

Notice of Review!

Notice is hereby given, that the reviewers appointed by the Court of Quarter Sessions, to view the ground for a road to begin in a public road leading from a point at or near Christopher Toels in White Lwp. and to end at a point near the Beaver Valley School House, will meet at the home of Christopher Noel in White Lwp. aforesaid, on the 21st day of February A.D., 1890, at nine o'clock in the forenoon, for the purpose of viewing said ground.

Paul Matner }
Wm. Fleming } Reviewers
John Beers }

January 22, 1890

W. S. [Signature]

In re road in White
Twp from near
VERSUS
Christ Church's to Seaver
Valley School House

In the Court of Quarter Sessions
of the County of Cambria
of June Term, 1889
No. 5 Rd,

DEPOSITION OF WITNESS, taken before me, this fourteenth day of
January A. D. 1892, at Atty's Room, Court House
Chesapeake, Md.

between the hours of 9 o'clock, A. M.
and // o'clock, P. M., by virtue of the annexed Rule of Court and notice
thereon endorsed, for the examination of witnesses in a certain cause there
pending, wherein In re road in White Twp from near
Christ Church's to Seaver Valley School House

Defendant
Paul Yahner being produced, sworn and examined
on the part of the Re-viewer & Ex doth depose and say:
My name is Paul Yahner, am — years of age,

I was one of the re-viewers to re-view a road from
a point near Christopher Church in White Twp to
Seaver Valley Sch. House,
Quers Paper endorsed - No 5 June Term 1889 R.D.
Shawn to witness and he is asked to state whether
or not the report of the re-viewers is correct at
test; whether or not the same has an ac-
companying draft showing the old road as
well as the parts sought to be supplied,
Ans = Yes, The re-view was made on the 21
Feb, 1890. I passed over that part of the old
road sought to be supplied by the re-view. I
passed over the parts supplied by the re-viewers
in their report. The supplies part in the ^{Draft} report

of previous begins at a point on draft
marked "P. Flynn" and ends near Walter
Mills. The old road from point P. Flynn
where it intersects the road leading
past Walter Mills is on level ground;
through a bottom. At the time the review
was had it was in a passable condition.
I did not see much wrong with it, I
guess it would compare pretty favorably
with other Irish roads. There are some better
and I guess some worse than it was.
I think there are no streams of water cross-
ing the old road between these two points
unless it might be a small spring I don't
remember of noticing any. I think we
kept on the south side of the river. Be-
tween the points mentioned the old road
passes through some cleared land near
where it goes into the Chalfont road - a
field or two small fields. I think only
one field. A man by the name of Stagers
owns the cleared land; it goes through;
so I was told. There was at the time we
were there Gates or bars across the end of
the old road where it enters the road
past Walter Mills and ^{also} at the other end
of the improvement. I think Mr. James
L Gallagher showed me where the ^{road} ~~supplies~~
~~high~~ by the river commenced and
then we struck the marks of the survey-
or. We struck what they said was Stagers
line and then we followed it out to
McKees Blacksmith Shop. This is

one considerable little stream near
where the part supplied commences, ~~and~~
there there is at least one considerable ra-
vine, with a strong run, farther on,
It would be necessary to build a bridge
or bridge ~~across~~ those stream or ravines
The first run is in quite a flat place and
there are no banks, they would have to be
abutments raised up on each side and
approach one on each side, I could
not tell how long the bridge would have
to be. The remaining portion of the supplied
part goes through woods, until you get
out to Mayers field, The ground is quite
irregular and broken in places, There is one
quite a deep ravine through it; Somewhat
up grade going out towards the East, i.e.
towards Mr. Keen Blacksmith Shop that
is at first; then a part of it is comparatively
level, When it comes out to within a
short distance of the main road, it pitches
down quite a heavy grade, until it en-
ters said road, I mean by main road
the one that passes Maltus Mill. I took
the degrees of elevation on the supplied part
from the main road up to the top of the
hill nearest to the road, I made it
out (8°) Eight degrees. If it weren't for
the hill there might be as good a road
made over the supplied part as there is

narrower the old road. I would say that
of one half or one third of the money re-
quired to open that new road was ex-
pended on the old road it would make
a far better road, than ever can be made
out of the new road - the new part, on
account of the steep grade of said part
Cross examined by Mr. F. A. Thayer

The part marked supplied parts a draft of re-
view divides the Thayer and Hutton forms.
The vacated part runs through the Thayer
form; that is from the dotted line to the
main road. The ~~new~~ road marked "sup-
plied" part would do the least injury
to private property - that is to Mr. Thayer.
I think one of the ravines I spoke of in the
supplied part is on Mr. Thayer's land.
They are in the wooded part near mid-
way between the two points. The part
marked vacated passes over cultivated
ground, but I did not make any
swamp. There are no ravines on the vacated
part that I recollect of. He measured
58 rods from the point where the vacated
part strikes the main road to the point
where the supplied part enters it.

Re-examined.

His School House stands between the church
and the point where the old road enters the
main road past Hutton's Mill. I don't

~~knows that it would in general be~~
I believe that the old road would be
more convenient to the traveling public
than the facts supplied.

Re-examined

There is what they call the ridge road run-
ning between Christ Mills and the
Ochlock House.

Re-examined =

For James Gallagher to get on the Ridge Road
he would ~~xxxxxx~~ have to go up the pres-
ent road to Christ Mills, a distance
of about a mile away from home in
a contrary direction, and then he would
have to go South about a quarter of a
mile before he would get to the ridge road.
Then he would go down the ridge road
about two miles to the church near the Och-
lock House on the main road. By the present
public road down a past Strayer to
the church would be a little over a mile.
There is another road for Gallagher to get
on the ridge road except what I have
given. There is a hill that a horse could
hardly climb up between Gallagher's escape
to the ridge road.

Paul Yabner

James Oshall (affirmed)
I live in White Oak Cambria Co. I know
the location of the road from Christ Mills to

David Thayer, The following families live
along the road - Mrs Baker, James Gallagher
John Pennington and myself. These parties
all live along the part of the road sought
to be supplied. It is the road where people
are to go to the Mill, Church, Flynn City and
to school. They haul lumber and back
when they haul it down that way. The
part of the road sought to be vacated is
a pretty good road. It is about level.
I was over the part of the road sought
to be supplied yesterday. I thought it
was pretty rough ground. It is hilly
back ways. It is hill going toward the
Mill and hill going up the other way.
I don't think it would be to the advantage
of the traveling public to change the old
road to the part supplied. The hill next
to McKee on the supplied part is pretty
steep the other is a middling sized
grade. The supplied part passes over some
streams. It would require the building of
bridges or bridges. It would require two
any how. There is one spring near cross-
ing the old road. It is bridged over.
The old road is pretty near as good as the
other two roads in the town. It is as
good as some. I would not like to
open up the new road for \$500 - To
make the old road a good road would

not take more than a third of that. I don't
think that the new road could be made
as good as the old one - on acct. of the hill.
Cross-examined.

Attn - H. H. Myers - James ^{his} Oshall.
mark

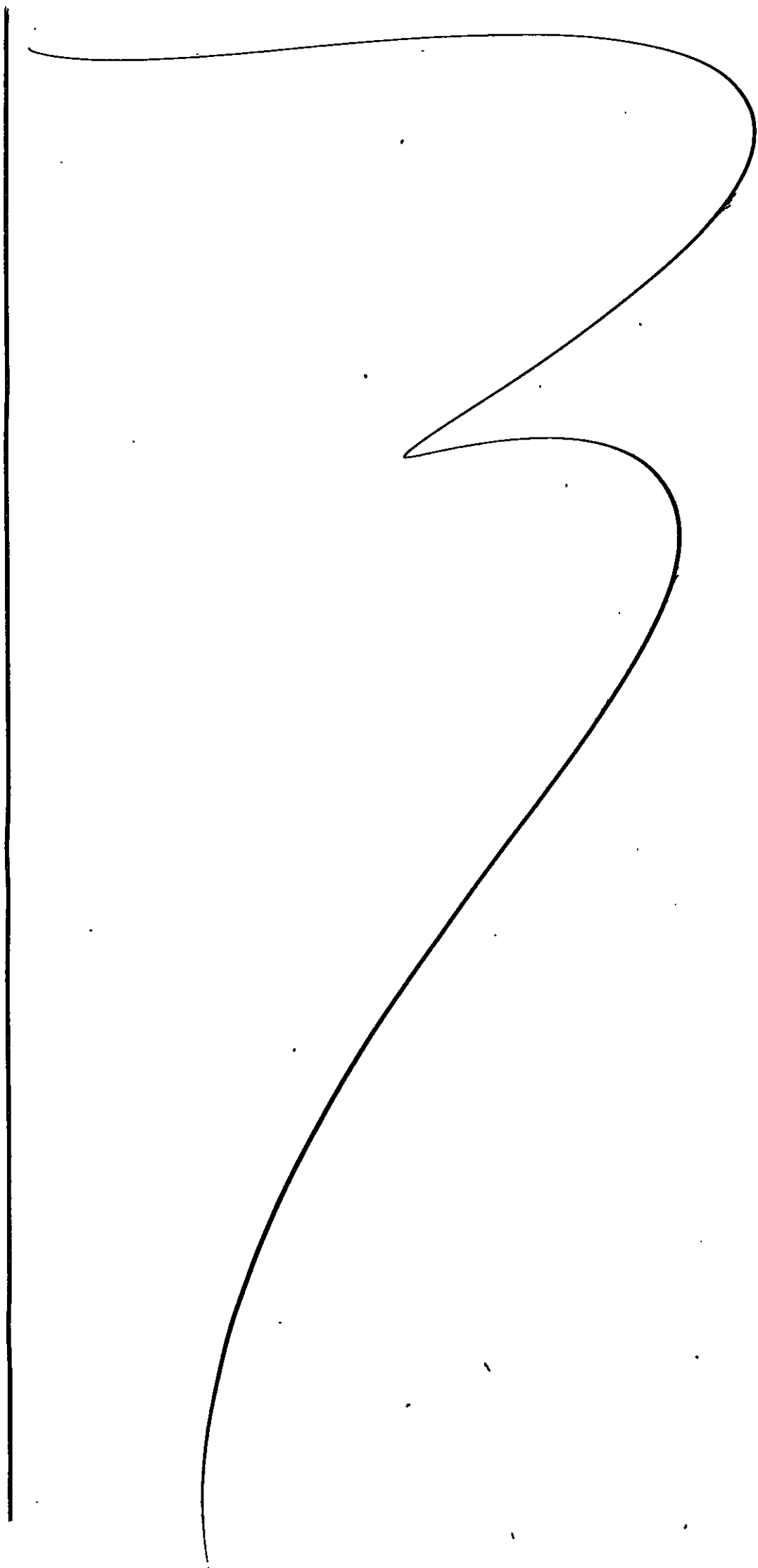
James M. Gallagher (Sworn)
I live in White Fork Cabaret Co. I know the road
from Chestnut down to Daniel Thayer's. It passes
by my place. Besides myself James Oshall
My Baker & John Pennington live along
that road. It is the road we use to go
to school, Church Hill & Flynn City -
I have been over the part of the road sought
to be supplied. I was present when the road
was made. I pointed out to J. J. Gabner
the place where the viewers have located
the road. The old road is about as
good as the rest of the Fork road taking
all of them. The old road from my place
down to the Oak House is a nearly level
road. It would be down grade from
my place to Mr. Thayer's. It would be
slight. I don't think any place over three
degrees. I think the old road could
be made a good road. There is no
stream crossing the old road on the
part to be vacated except one small
spring run. It is bridged over. The
new road is pretty rough ground. It

crosses one middling long run, close
to the beginning, on the upper end, and
one ravine about one half way, from
then to Shapers field as near as I can
guess, It would be necessary to
bridge the streams & ravines. The new
road is killy both ways. The hill next
our place is not very steep - supposed
to be about 4°. The hill at McKees black
smith shop coming from Malters mill to-
wards our place is very steep. It would
be impossible on east. of the hill to make
as good a road along the new road
as along the old. This is the same road
as the one sought to be vacated some
time ago. That is the whole of it. A
new re-view was made at that time
The road was not vacated. At the time that
the proceedings were had to vacate the whole
road Daniel Shaper had gates ways at
the end of his improved land and also
at the end of the road where it enters the
road past Malters mill, and he has
yet. After the decree was made refusing
to vacate the whole of the road I went to
Daniel Shaper and asked ^{him to} remove the
gates. He said he would but that he
wanted some time to make the fence. He
never made the fence.

Cross-examined =

I have been taking an active part in
opposing this road, I do not like to be
shut up, James W Gallaher

Mr. Evans offers in evidence Report of
newer and re-newer to W. H. Mar. June
1887 R.R. Also exceptions to report of
newer to same to and from. Also Testi-
mony filed to same to and from taken
upon the fact of the exceptions and re-newer.
Also the opinion delivered by the Court
in disposing of the same case.
Mr. Shaenster objects to the same as
irrelevant and immaterial,



In re road in
White Top from
near Chestnut Hill
to Beaver Valley
Och. Haver

In the Court of ^{Quarto Term} ~~Common Pleas~~
of Cambria County, Pa.

Of June Term, A. D. 1892, No. 5

And now, to wit, the Sixth day of January, A. D. 1892, Rule
on part of Re-view to take depositions of witnesses
to be read on the hearing of the above stated case.

CAMBRIA COUNTY, SS:

Extract from the Record of said Court. Certified
the 6th of January, 1892
J. C. Darby Prothonotary.

To Petitioner for view or their counsel H. A. Shoemaker, Esq.

TAKE NOTICE, That in pursuance of the above Rule the depositions of witnesses to be read
in evidence on the hearing of the above stated matter on part of
the Re-view will be taken at the Attorney's Room in
the Court House, Ebensburg, Pa. on Thursday
the fourteenth day of January, A. D. 1892, between the hours
of nine o'clock, A. M., and eleven o'clock, P. M., before H. H. Myer
Esq., a Notary Public in and for said County
or by some other person of competent authority, at the time and place aforesaid, when and where
you may attend if you think proper.

Alvin Evans
Att'y for Re-view,
January 6th 1892.

W. 5 June Dec 1889
R.H.

In re road in
White Twp.

RULE ON PART OF

Re-view

Jan'y 6, 1892, the within Rule
devoid in F. A. Shomaker
Esq. counsel for view, by handing
him a true and correct copy
thereof Alvin Evans

Evans

STATE OF PENNSYLVANIA, }
Cambria County, } ss.

I DO HEREBY CERTIFY, That the above witnesses were duly qualified and examined at the time and place stated in the above Caption; that the same was reduced to writing by me, in the presence of said witness, and, having been first read over to them, they subscribed their name thereto in my presence, and in the presence of John Evans Esq. who appeared for Re-view and F. A. Shattuck Esq. who appeared for review.

Witness my hand and Notarial seal.

H. H. Myers,
Notary Public

No. 5

June Term, 1889.
R.R.

Increased in that Dept.
from Christ. Acad.

VERSUS

6

Dear Valley School
Harris,

Deposition

Of Witnesses on Part of

Re-need —

Filed 3 Feby 1892.

Fees for taking Deposition, \$ 2⁵⁰ / 100

Ed. by Jas. M. Gallagher, N. W. M.

Filed *189*

Prothonotary.

.....Attorney.

In Re Road in White Township from	:	In the Court of Quarter Sess.
Christian Noles to Beaver Walley	:	of Cambria County
School House.	:	No. 5 June Sess. 1889.

O P I N I O N.

In this case we have before us a report of viewers reporting a vacation and supply of a certain road in White Township; we also have a report of re-viewers adverse to the report of viewers; we have testimony taken in support of the report of viewers, and also testimony in support of report of the re-viewers; we also have in testimony proceedings had at No. 4 of March Sessions 1887, and the opinion of the Court thereon in reference to the vacation of said road.

After carefully considering all these circumstances, First : that there was a report of viewers viewing, laying out and returning as a public road the road now under consideration; that an order issued to the supervisors for the opening thereof; that an attempt to vacate it was successfully opposed at said No. 4 March Sessions 1887, and that now we have a report of viewers in favor of a vacation in supply; and a report of the re-viewers against a vacation in supply, and testimony about in equilibrio, we refuse to confirm the report of viewers vacating and supplying the road. And that the proceedings herein had so far as the same relates to the petition to vacate and supply, are dismissed. And that the petitioners are directed to pay the costs of the Clerk of the Court to the Quarter Sessions, and as well as the fee for taking depositions in this proceeding.

By the Court.
Calvin Rayburn. ~~of~~
3300 District Specially
Presiding.

No. 5 Jun. Sess. 1889.

In Re Road in White Township

from Christian Noles to Beaver

Valley School House.

OPINION.

Dec 20 May 1892

Commonwealth of Pennsylvania,
County of Cambria, } ss.

At a Court of Quarter Sessions of the Peace of the County of Cambria
held at Clearbury in the said County, on the First day of
July A. D. 1889, before the Honorable the Judges of the same
Court: Upon the petition of divers inhabitants of the township of White
in the said County, setting forth that they labor under inconvenience for want of a
public road ~~has long since been a~~ road or highway, to lead from
out from near the residence of Christopher ~~Smith~~ to point
near the Beaver Valley School House on the public road lead-
ing from Beaver Valley U. B. Church to Walter Mills, which road
has never been properly opened for general public use or turned
and was originally intended for private use only, a part of the
said road to wit from a point near the residence of Mr. Baker
to the public road leading from the Beaver Valley U. B. Church
to Walter Mills is now become useless, inconvenient and
hazardous.

and therefore praying the Court to appoint proper persons to ^{view and lay out} view and lay out the
same according to law. The Court upon due consideration had of the premises, do
order and appoint Henry Seaman SURVEYOR,
and John Riches & Adam East

VIEWERS, to view the ground proposed for said
road, and if they view the same, and shall agree that there is occasion for such
road, they shall proceed to ^{view and lay out} lay out the same, having respect to the shortest distance
and the best ground for a road, and in such manner as shall do the least injury to
private property, and also be, as far as practicable, agreeable to the desire of the
petitioners, and that they make a report of their proceedings to the next Court
of Quarter Sessions to be held for said County, stating particularly whether they
judge the same necessary for a public or private road, together with a plot or draft
thereof, and the courses and distances, and references to the improvements through
which it may pass.

BY THE COURT.

Attest:

W. H. Haenke
Clerk.

NOTE.—"It shall be the duty of all persons appointed in the several counties of this Commonwealth to view and review any public or private road or bridge, if they shall decide in favor of locating said road or bridge, to endeavor to procure from the persons over whose land such location may be made releases from all claims for damages that might arise from the opening of such road or the building of such bridge; and in every case where said viewers shall fail to procure such releases, and it shall appear to them that any damages will be sustained, it shall be their duty to assess the damages and make report thereof signed by a majority of their number, and return the same, together with all releases obtained, to the Court of Quarter Sessions, and the damages so assessed shall be conclusive, or may be subject to appeal, review or modification, as may be provided by existing laws in the different counties of this Commonwealth."

"The persons appointed as aforesaid shall view such ground, and if they shall agree that there is occasion for a road, they shall proceed to lay out the same, having respect to the shortest distance, and the best ground for a road, and in such manner as shall do the least injury to private property, and also be, as far as practicable, agreeable to the desire of the petitioners."

"The viewers, as aforesaid, shall make report, at the next term of said Court, and in the said report shall state particularly: first, who of them were present at the view; second, whether they were severally sworn or affirmed; third, whether the road desired be necessary for a public or private road; they shall also annex and return to the Court a plot or draft thereof, stating the courses and distances, and noting briefly the improvements through which it may pass: and, whenever practicable, the viewers shall lay out the said roads at an elevation not exceeding five degrees (except at the crossing of ravines and streams), where, by moderate filling and bridging, the declination of the road may be preserved within that limit."

No. 85
Jan. Sessions 1869

Order to view a road, waste
excepting part of the purchase
road leading from a farm
near to the highway, to be laid out
from the highway to the Shaw Valley
State House.

Viewers
Henry Seaman
John P. Smith
William Smith

Feb. 19, 1869
23 Sep. 1869, Exception filed

Wm. Seaman 900
Pd. by order of
Wm. Seaman
Don't

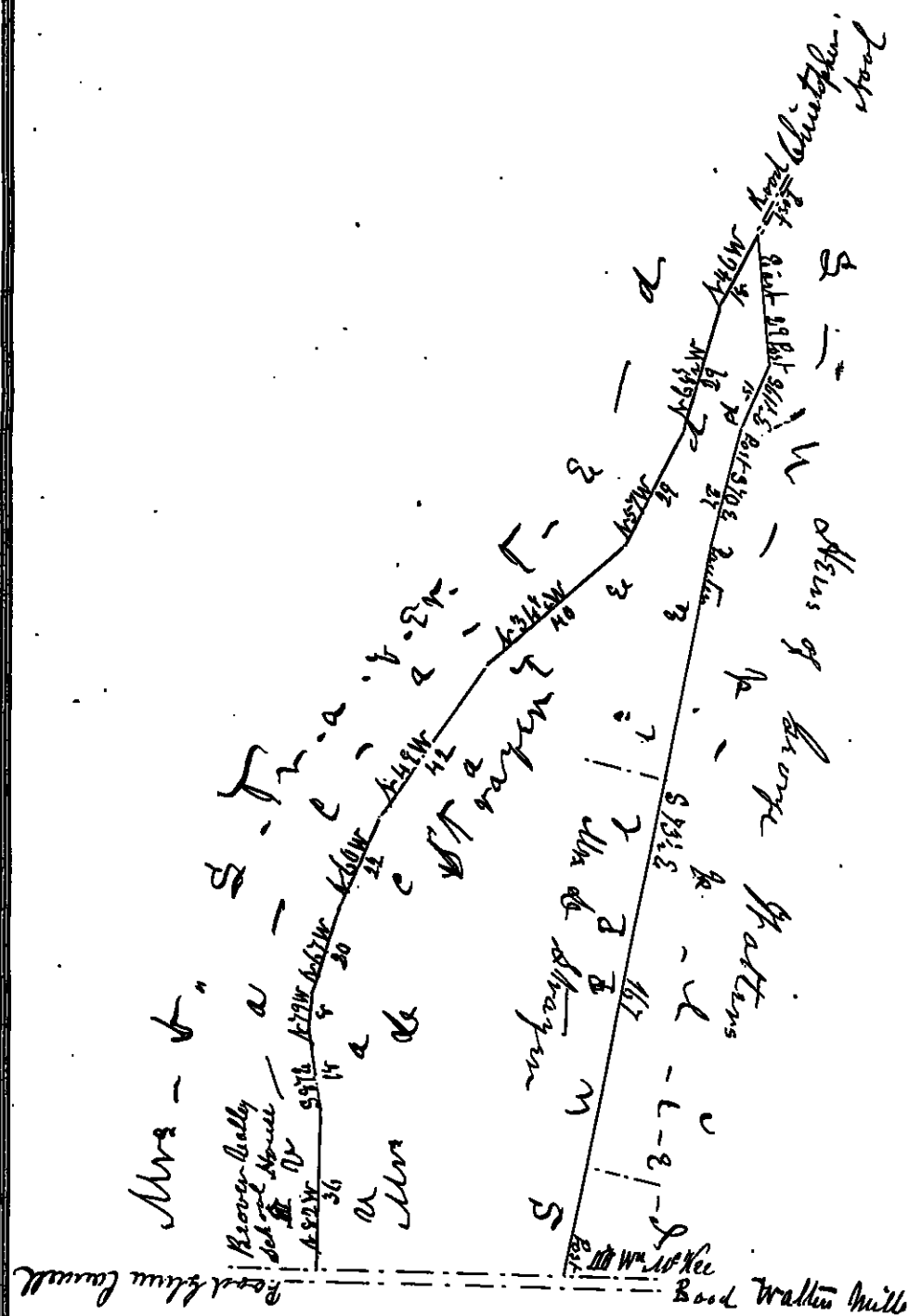
Now Oct. 11, 1877 Read and confirmed, nisi and sub.
supplies ordered to be opened Sept. 1877
By the Court

220
To H. B. Johnston Esquire President Judge of Court
of Quarter Sessions and for the peace in and for the Coun-
ty of Cambria at September Term A.D. 1889

We the undersigned
Jurors appointed by said Court to view Rocote and
supply road mentioned in the aforesaid order of Court
do first report that having gone due and timely notice
of time and place of meeting of Jurors by three written notices
posted in three public places in the Township of White
and we do further report that having met at the time
and place designated by said notices and after all being
first affirmed and sworn according to law did view
and Rocote the following parts of said road in consequence
of low flat and swampy ground and injury to private prop-
erty viz Beginning at a point on public road leading from
Walters Mills to Glenni Cannell and farm of Mrs M. Strayer
near lot of Brover Valley School House thence North Eighty two
degrees West thirty six perches thence South Eighty seven degrees
East Eighteen perches thence North Seventy nine degrees West
Eight perches thence North sixty seven degrees West twenty per-
ches thence North sixty degrees West twenty two perches thence
North forty nine degrees West forty two perches thence North
thirty four and one half degrees West forty perches thence
North fifty seven degrees West twenty nine perches thence
North sixty Eight and one half degrees West twenty nine per-
ches thence North forty six degrees West Eighteen perches
East in old road on Rocote improvement of William Boker
which said parts should be noted in consequence of low flat

with swampy ground and injurious to private property

And supply the same for a public road or highway Beginning at a point on Public road leading from Christina Hook to Beaver Valley School House and across improved land by Mrs Boker thence East twenty nine perches Pointers thence South sixty one and one half degrees East fifteen perches Pointers thence South seventy degrees East twenty seven perches Pointers in line of land of heirs of George Walter along said line of land George Walter left land for road on each lot for settlers thence by said line of land and partly by land of Mrs A Strayer South seventy three and one half degrees East One hundred and sixty seven perches Post on Public road from Walter's mill to Elmer Canwell near residence of William McKee all of said and supplied being in White Township the supplied parts of said road in our opinion being necessary for the accommodation of the traveling public are draft hereto annexed



Time
 John Kickets 2 miles direct 1 day Brewer
 Adam Esk 3 " " 1 " "
 Henry Seaulap 18 " " 2 " Surveyor
 John Hallie chainman 1 "

Know all Men by these presents that we
Mr E. M. Strayer

of the Township of Chest in County of Cambria
State of Pennsylvania for divers good causes and in
consideration of the advantages to be derived by us
from the road passing through our land as located
this day in pursuance of the ordered order of the
Court of Quarter Sessions of Cambria County have rem-
ised released and quit claim unto John Kirby
John Campbell & J. Lloyd

Commissioners of Cambria County and their succe-
ors in Office all damages which may or can accrue
to us for or by reason of the location or construction
of said road

Witness our hands and seals this

31 day of July A.D. 1889

Sealed and delivered by
in presence of

E. M. Strayer

John A. Ricketts

Adam Esch

Seal
Seal
Seal
Seal

To the Honorable R. L. Johnston
President Judge of the Court of Quarter Sessions of
the County of Cambria.

The petition of the undersigned inhabitants of
the Township of White in said County respectfully
represents: That a public road has been long since
laid out from near the residence of Christopher Noel
to a point near the Beaver Valley School House on the
public road leading from Beaver Valley U. B. Church
to Walters Mills, which road has never been properly
opened for general public use or travel, and was origi-
nally intended for winter use only; a part of the said
road to wit, from at or near the residence of Wm. Baker
to the public road leading from the Beaver Valley U. B.
Church to Walters Mills is now become useless, inconve-
nient, and burdensome and they therefore pray the Court
to appoint suitable persons to view and vacate
the said road or part of same and to supply the same
by a road beginning on the said public road (leading
from Beaver Valley U. B. Church to Walters Mills) at or near
the residence of Wm. McFee to at or near the residence
of Wm. Baker aforesaid and make report of their
proceedings to the next Court. And they will ever
pray &c.

J. C. Gates
Wm. McFee
Christian Walters

J. J. Swanger
W. I. Moore
Levin Gates
F. C. Batt

John Hollis
Chas. Stevens
Leah Bates
Nathan Gates
John W. Dittler
Evel Gates
H. H. Shaker
S. H. Glass
W. B. Gates
Ella Wyland
Joel A. Yates
Luko Durlin

A. S. Braggion
Wm. Braggion
Joseph A. Gammeter
John A. Glass
Matthias Kessler
J. C. Kessler
M. J. Kail
John Warner

Albert Grice
Irvin W. Shupe
Geo. Warner
Ment Macgough
John Stabler
Giles Stephens
J. S. McKee
J. M. Strayer
H. O. Gates
D. Strayer
S. J. Luther
Geo. Davis

Michael Sheehan
J. A. Braggion
Geo. W. Kise Jr.
J. W. Dorn 1172
David Hollis
H. A. Gates
William Viskant

July 5th 1889

Petition of Citizens of
White Township
for appointment of
new men to locate and
supply part of the
public road leading
from a point near
Christopher Jones in
White Township
to the Penn. Valley
School House.

July 1st 1889 Read
and Henry Scanlan
John Rickels
Adam Esch
appointed new men
By the Court

Filed July 1st 1889.

Rankin

Attest

Commonwealth of Pennsylvania,
County of Cambria, } ss.

At a Court of Quarter Sessions of the Peace of the County of Cambria
held at Cheshburg in the said County, on the 7th day of
October A. D. 1889, before the Honorable the Judges of the same
Court: Upon the petition of divers inhabitants of the township of White
in the said County, setting forth that they labor under inconvenience for want of a
road or highway, to lead from
viewers were appointed by your Honorable Court to view &
survey part of a public road leading from a point near
Christopher Shuler in White Township to the Beaver Valley
School House & have reported to vacate a portion of said
road as follows to wit: Beginning at a point on public road leading from Walter
Hill to Glen Cornell on farm of Mrs. D. May & run E. of Beaver Valley School House thence N. 88° W. 36
feet, thence S. 87° E. 18 feet, thence N. 79° W. 8 feet, thence N. 67° W. 22 feet, thence N. 60° W. 22 feet, thence
N. 49° W. 22 feet, thence N. 34½° W. 22 feet, thence N. 57° W. 29 feet, thence N. 68° W. 29 feet, thence N. 66° W.
15 feet, thence in road & supplied same as follows to wit: Beginning at point on confirmed road of
W. Nathan, thence E. 29 feet, thence S. 61° E. 15 feet, thence S. 70° E. 27 feet, thence S. 75½° E. 167 feet, to
public road from Walter Hill to Glen Cornell run remainder of N. 44° E. This the report of said view-
ers filed 14th day 1889, & on petitioners further state that it would be burdensome & inconvenient
to make the change as reported by said viewers & it is paramount and is further that there can be made
over the ground reported to supply

and therefore praying the Court to appoint proper persons to review and lay out the
same according to law. The Court upon due consideration had of the premises, do
order and appoint Paul Yahner SURVEYOR,
and William Fleming & Perry Deas

VIEWERS, to re-view the ground proposed for said
road, and if they re-view the same, and shall agree that there is occasion for such
road, they shall proceed to lay out the same, having respect to the shortest distance
and the best ground for a road, and in such manner as shall do the least injury to
private property, and also be, as far as practicable, agreeable to the desire of the
petitioners, and that they make a report of their proceedings to the next Court
of Quarter Sessions to be held for said County, stating particularly whether they
judge the same necessary for a public or private road, together with a plot or draft
thereof, and the courses and distances, and references to the improvements through
which it may pass.

BY THE COURT.

Attest:

H. A. Haeuser
Clerk.

To the honorable the judges within named.
We the undersigned persons appointed by the within order
of Court to review the road therein mentioned respectfully
report: That having been present at the review of said road
and having been all first severally sworn or affirmed in
pursuance of the said order, we have received the said road (a
draft whereof is hereto attached) and we find that the part thereof
lately ~~satisfactorily~~ confirmed by the Court would be burthensome
to the taxables of said Township on account of being very
expensive to open the same and put it in a fit condition for
public travel. Besides being in part of heavy and unlawful
grade: While the present road or part lately vacated is
all that can be desired as to grade and distance and is at
present in tolerable good condition for travel and therefore
we can see no cause for vacating the same and
therefore we are of opinion that it should not be vacated

Witness our hands the 21. day of February A.D. 1890

Paul Gabner
J. C. Hemminger
John Greer

reviewers

NOTE.—"It shall be the duty of all persons appointed in the several counties of this Commonwealth to view and review any public or private road or bridge, if they shall decide in favor of locating said road or bridge, to endeavor to procure from the persons over whose land such location may be made releases from all claims for damages that might arise from the opening of such road or the building of such bridge; and in every case where said viewers shall fail to procure such releases, and it shall appear to them that any damages will be sustained, it shall be their duty to assess the damages and make report thereof signed by a majority of their number, and return the same, together with all releases obtained, to the Court of Quarter Sessions, and the damages so assessed shall be conclusive, or may be subject to appeal, review or modification, as may be provided by existing laws in the different counties of this Commonwealth."

"The persons appointed as aforesaid shall view such ground, and if they shall agree that there is occasion for a road, they shall proceed to lay out the same, having respect to the shortest distance, and the best ground for a road, and in such manner as shall do the least injury to private property, and also be, as far as practicable, agreeable to the desire of the petitioners."

"The viewers, as aforesaid, shall make report, at the next term of said Court, and in the said report shall state particularly: first, who of them were present at the view; second, whether they were severally sworn or affirmed; third, whether the road desired be necessary for a public or private road; they shall also annex and return to the Court a plot or draft thereof, stating the courses and distances, and noting briefly the improvements through which it may pass; and, whenever practicable, the viewers shall lay out the said roads at an elevation not exceeding five degrees (except at the crossing of ravines and streams), where, by moderate filling and bridging, the declination of the road may be preserved within that limit."

No. 35

June Term, 1879

R.D.

Order to view a road leading from a point near Lehigh to the back in White Top to the Quaker Valley School House

Re-nunciated
Paul Johnson
Wm. H. Hanning
Chas. J. Brown

Order 25 July 1879

2 Dec. 1879. Continued

And now, Jan'y 6th 1890, John Brown substituted as a Reviewer instead of Paul Brown. By the Court

Letk. Shannahan 90
(ex. by Atty. General)
ex. by Shannahan

Now 16 Apr. 1890 Read and confirmed and ordered to be opened & set out By the Court.

To The Honorable, R. L. Johnson, Judge of the
Court of Quarter Sessions of Cambria County.

The petition of the undersigned, respectfully
represents: That viewers were appointed by your
Honorable Court to vacate and supply part of
a public road leading from a point near
Christopher Toeli in White Township to the Beaver
Valley School House, and have reported to
vacate a portion of said road, as follows, to wit:
Beginning at a point on public road leading
from Hatten's Mills to Glenn Connell on farm of Mrs.
D. Strayer, near lot of Beaver Valley School House,
thence N. 82° W. 36 perches, thence S. 87° E. 18 perches,
thence N. 79° W. 8 perches, thence N. 67° W. 20 perches,
thence N. 60° W. 22 perches, thence N. 49° W. 42 perches,
thence N. 34½° W. 40 perches, thence N. 57° W. 29 perches,
thence N. 68½° W. 29 perches, thence N. 46° W. 18 perches
to post in road, and supplied same as follows,
to wit: Beginning at point on improved land of
Mrs. Baker, thence E. 29 perches, thence S. 61½° E. 15 perches,
thence S. 70° E. 27 perches, thence S. 73½° E. 167 perches to
public road from Hatten's Mills to Glenn Connell, near
residence of Mr. McKee. That the report of said
viewers was filed 19th August 1889.

Your petitioner further state that it would
be burdensome and inconvenient to make the
change as reported by said viewers, and the pre-
sent road is far better than can be made
over the ground reported to supply.

The petitioners therefore showing that they are
persons interested, pray the Court to appoint
three persons properly qualified to review the

the ground proposed to supply part of said road, and make report of their proceedings at the next term of this Court.

And they were v.

James W. Gallaher

Simon Neal

George Neal

William Neal

Anthony Neal

W. F. Pearce

Valentine Good

Joseph Wilson Gallaher &

Thomas Evans

William Evans

Geo. A. Oshell

Geo. A. Oshell

Geo. E. Glass

W. H. Baker.

C. Neal

No. 5 June Decree 1889.

Petition of the certain
of the inhabitants of White
Town for the appointment
of a Receiver in
the matter of the order to
sell certain land and supply
part of a public road lead-
ing from a Point near the
top of the hills in White
to the River valley below
Haver.

Reviewed App.

By the Court

Paul M. Mearns

William Mearns

Benjamin Mearns

Filed 7 Oct. 1889.

Exam.

Swine road in
White Lick from

VERSUS

Christ Lick to
Deaner Valley Sch.
House

In the Court of Quarto Less
of the County of Cumberland
of June Term, 1892
No. 5

DEPOSITION OF WITNESS U, taken before me, this Fifteenth day of
January A. D. 1892, at Alt. Room, Court, House
Christ Lick, Pa.

between the hours of 8 o'clock, A. M.
and 8 o'clock, P. M., by virtue of the annexed Rule of Court and notice
thereon endorsed, for the examination of witnesses in a certain cause there
pending, wherein Swine road in White Lick from Christ
Lick to Deaner Valley School House

Defendant

Henry Sauls being produced, sworn and examined
on the part of the Plaintiff doth depose and say:
My name is Henry Sauls am years of age;

I was one of the viewers to locate & supply a
road from Christ Lick to Deaner Valley School
House in White Lick, I think I was a viewer
on this same road some twenty odd years
ago. I know the character of the ground between
the Stager & Malters places over which the road
supplied runs, the character of the ground is
good, I would consider that the ground between
the Stager & Malters farms better ground for a
road than where the road now is. The path
supplied would not exceed three degrees at
any place except perhaps at the curve where it
connects and at the main road where it con-
nects, I did not grade the road. I think by

"The deposition should be in the handwriting of the person before whom it is taken, or the witness; but never in the handwriting of the attorneys or parties, or their agents. The person before whom the deposition is taken has no power to adjourn without consent and notice; the hours between which they are to be taken are generally named, and they cannot legally be taken at any other time, except by consent; all of which must appear. Leading interrogations should be objected to when they are put; otherwise, an exception will not in general, be sustained."

a little reasonable cutting just at one point just where it connects with the main road it could be kept at fine degree.

Ques = ~~That~~ ^{Spoke whether or not} in your opinion the farm of Mrs. Shaper is damaged much more by the road as originally located than by the road along the division line between the two farms?

Mr. Evans objects to the question as irrelevant and immaterial.

Ans = I would not consider it any damage on the line between the two farms because Geo. Walters in this life time when I ran off lots there left a piece of ground there for a road. The distance the road runs through Mrs. Shaper's land I can not tell, but in its zig-zagging through her farm I would estimate the damages for fencing over \$200. If it were my farm I would not have it in there and keep the fences up for that. The vacated part of the road is on the flat in the bottom. The supplier's part would be the shortest distance from Chisholm to Mill Flynn City &c, I can't tell how much.

I only recollect Mr. Gallagher there, as being a long when we were on the ^{road on the} division line, several others were there but I don't recollect who. I think since your mention it that Mr. Fleming was there. They both opposed the location of the road on the division line is my recollection.

Cross-examined by Mr. Evans =

The part of the road from where the supplier's part intersects it to the main road is comparatively level. It would be further both to the

5

I

Have from when the supplied part intersects
the old road by the supplied part that by
the old road, I did not take the elevation
from McKee's Blacksmith Shop up to the
top of the hill. I had not my gader
with me. Daniel Strayer was along when
we made the view, He started on what
I was told ^{was} the Strayer line at the main
road and followed it to their corner.

Re-examined -

Paul Johnson uses a common surveyors
compass. and a good one so far as I know.
I have borrowed it and used it.

Ques = Squid is it possible to accurately
ascertain the degree of elevation or grade
with an ordinary compass?

Ans = No.

Cross-examined =

You can approximately get the elevation
by the compass.

Henry Seacraft
John Pickett (affirmed)

I am familiar with the road as shown on
the draft of R. meiners from McKee - up over
the division line and from the main road
up over the old road.

Ques = What in your opinion would be the
comparative injury or damage to the farm of
Mrs. Strayer by the one or road marked
"vacated part" or the other marked "supplied
part"?

Mr. Evans objects for the reason that it is irrelevant and immaterial the question of damages is not a matter in controversy.

Ans: If it was my case I would not keep up the fences and ^{have} ~~have~~ the road here ~~more~~ ^{more} ~~located~~ ^{located} on the vacated part for \$500.

The character of the ground along the supplied part varies; part of it naturally dry land and part of it wet or swampy. The character of the ground along the vacated part is mostly all low ground. A solid bottom to the vacated part would have to be furnished for a road. I could not say which would cost the most to make, the vacated or supplied. One ~~of~~ ^{is} cut out - or partly - and the other airt. I was one of the viewers appointed to select suitably this road, Jas.

Mr. Gallagher & Mr. C. Fleming, were both along when the viewed it. They both opposed the location of the road as supplied.

Ques: State whether or not you met Mr. Fleming afterwards and what conversation you had with him?

Ans: Mr. Evans objects to the testimony for the reason that it is incompetent, irrelevant and immaterial.

Ans: I met him near Coalport after the view. He seemed to be displeased with the view as returned. He claimed it would cost to more to build a road on the new view than on the old. He said it would end in

I

a land suit, I know that Mr. Fleeming was
superintendent of White Top in recent years but
I don't know what year it was. I reside in
another top from where the road is, Only
about a mile away, I have no interest
in the result of this Contest.

Cross-examination

I had the conversation with Fleeming shortly
after the deed, The first time I met the time.
All I can tell you about the time is what
I did tell you that it was shortly after the
deed, He was in a hurry, I can not recal-
lect the time. If I owned the farm I
would value it pretty high. There is no fixed
price for land, I suppose the Otinger farm is
worth \$40 or \$50 per acre without the mineral
right. I could not say what the mineral right
& mining privileges would be worth. I don't know
that my valuation is too high. It has a
bristly haire on it, I include the improvements
with the surface, It would be less ^{per acre} ~~valuable~~ ^{valuable}
the improvements than considering them, This
is Redd Top. The road marked ~~marked~~ is
cut out.

J. M. Pickett,

Adam Cook (affirmed)

I live in White Top, Straight across through
the wood about ^{from the road} 1 1/4 miles. I am acquainted
with both the upper & lower parts of this
road I have been on both. Part of the upper
part is along the is on dry ground. Most

if it is dry. The ground on the vacated part
is bottom ground all the way through.
markedly low.

Ques = State what would be the comparative
damages to the farm of Mrs. Stroger by the
two roads as marked on draft of Review.

Mr. Evans objects for the reason that it is ir-
relevant and immaterial.

Ans = On the line - the supplied part - I would
consider it no damages and if the property
was mine I would not have it run through
on the vacated part for \$500 = It would
be nearer to mill & the railroad station by
the supplied part. I am not able to say
what the comparative costs of opening the two
roads would be, as the one is cut out
and the other aint.

Ques = State whether the part marked "vacated
part" was ever opened by a Supervisor
or any ^{Dist} money spent on it.

Mr. Evans object as being irrelevant and
immaterial.

Ans = As to my knowledge, this wasn't
I have lived in the neighborhood for 41 yrs.
I am not certain whether Mr. Fleming was
Supervisor on the 21 Feb 1890 or not. He was
a short time ago but I don't know just
when. I was one of the viewers in locat-
ing the road on the supplied part. Mr.
C. Fleming & Jas. H. Gallagher was at the
view. I did not hear Gallagher say

anything but Fleeming was opposed
to it

Cross-examined.

I was not in favor of vacating the old
road any more than it did the Shayer
farm an inquiry and would accommo-
date the public just as well on the line,
I don't remember or I had any particu-
lar conversation with Daniel Shayer about
it. He might have talked about it but
I can't remember what was said, I
was in favor of having the whole road
vacated, because I did not think it
was necessary, I live on the ridge road
not on the road but down on the hollow.
I might have admitted to Daniel Shayer
that I thought this road ought to be va-
cated before I was appointed a recorder.
I won't say that I did not, This is a road
from James Gallagher down through Shayer's
property, I know that Mr. Baker lives a
neighbor to James Gallagher. I would not
say what the Shayer farm is worth per acre, I
haven't made up my mind - as far as the
damages to Shayer is concerned. It's not
the value of the ground but the cutting up
the place, the fences and other inconve-
niences. The old road is more convenient so
far as the church & school is concerned. The
road I speak of from Gallagher down past
Shayer is the road we vacated, I was

one of the viewers when the road was laid out originally from Christ Mills down to Strayer's. It was between 31 & 40 yrs ago.

Adam Esch

John L. Gill (sworn)

My wife owns the property marked "Haltus" on Draft of Re-need along the Strayer line. Quer = State whether or not ground was left for a road by Geo. Haltus stopping on the Lusk road and running back past M. Kees's.

Mr. Esch's objects as being irrelevant & immaterial, that the fact that a road way might have been dedicated to public use at another point cannot affect this controversy.

Ans; So far as M. Kees line runs, it was left. After Geo. Haltus death, M. Kees bought another lot from us and we reserved a road way through it. We - my wife & myself are willing that the road shall be laid out as supplied on the line without claim of damages. The majority of the ground of supplied part is good ground for a road.

Cross-examined.

I don't know whether my wife owns the land out to where the supplied part intersects the old road or not. There was no written lease given by my wife and myself for the ground over which the supplied

part passes. I was in favor of vacating
the whole of the road when it was in
controversy before. I am not related to
Mrs. Thayer. My wife was a sister-in-law
of Mrs. Thayer at one time. The length
of the first reservation by Geo. Walter was
about 75 yds. J. L. Gill

Daniel Thayer (affirmed)

I did not tell Jas. Gallagher that I wanted
to build the fences along the vacated part of
this road. I will open the supplied path
for 75¢ and give bond for the opening so
that it can be wagoned in and build the
bridges too. I think the Town can do it for
less.

Cross-examined

I did not tell Jas. Gallagher that I wanted
to take down the bars or gates I had on the
public road. This road was in controversy
about two years ago. I have kept up
the gate-way or bars up ever since the
road was opened. It is always closed
except in the winter. I did not know it
was wrong to do it. I don't think so yet.
It was never recognized as a public road
by the citizens. I can not say that I knew
it had been ordered to be opened by the Court.
I never heard that it was a public road.
I did hear that the Court refused to vacate
it. I did not hear before that that it had
been laid out as a public road. I do not

know whether I circulated the petition to
have the road vacated or not, I can't
say who circulated it, I don't know whether
that petition set forth that it was a public
road or not. I could only guess at that
but I presume so. In 75 I wanted
grade the road where ever it needs it.
There is not much grade about it only
in one place. I mean to put it in shape
that they can wagon on it. The grade on the
new road would not be the same as
that on the old road. I would not regret

D. Strayer

Mr. Staenmaker offers Quarter Session docket
volume 9 page 245. Containing the returns
of the Spring Election for the various Towns &
Twp for 1889. Showing that Luke Shubin
& W. C. Fleming were elected supervisors
of White Township for the year 1889.

Mr. Staenmaker also offers notes of the review.
Mr. Enam objects to the offer of the notes of
the review excepting the notes as returned
with the report of the Reviewers. That there
is no evidence that the paper now sought
to be introduced was one of the notes that
was noticed by the reviewers, and further
that there is no exception taken to the regularity
of the notes with sufficiency.

(Note is not produced - Counsel for Review (Staenmaker)
alleges the same to be in possession of Hon. A. B. Cook
not at present at home, he being the former
Counsel) H. B. Strayer, Acting,

Quarto Secs

In the Court of Common Pleas
of Cambria County, Pa.

Of June Term, A. D. 1892, No. 5

In a road in
White Top from
Christie's to
Deane Valley Sch
House

And now, to wit, the Sixth day of January, A. D. 1892, Rule
on part of view &c to take depositions of witnesses
to be read on the hearing of the above stated case.

CAMBRIA COUNTY, SS:

Extract from the Record of said Court. Certified
the 6th of Jan 1892
J. C. Dunlap Prothonotary.

To The Exceptants to view & Petitioners for Review or Their Atty.
Alvin Brown Esq.

TAKE NOTICE, That in pursuance of the above Rule the depositions of witnesses to be read
in evidence on the hearing of the above stated road case on part of
the view & Expt & Review will be taken at the Atty's Room in Court
House in Ebensburg on Friday
the fifteenth day of Jan^y, A. D. 1892, between the hours
of 8 o'clock, A. M., and 12 o'clock, P. M., before H. H. Myers
Esq a Notary Public in and for said Ebensburg
or by some other person of competent authority, at the time and place aforesaid, when and where
you may attend if you think proper.

Shomaker
Atty. for view & Expt
& Review.
Jan^y 6th 1892

No. 5 June Term, 1889,
R.D.

Is a road in White
Twp

RULE ON PART OF *Verd*

Shawmut

STATE OF PENNSYLVANIA, } ss.
Cambria County, }

I DO HEREBY CERTIFY, That the above witnesses were duly qualified and examined at the time and place stated in the above Caption; that the same was reduced to writing by me, in the presence of said witness, and, having been first read over to them they subscribed their names thereto in my presence, and in the presence of F. A. Shamshuk Esq. Atty. for Deed and Alan Evans Esq. Atty. for Receiver.

Witness my hand and Personal seal.

seal.
H. H. Myers,
Tatary Public

No. 5

June Term, 1889
R.D.

In road as White Top
from Chestnuts

VERSUS

to
James Valley School
House

Deposition

Of Witness on Part of

Witness

Filed 3 July 1892

Fees for taking Deposition, \$3.60

Ed. G. Dwyer, Attorney

Filed 189

Prothonotary.

Shawmut Attorney.

In the matter of the order to view, vacate and supply part of a public road leading from a point near Christopher to the Beaver Valley School House

In the Court of Quarter Sessions of Cambria County

At a June Session 1889.

Exception to confirmation of the Report of the Viewers in the above stated matter as follows:

1. That the report of the viewers should not be confirmed, because the change proposed will not add to the convenience of the travelling public.

2. That the road as now travelled will not be improved by the confirmation of the report of the viewers, to vacate and supply.

3. That it would not only be inconvenient but burdensome to the taxpayers to make the change proposed.

4. That ~~along~~ the route of the road as supplied in the report of the viewers is over hilly ground and is too steep, and will exceed the number of degrees in elevation provided for by law.

5. That the proposed change is for the purpose of accommodating D. Strayer, rather than the persons living along the line of said road.

6. That the change, if made, will not add to the convenience or accommodation of the travelling public.

Sept. 19th 1889.

Alvin Evans

att'y for Jas. W. Gallagher et al.
Exception.

To. 5th June Sessions, 1889.

In the matter of the order
to view, vacate and supply
part of a public road lead-
ing from a point near Chris-
topher Rock in White Top.
to the Beaver Valley School
House.

Exception to report of
viewers

Filed 23 Sep 1889

Evans