. Suppose it is in Pike Township.

Q. Who has done work on that road during your memory?

A. Pike.

Q. Was ever any work done on it by Bloom Township?

A. Not that I can remember of.

Q. Was this road needed by you and the people in your vicinity, and was it of great convenience to you?

A. Yes, at anytime we wanted to go to Grampian.

Q. How much of this road is in bad repair?

A. I would judge about 700 feet from the oak tree on the Township line to the Run; that is the worst of it. Only part of it is in bad condition.

Q. Have you requested Bloom Township to repair this road?

A. Yes, I have a good many times. I notified the Supervisor himself.

Q. What was his excuse for not doing so?

A. He always told me the Township was hard up for money and that they were wanting to put new sewers in all over the Township and that had kept them back.

Q. Is the reason this road has fallen into disuse has been owing to the disuse and neglect of it by Bloom Township in keeping up repairs?

A. It certain has been.

Q. Had Bloom Township given the same attention to it as the other roads in the Township, would it have been of value to any of the citizens of Pike or Penn Townships ?

A. Yes, certainly, there has been a lot of travel on it.

Q. But by Bloom township's neglect it has become bad ?

A. I guess it has.

Q. Do you know where C.A.Woods, L.H.Weber, G.F.Wagner, Joeb Soencer, J.W.Woods, A.O.Bilger, Cal Bilger and Jos. Spencer live?

A. Yes.

Q. Do any of them live on the line of this road ?

A. A.O.Bilger and Joeb Spencer live on it. The others are simply taxpayers of Bloom Township.

Q. And would not be effected by this road ?

A. I do, not think except to avoid the taxes.

Q. Then the vacation or non-vacation of the road is immaterial to the men who were here as witnesses except the two ?

A. That is all that I know of; the two men that I was telling you about besides us.

Cross examined by Mr. McCracken:

Q. What Supervisor did you request to repair the road ?

A. Mr. Wagner.

Q. Where do you live along that road ?

A. I live very near to the end of the road in Pike Township?

Q. Close to your father ?

A. A little step away from my fathers.

Q. About how far from the end of the road where it comes out on the Erie Turnpike ?

A. Would judge it is from 700 to 800 feet, maybe more.

Q. ~~xxxxxxjudge~~ By going 700 or 800 feet you could get on to the Turnpike ?

A. Yes.

Re-direct by Mr. Chase.

Q. If the strip you mention was out in repair, could you use the fording and bridge at Huey Run ?

A. Yes.

Q. Except at extraordinary times?

A. Yes.

Q. Then it would not be necessary for the Township to put an expensive Bridge there to make the bridge passable ?

A. No, not a very expensive one.

Q.

Charles Marshall being re-called on the part of the exponents, further deposes and says:

By Mr. Chase:

Q. You saw the witnesses who were here at the hearing on the 7th ?

A. Yes.

Q. How many of them are men who will be effected by the vacation of this road, excepting A.O. Bilger and Jacob Spencer ?

A. Not any.

Q. Does Jno. Woods farm face ~~face~~ on the turnpike?

A. His house is rather close to Turnpike but this road is to the rear. He has his own road through the farm.

Q. If some repairs was put on this road to the oak tree, to the Run, would that put it in a passable condition ?

A. Yes.

Q. Would it require a very big expenditure of the Township?

A. No, a man said to me that it could be put in good repair for \$100 so it could be travelled over.

Q. Who was that ?

Objected to witnesses testimony as hearsay evidence; and

also objected.

also objected to the testimony as to costs of road, not having qualified himself as having had any experience in the work of road construction.

A. Charles Shuberts, he would have been here this morning, but couldnt get away.

Q. At the time of the view did you make a proposition to make the repairs for \$800 ?

A. Yes.

Cross examined by Mr. McCracken:

A. Did you lay down any terms as to the specifications with regard to the bridge or with regard to what the road needed to put it in good condition?

A. Yes.

Q. Did you tell them you would put in a new bridge there ?

A. Yes.

Q. With abutments ?

A. I did not say abutments, but one just as good or better than the one there now or the one that has been there.

Q. You did not leave it to the public to determine the amount of work you would have to put on the road for \$800 ?

A. No, I could put it in a good condition so that any person could go over it.

Q. Did you agree to give a bond for the damaged sustained by anybody in travelling over it ?

A. They did not ask me for that.

Re-direct by Mr. Chase.

Q. Have you notified the Supervisors of Bloom Township to make some repairs on this road ?

A. Yes I notified them every year. I had to.

Q. During the twenty one years that you lived there can you give an idea of the amount expended by Bloom Township on that road?



A. I could not say that they expended \$50 during the entire time.

Q. You used that road at all times ?

A. Yes, I used it for three months, every day two times.

Cross examined by Mr. McCracken:

Q. Who did you notify of the present board about this Bridge?

A. I told Mr. Wagner. At the time Mr. Bilger built another new bridge up there I told him to use the old lumber from that to fix this bridge and that we would be satisfied with it, but he did not do it.

Q. How many times has that bridge gone out of there ?

A. I do not know. Wouldnt think it went out more than three times since I was there.

Q. Did you say you travelled over it two or three times a week ?

A. Yes.

Q. Did you travel over it during the past summer ?

A. Yes, ten or fifteen times.

Q. Did you from the 29th of May to the 15th of August and if so how many times ?

A. I do not remember but six or seven times.

Q. Did you go out there on the 15th of August and say to A.O. Bilger that you did not know the Bridge had gone out yet ?

A. I might have. I know I passed him once but do not remember what I said.

Q. Do you know when the bridge went out ?

A. No.

Q. Had it gone out on the 29th of May would you have known it?

A. I could not pass there without knowing it.

Q. Then if you said that to him on the 15th of August and the bridge went out on the 29th of May, you could not have passed in the meantime, could you?

A. I did not pay any attention what time it was, but I never went over the bridge when it was not there.

Q. You and your son were both present at the view ?

A. Yes.

Re-direct by Mr. Chase.

Q. Did you have any notice as to the proposed view ?

A. The only notice I had as to the proposed view was two days before the view. My son and I passed along the road and saw the notice.

Q. Then you used the road two days before the view was there?

A. Yes.

Q. Did A.O. Bilger live in Bloom Township at the time of the petition for the view of this road ?

A. Yes.

Q And afterwards moved into Pike Township ?

A. Yes.

State of Pennsylvania.

SS

County of Clearfield

I, Odessa R. Sliger, Notary Public and Stenographer, do hereby certify that the above and foregoing testimony was taken by me at the office of Benjamin S. Chase, on the 14th day of January, A.D., at the hour of 9 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 14th day of January, A.D., 1909.

Odessa R. Sliger (seal)  
Notary Public.

My Comm. Expires,  
February 1, 1910.

*See costs with other depositions  
taken at same time, per Township*

Original Case No. 11494-11  
No. 8. May 11, 1968.

THE COURT OF THE  
STATE OF NEW YORK

IN SENATE CHAMBERS