

No. _____, _____ Term, 190_____

Mary A Davis.

No. 8 March Term, 1900 R.D.

VS.

BILL OF COSTS.

Filed 20 April, 1901,

Attorney.

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY.

In re road	No. 8, March Sessions, 1910.
in	
The Township of White,	
Cambria County, Pa.	

Upon the petition of Harrison Manion, the court appointed viewers to view and lay out a private road in White Township to lead from his farm to the Phillipsburg Road at a point near the house of James T. Davis. One of the viewers having become ill and no view being held, the court on May 3, 1910, appointed J. L. Elder, Silas McKee and Gilbert Hollins, who, on the sixth day of June, 1910, filed their report in open court, and on the same day their report was approved and the width of the road fixed at twenty feet.

To this report no exceptions were filed, but on the fifth day of September, 1910, Mary A. Davis, the owner of the land over which the road returned for private use was laid out, petitioned the court for appointment of reviewers, and upon said petition the court appointed James Campbell, A. L. Burgoon and Sebastian Baker as reviewers. The reviewers filed their report on the fifth day of December, 1910. To this report exceptions were filed on the sixth day of March, 1911.

An examination of the report of reviewers shows that they did not act as reviewers in any sense, but undertook to lay out and returned for private use an entirely different road from that which they were appointed to review, and, therefore, if no exceptions were

filed, their report could not be confirmed by the court.

There being no exceptions filed to the report of viewers, and the report of reviewers having failed of its purpose, there is but one action for the court to take, namely, to confirm the view.

And now, August 1, 1911, the report of viewers above referred to and filed to the above number and term is confirmed absolutely.

Pyllitany 7

No. 8, March Sessions, 1910.

In re Road

in

Township of White, Cambria
County, Pa.

Opinion and decree of the
court confirming absolutely
report of viewers, etc.

Filed Aug 1911

In re Private Road in
White Township.

No. 8, March Sessions ~~Term~~, 1990
Road Docket.

Bill of Costs.

[illegible]

Cambria County, ss:

S. J. Luther

...being duly sworn

according to law, says the above bill as it stands stated is correct; and that the witnesses charged for were subpoenaed and in attendance; that the mileage is correct; and that the witnesses named above have not charged or received pay in any other case for the time charged, to the best of his knowledge and belief; and that he believed them to be material.

Sworn and subscribed this 7th day of June 2020 at San Francisco, California.

day of Aug A. D. 1971

before H. D. Minked
Prothonotary.

S. J. Luther

No. 8 Incl Sess Form, 1900

In re road in
White Twp.

VS.

~~Excerpt~~

BILL OF COSTS.

Filed 7 Aug 1901

Attorney.

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENN'A.

In re Road in White Township, No. 8 March Sessions, 1910.

EXCEPTIONS TO REPORT OF REVIEWERS.

1. The reviewers did not, nor does their report so show, that they proceeded to lay out the road, having respect to the shortest distance and the best ground for the road, and in such manner as to do the least injury to private property.
2. Harrison Manion, who seeks a road, did not acquiesce in the finding of the reviewers nor approve of the report filed by them, as set forth in their said report. On the contrary he did not agree to the location of the road as laid out by the reviewers and didn't see the report nor hear it read before same was filed on December 5th, 1910.
3. The road as laid out by the reviewers will cost Harrison Manion more than Two Hundred Dollars (\$200.00) more than that as laid out by the viewers, for the reason that the reviewers laid out a road by a circuitous route and through swampy ground and crossing the creek at a point where it will cost an unreasonable sum of money.
4. It does not appear by the report that the reviewers ~~that~~ were first sworn or affirmed to discharge their duties with fidelity and impartiality, according to law, and to the best of their judgment and ability.
5. The report does not set forth that due and legal notice was given of the time and place of the meeting of the reviewers, as is required by law.
6. There is no copy of any notices posted attached to the report, nor does it anywhere appear that any such were posted.

7. The report of the reviewers does not show definitely and certainly the termini of the road proposed or laid out.
8. The road laid out by the reviewers is not in accord with the prayer of the petitioner.
9. The petition for the review is fatally defective in that it does not show definitely and certainly the termini of the road proposed.
10. The reviewers did not make any effort to have Mary A. Davis, the owner of the land, and Harrison Manion agree on the amount of damages incident to the proposed road.
11. The draft attached to the report of the reviewers does not correctly represent the location of the road laid out by the viewers, as will appear by a comparison of the two reports.
12. The petition for review, proceedings thereunder, and report of viewers are irregular and fatally defective in law.

Wm. G. G. G.
Attorney for Harrison Manion.

State of Pennsylvania,

County of Cambria, SS:

Harrison Manion, being duly sworn according to law, deposes and says that the matters and statements contained in the foregoing exceptions are true and correct, as he is informed and verily believes.

Sworn and subscribed before me 9
this 2nd day of March, 1911. 9

S. S. Kirkhead, Prothy 9
9

Harrison Manion

No 8. March Sessions 1910.

In the Court Quarter Sessions
of Cambria County, Penna.,

In re Road in
White Township

Exceptions to
Report of Reviewers.

Filed 6 March, 1911.

WILLIAM A. MCGUIRE
ATTORNEY AND COUNSELOR AT LAW
EBENSBURG, PENNA.

IN THE COURT OF QUARTER SESSIONS OF CAMBERIA COUNTY.

NO. 8, March Sessions, 1910.

Petition for the appointment of Re-viewers In Re private road in White Township to lead from the Farm of Harrison Mannion to a point in the Philipsburg Road at or near the residence of James F. Davis.

To the Honorable Francis J. O'Connor,

President Judge of the said Court:

The petition of Mary A. Davis, the undersigned, of the Township of White, in the County aforesaid, respectfully represents:

That a private road has been lately laid out for the use of Harrison Mannion through her lands, by an order of Court dated the 3d. day of May, A. D., 1910; beginning at a point in the public road leading from the Village of St. Lawrence to the Village of St. Augustine, (same being known as the Philipsburg Road), at or near the dwelling house of James F. Davis and 50 feet South of a small stream known as a branch of "Slate Run"; thence through lands of Mary A. Davis the following six courses and distances, viz:- South 85 degrees West 378 feet to a post; thence South 73 degrees West 140 feet to a post; thence North 87 degrees and 30 minutes West 176 feet to a post; thence South 41 degrees and 45 minutes West 82-1/2 feet to a post; thence South 10 degrees West 110.5 feet to a post; thence South 57 degrees West 95-1/2 feet to a post in line of land of Harrison Mannion at a point 25 feet distant North from the Southeast corner of said Harrison Mannion, the petitioner; which said road, if confirmed by the Court will be very injurious to your petitioner and burdensome to her.

Your petitioner further represents that the petitioner for said private road, Harrison Mannion, has already an outlet to the public road from his land, and that the private road sought for in said

Your petitioner further represents that a private road can be laid out through her lands elsewhere, to accomplish the same purpose without being nearly so injurious to your petitioner.

mas Marya Davis.

Before me, a Justice of the Peace in and for said County, personally came the above-named petitioner, Mary A. Davis, who being by me duly sworn according to law, says that the matters and things set forth in the foregoing petition are true and correct.

A. D., 1910.

Justice of the Peace.

00000

Mrs. Mary C. Davis

**MY COMMISSION EXPIRES FIRST
MONDAY IN MAY, 1914.**

James Campbell
L. A. Burgoon
Sebastian Baker

No. 8 March Session, 1910.

Petition of Mary A. Davis
for the appointment of Re-
viewers in re private road
in White Township to lead
from the farm of Harrison
Mannion to a point in the
Philipsburg Road at or
near the residence of James
T. Davis.

Filed 5 September, 1910.

*And now Sept. 5 1910
the within petition read
and considered and
James Campbell L. H.
Burgoon and Sebastian
Daher
are appointed reviewers
as within prayed for*

J. W. Leech
J. W. LEECH
ATTORNEY AT LAW
EBENSBURG, PA.
DISTRICT ATTORNEY

WM. G. JOHNSTON & CO., PITTSBURGH, PA.

In the Court of Quarter Sessions of Cambria County, Pennsylvania.

To the Honorable Francis J. O'Connor, President Judge of the Court aforesaid:-

The petition of Harrison Manion respectfully represents:

That on February 1st, 1910, upon his petition for the appointment of viewers to lay out a private road in White Township to lead from his farm to the Phillipsburg Road at a point near the house of James T. Davis, J. L. Elder, David Hollis and Silas McKee were appointed viewers. That on the day advertised for the view one of the viewers, viz, David Hollis was unable to attend on account of his serious illness. That no view has held on that day, and subsequently the Court appointed Gilbert Hollis viewer as a substitute for the said David Hollis. That on account of the delay in holding the view thereafter advertised, the report of the viewers was not filed, same having been returned too late to be filed during the first week of the March Term of Court.

Your petitioner therefore again alleges that he labors under great inconvenience for want of a private road to lead from his farm in the Township of White, in said County, to a point in the public road leading from St. Augustine to the village of St. Lawrence (Known as the Phillipsburg Road) at or near the dwelling house of James T. Davis.

Your petitioner therefore prays the court to appoint three persons, qualified according to law, to view and lay out the same according to law. And further, your petitioner being desirous of paying such damages as may lawfully be assessed against him and awarded to the owner of the land through which said road may be laid out, prays the Court to authorize the same viewers to assess the said damages according to law, and make report of their proceedings at the next term of this Court. And he will ever pray &c.

Harrison Manion

State of Pennsylvania,

County of Cambria, SS:

Harrison Manion, the petitioner herein, being duly sworn according to law, deposes and says that the statements contained in the foregoing petition are true and correct, as he verily believes.

Sworn and subscribed before me

this 27th day of April, 1910.

S. S. Kirkhead,

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0
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0
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Harrison Manion

Clerk Quarter Sessions

No 5. March Sessions 1910.

In the Court of Quarter Sessions.

Petition for appointment of
viewers in the private road in
White Township, to lead from
the farm of Harrison Mathews,
the petitioner, to a point on
the Philipsburg Road at or
near the residence of James
J. Davis.

Filed 3 May. 1910,

May 3, 1910, J. L.
Elder. Silas McKee
and Gilbert Hollis
all appointed Viewers,
By the Court.

WILLIAM A. MCGUIRE
ATTORNEY AND COUNSELOR AT LAW
EBENSBURG, PENNA.

TO THE HONORABLE FRANCIS J. O'CONNOR PRESIDENT JUDGE OF
THE COURTS OF CAMBRIA COUNTY.

We the undersigned persons appointed by the annexed order of Court to review the road within mentioned and parts adjacent, respectfully report; That we met at the house of James F. Davis on the 9th, day of November A. D. 1910, there being present also Sylvester Luther, James F. Davis and Harrison M. Manxion and after being first severally sworn in pursuance of the said order we did review the same and respectfully report; that we viewed the ground as laid out for a private road in accordance with the order of Court dated May 3rd, A. D. 1910 and listened to the arguments advanced for and against the opening of said road and find the following:

First, We find that Harrison M. Manxion labors under great inconvenience for lack of a suitable road.

Second, We find the road as formerly laid out over the lands of Mary A. Davis objectionable to her and an unnecessary intrusion on her private rights, causing a waste of land in the shape of small peninsulas formed by the meander of Slate Run. We, therefore, proceeded to lay out the road more in accordance with the desires of your petitioner Mary A. Davis and reasonably convenient and suitable, as we believe, for the wants of Said Harrison M. Manxion. Said road as here laid out is over level ground and of such a character as to be accessible for travel throughout the whole year, while we have been informed and believe that the ground as originally traversed for a road is subject to the impediment of frequent ice-gorges in winter by reason of the nearness to a branch of Slate Run and the very crooked character of said stream. We are particularly gratified to be able to report that the contending parties have given a ready acquiescence to the finding of your subscribers report as herein set forth.

We, therefore, recommended the route set forth in the accompanying map or plan marked, Review of a private road to be granted to Harrison M. Manxion over the lands of Mary A. Davis in White Township, Cambria County,

Pennsylvania, and that said Harrison M. Mannion build and maintain said road at his own proper cost and charge and that he also build and maintain a good substantial fence on each side of said road from the points marked "A" to "B" on the map and that he place and maintain a light but substantial gate across said road at the point marked "A" and that he erect and maintain a like fence on the East side of said private road from the points marked "B" to "C" and further that he pay to Mary A. Davis the sum of Forty Seven (\$47.00) Dollars for compensation or damage for the land taken from her for a private road. Said private road to be one rod or sixteen and one-half (16½) feet in width.

Respectfully,

James Campbell.

J. A. L. A. Burroughs

J. B. Sebastian Baker.
Viewers

*Changes of record made
by Jan & Davis*

TO THE HONORABLE FRANCIS J. O'CONNOR PRESIDENT JUDGE,

We your petitioners the parties directly interested in the above view have examined the report and map annexed together with the finding of your Viewers and ask your Honorable Court to confirm the same and your petitioners will ever pray.

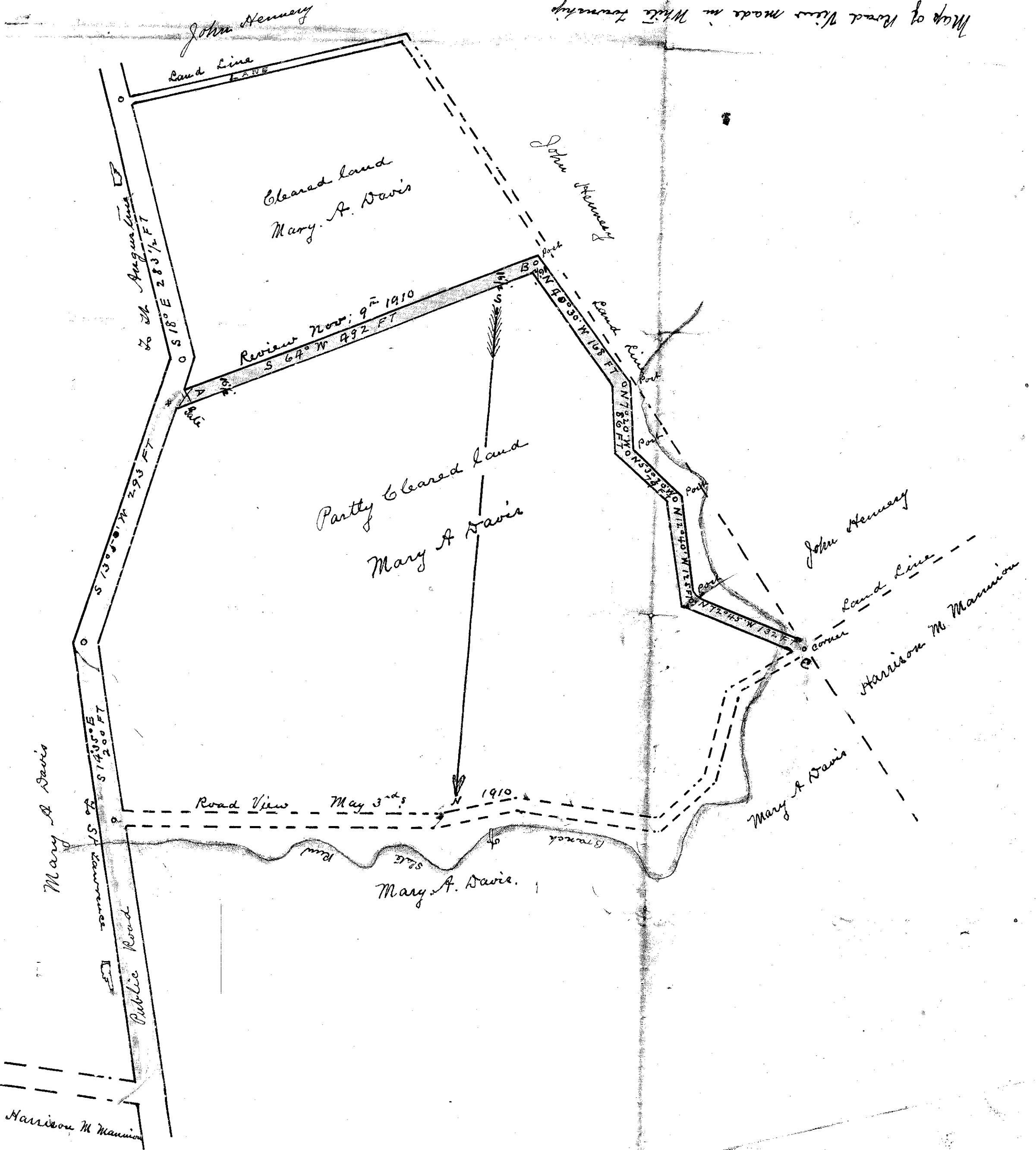
M. A. Davis.

M. M. M.

Map of Road View made in White Township
 Columbia County Pennsylvania Nov: 9th 1910
 by order of the Court.

James Campbell
 E. A. Brown
 Abraham Baker
 Miners

Scale 100' = 1"



Commonwealth of Pennsylvania, }
County of Cambria. }

At a Court of Quarter Sessions of the Peace of the County of Cambria held at Ebensburg,
in the said County, on the fifth day of September, A. D. 1910, before the
Honorable Judge of the said Court: Mary A. Davis
Upon the petition of White of the Township
of White, in the said County, setting forth that ~~they have under inclosed~~
~~land of XXXXX of XXXX~~ road or highway to lead from

a private road has been lately laid out for the use of Harrison Mannion through her lands, by an order of Court dated the 3rd day of May, A. D. 1910; beginning at a point in the public road leading from the Village of St. Lawrence to the Village of St. Augustine, (same being known as the Phillipsburg Road,) at or near the dwelling of James F. Davis and 50 feet south of a small stream known as a branch of "Slate Run"; thence through lands of Mary A. Davis the following six courses and distances, viz: South 35 degrees West 378 feet to a post; thence South 73 degrees West 140 feet to a post; thence North 87 degrees and 30 minutes West 178 feet to a post; thence South 41 degrees and 45 minutes West 82-1/2 feet to a post; thence South 10 degrees West 110.5 feet to a post; thence South 57 degrees West 95-1/2 feet to a post in line of land of Harrison Mannion at a point 25 feet distant North from the Southeast corner of said Harrison Mannion; the petitioner; which said road, if confirmed by the Court will be very injurious to your petitioner and burdensome to her.

Your petitioner further represents that the petitioner for said private road, Harrison Mannion, has already an outlet to the public road from his land, and that the private road sought for in said petitioner is not necessary for his use.

Your petitioner further represents that a private road can be laid out through her lands elsewhere, to accomplish the same purposes without being nearly so injurious to your petitioner.

Your petitioner; therefore, showing that she is the person interested, being the owner of the land through which the afore-said private road passes, respectfully prays your Honorable Court to appoint three persons properly qualified to re-view the ground proposed for said private road, and to make report of their proceedings at the next term of court.

and therefore praying the Court to appoint proper persons to view and lay out the same according to law. The Court, upon due consideration had of the premises, do order and appoint
James Campbell surveyor, and

L. A. Burgoon and Sebastian Baker

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 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 desires 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:

S. S. Kinkadee, 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 person or 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."

16.
No. 8, March Session, 1910.

Order to review private road

in White Township

Filed 5 December 1910,
in open Court.

Viewers.

James Campbell

L. A. Burgoon

Sebastian Baker

Clerk Kinkaid 90 cts.

Leech

BRASSING MOUNTAIN-HEARD ELECTRIC PRINT.

5 Dec. 1910, Approved, and breadth fixed at 16 1/2 feet,

By the Court

REPORT OF VIEWERS.

To the Honorable Francis J. O'Conner, President Judge of the Court of Quarter Sessions of Cambria County, Pennsylvania.

We, the undersigned viewers appointed by the Court for the purposes mentioned in the annexed order, do report:

That in pursuance thereof, J. L. Elder, Gilbert Hollis, and Silas McKee, the viewers in said order mentioned, having given due and legal notice of the time and place of the view as required by law, and having first been duly and severally ~~been~~ sworn or affirmed to discharge our duties with fidelity and impartiality and to the best of our judgment and ability and according to law, we met at the time and place mentioned in the notices which were duly posted and served, viz: on the twenty-fourth day of May A. D. 1910, on the premises described in the petition, and viewed the road and the place where the road in said order is requested.

That there were present at the view, among other persons, Harrison Manion, the petitioner for the road, and Mary A. Davis, the owner of the land through which the road is proposed to be laid out, and James F. Davis, husband of the said Mary A. Davis.

That we attach hereto and make a part of this report a copy of the notices posted and served according to law.

The undersigned viewers do agree that the road asked for is necessary, and having had respect to the shortest distance and the best ground for said road, have laid out the same in such manner as to do the least injury to private property, and so far as practicable agreeably to the prayer of the petitioner, and do return for the use of the said Harrison Manion, the petitioner, the following described road, to-wit: Beginning at a point in the public road leading from the village of St. Lawrence to the village of St. Augustine (same being known as

the Phillipsburg Road) at or near the dwelling house of James F. Davis and fifty feet south of a small stream known as a branch of "Slate Run"; thence through lands of Mary A. Davis the following six courses and distances, viz: South eighty-five degrees West (S. 85 W.) three hundred seventy-eight feet (378 ft.) to a post; thence South seventy-three degrees West (S. 73 W.) one hundred forty feet (140 ft.) to a post; thence North eighty-seven degrees and thirty minutes West (N. 87.5³⁰ W.) one hundred seventy-six feet (176 ft.) to a post; thence South forty-one degrees and forty-five minutes West (S. 41.5⁴⁵ W.) eighty-two and one-half feet (82.5 ft.) to a post; thence South ten degrees West (S. 10 W.) one hundred ten and one half feet (110.5 ft.) to a post; thence South fifty-seven degrees West (S. 57 W.) ninety-five and one-half feet (95.5 ft.) to a post on line of land of Harrison Manion at a point twenty-five feet (25 ft.) distant north from the south-east corner of land of the said Harrison Manion, the petitioner.

We annex and return herewith to the Court a plot or draft thereof stating the courses and distances, and noting briefly the improvements through which the road passes.

And we further report and return that we made an effort to have the owner of the land and the petitioner for the road agree on the amount of damages incident to said road, but failed to effect such agreement, and, believing said road should be opened of a width of one rod (sixteen and one-half feet) at least, we have assessed the damages accordingly and fixed the same at one hundred dollars (\$100.00) as the assessment against Harrison Manion and the award to Mary A. Davis.

Respectfully submitted,

Costs:

J.L. Elder, 3 days
and two drafts,
Orders to view (2),
Mileage,
Gilbert Hollis, 3 days,
Mileage,
Silas McKee, 3 days,
Mileage,

\$20.00

1.80

4.80

9.00

1.00

9.00

1.00

\$46.60

J.L. Elder

Gilbert Hollis

Silas McKee

W.S.J.

*Recd my costs
Recd my cost*

*Silas McKee
J.L. Elder*

Commonwealth of Pennsylvania, }
County of Cambria. } as

At a Court of Quarter Sessions of the Peace of the County of Cambria held at Ebensburg,
in the said County, on the.... Third day of.... May A. D. 1900 , before the
Honorable Judge of the said Court: Upon the petition of ^{Harrison Mamion} ~~divers inhabitants~~ of the Township
of.... White, in the said County, setting forth that they ~~labor under incon-~~

~~venience for want of a~~ ~~road or highway, to lead from~~
on February 1st, 1910, upon his petition for the appointment of viewers to
lay out a private road in White Township to lead from his farm to
the Phillipsburg Road at a point near the house of James J. Davis; J. S.
Elder, David Hollis and Silas McKee were appointed viewers. That on the
day advertised for the view one of the viewers, viz, David Hollis was unable
to attend on account of his serious illness. That no view was held on
that day and subsequently the board appointed Gilbert Hollis viewer as
a substitute for the said David Hollis. That on account of the delay
in holding the view thereafter advertised, the report of the viewers was
not filed, same having been returned too late to be filed during the
first week of the March Term of Court. Your petitioner therefore again
alleges that he labors under great inconvenience for want of a private
road to lead from his farm in the Township of White in said County,
to a point in the public road leading from S. T. Augustine to the village
of St. Lawrence (known as the Phillipsburg Road) at or near the dwelling
house of James J. Davis.

and therefore praying the Court to appoint proper persons to view and lay out the same ac-
cording to law. The Court, upon due consideration had of the premises, do order and appoint
J. S. Elder surveyor, and.....
Silas McKee and Gilbert Hollis

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 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 desires 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:

J. S. Kirkhead 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 person or 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. 8, March SESSION, 1900.

Order to view private road
in White Township

Viewers.

J. S. Eldon

John McKee

Gilbert Hollis

Pa. by J. S. Eldon

Clerk Runkhead 90 cts.

McGuire

ROAD NOTICE.

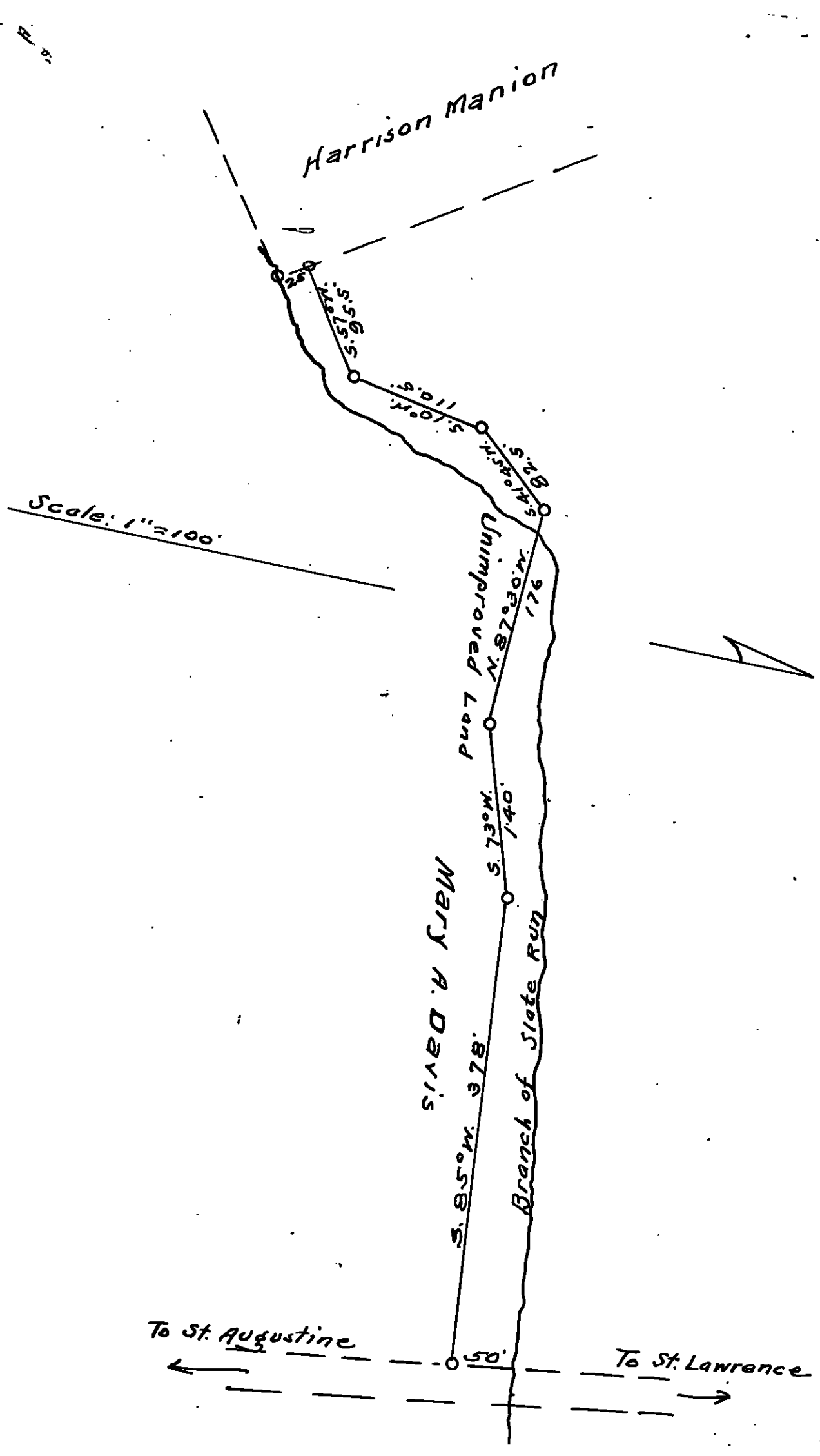
Notice is hereby given that the Viewers appointed by the Court of Quarter Sessions to view the ground for a private road to lead from the farm of Harrison Mauion to the public road leading from St. Lawrence to St. Augustine, known as the Phillipsburg Road, near the residence of James T Davis in White Township

will meet at the house of Harrison Mauion in the Township of White aforesaid, on the 24th day of May 1900, at 10 o'clock A.M. for the purpose of viewing said ground.

J. L. Elder
Niles McKee
Gilbert Hollis

Viewers.

May 10, 1900.



In the Court of Quarter
Sessions of Chester County,

No. 8 March Session 1910.
In re Road in White Top.

Report of Viewers.

Filed 6 June 1910, in
Open Court.

WILLIAM A. MCGUIRE
ATTORNEY AND COUNSELOR AT LAW
EBENSBURG, PENNA

6 June 1910, Approved and breadth fixed at
20 feet.
By the Court

-: IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY:-

- 000 -

In re Private Road

in

White Township.

W

No. 8 March Sessions, 1910.

Exceptions.

DEPOSITIONS OF WITNESSES.

On part of Harrison M. Manion, Exceptant, taken before F.C. Sharbaugh, Esq., Commissioner to take testimony, at his office in the Center Ward of the Borough of Ebensburg, County of Cambria and State of Pennsylvania, Friday the 14th Day of April 1911, pursuant to certified copy of rule, with notice thereon endorsed, hereto attached.

APPEARANCES:

For the exceptant, Chas. Hasson, Esq. for W.A. McGuire
Esq., attorney for Harrison M. Manion, the exceptant.

For the Road, J.W. Leech, Esq.

Counsel offer in evidence certified copy of rule issued out of the Court of Quarter Sessions of Cambria County to No. 8 March Sessions, 1910, for the taking of depositions in the above stated case on part of the exceptant, before F.C. Sharbaugh, Esq., Commissioner, on Friday, April 14th, 1911, between the hours of 9 o'clock A.M. and 5 O'clock P.M. at the office of said F.C. Sharbaugh, Esq. Commissioner as aforesaid. (See rule hereto attached).

J.L. Elder, Jr. sworn.

DIRECT EXAMINATION by Mr. Hassonson:

What is your profession? A- Surveying.

Q-- State whether or not you were one of three viewers who located and laid out a private road through lands of Mary A. Davis in White Township into the land of Harrison Manion? A-- I was.

Q-- Witness is shown copy of report and he is asked to state what it is? A-- This is the report and map filed by the viewers, J.L. Elder, Gilbert Hollis, and Silas McKee.

Q-- What does that report show as to the line of the road laid out? A-- It shows the location of the road, through whose property it runs, and gives the courses and distances of the road.

Q-- State whether or not Mr. James F. Davis was present when the viewers met to lay out that road? A-- yes, he was there

Q-- State whether or not he seemed to act for Mary A. Davis? A-- We talked to both of them that day.

Q-- What did they say to you as to the line that you finally located and laid out as shown by that draft? A-- They seemed satisfied with the location of the road; the only thing in question was one of damages.

Q-- Was there an effort made to agree upon the damages?
A - yes.

Q-- What do you say as to the character of the land over which that road was laid out? A-- Well, the land hadn't been cultivated; it was right close to a stream, seemed to have been used as a pasture field.

Q-- Can you state the length of that road? A-- yes.

Q-- Have you figured it out? A-- As we laid it out it is

982.5 feet.

Q-- Can you tell what portion of an acre that road would take from Mary A. Davis? A-- About three-eighths of an acre.

Q--What damages did you lay? A-- One hundred dollars, I believe .

Q-- What do you say as to the amount of damages which you awarded, as to its sufficiency? A-- I think it is big, I think it is really more than the ground is worth and I think it is ample damages for the road.

Q-- What do you say as to the directness of that road to Mr. Manion's farm? A-- It is about the shortest route that could be had for a road to his land.

Q-- Would you say that it does damage to the land of Mary A. Davis? A-- Well, no; no material damage; of course we laid some damage which I think was big damages for it.

Q-- What would you say as to the cost to Mr. Manion of laying out or opening that road after the same was laid out if finally approved by the Court? A- Putting a bridge across there would be the biggest item of cost.

Q-- How wide is the creek as shown on the draft where the road crosses it? A-- I don't suppose it is more than ten feet, eight or ten feet; maybe not that much.

Q-- Generally, would you say that the road could be opened very cheaply or would it cost ^a considerable sum? A-- It would cost very little; possibly you could open that road in there at a cost of twenty or thirty dollars.

Q--You ^{say} that Mrs. Mary A. Davis and her husband, James F. Davis seemed to be content with the road as you laid it out? A-- With the location of the road, yes.

Q-- At whose suggestion was that road located where it was? A-- I couldn't say that.

Q-- Are there any steep hills on the road which you laid out to ~~transverse~~ in getting to Mr. Manion's farm? A-- No, sir; it is practically level.

Q-- State whether or not you have examined the report of reviewers in this case? A-- I saw it; I didn't go over it closely

Q-- I hand you the report of the reviewers in laying out a road to this farm and ask you to say whether or not in your opinion the road is as convenient for Mr. Harrison Manion in reaching his farm as that laid out by your set of viewers? A-- No, sir; it is not as convenient.

Q-- What material difference was there in the route laid out by the reviewers and the route ^{as} laid out ~~as~~ by your viewers?

A-- In the length of the road.

Q-- State how much longer the road as laid out by the reviewers is than the road laid out by you, starting at the same point on the public road leading to St. Lawrence? A-- 1085.5 feet more.

Q-- Are you acquainted with the character of the land over which the road laid out by the reviewers passes? A-- No, I never went over that route.

CROSS-EXAMINATION by Mr. Leech:

Q-- In locating the road along Slate Run did you make it a comparatively straight line or did you follow the meandering of the run? A-- Our map shows the courses and distances there; there are several turns in it.

Q-- Does your draft pretend to show the meanderings of the run which the road parallels? A-- No, sir; the road is only

sketched in there.

Q-- Would Mr. or Mrs. Davis have any use for the land lying between the private road as laid out by you and the run?

A-- I don't know what they would want to do with it.

Q-- There is a narrow strip of land lying between the private road and the line of the creek or the peninsulas that are former by the meandering of the creek? A-- yes, there is a narrow strip of land in there.

Q-- Did you consider that in estimating your damages? A-- considered
We went over the ground and ~~considered~~ everything that we thought would enter into it.

Q-- Did you consider it? A-- Yes.

Q-- How much damage did you figure it would add to Mrs. Davis by reason of the land's lying between the private road as laid out by you and the creek? A-- We did not itemize it at all.

Q-- If you were to estimate that land lying between the creek and the private road how much would it amount to, do you suppose? A-- I suppose something like an acre, or near that.

Q-- What time in the year was it when you were there? A-- The report shows the date of our view.

Q-- The private road laid out by you lies on very low land next to the run? A-- It does, right next to the run; it is on low bottom land there.

Q-- Can you state its condition in the winter time or in wet seasons? A-- I wasn't over it in wet seasons.

Q-- Do you know whether it would likely be interfered with in the wintery seasons when it is frozen? A-- I wouldn't want to say what condition it would be in.

Q-- Will you now locate upon the draft and figure the

length of the private road laid out by the reviewers, beginning at the public road where it leaves the public road? A-- It is 1575 feet from the public road to Manion's land.

Q-- Then what is the difference between the length of the private road laid out by you and that laid out by Mr. Campbell, estimating it from the point where the private roads leave the public road. A-- 592.5 feet.

Q-- As a matter of fact isn't the road laid out by Mr. Campbell on much higher ground than that laid out by you? A-- Well, I never went over the road as they laid it out, and I didn't consider it when I was there.

Q-- What did Mrs. Davis say as to being satisfied with the road as laid out by you? A-- Well, the question with her was the amount of damages she should get; she told us what damages she wanted.

Q-- What did she say? A-- She said she wanted three hundred dollars and she finally said she would take two hundred and seventy-five dollars before we left.

Q-- What did Mr. Davis say if anything as to the location of the road as laid out by you and the damages? A-- I don't remember of him saying any amount of damages that he thought ~~was~~ they should have; he didn't object any to the location of the road.

Q-- Could you clear the road as laid out by you and build a bridge over the creek for twenty dollars? is that what you said? A-- I said from twenty dollars to thirty dollars; the road is clear, there is nothing to clear, it is only a question of putting a bridge over the run.

Q-- Would that include fencing the road? A-- No, sir.

Q-- Then the only item you figured was to put a bridge

across the run? A-- Yes, and possibly a little grading there to do at the run, but very little.

By Mr. Hasson:

Q-- I asked you whether or not you kept the private road as close to the creek as was feasible? A-- Yes, sir.

Q-- You did say that that ground or land was used only for a pasture? A-- That is all it seemed to be used for at that time.

S.J. Luther, sworn:

DIRECT EXAMINATION by Mr. Hasson:

Q-- Where do you live? A-- I live in Carrolltown.

Q-- Are you familiar with the land now owned by Mary A. Davis and the land of Harrison Manion in White Township? A-- I owned the farm which Harrison Manion lives on now, and lived in that neighborhood for about two weeks less than twenty-five years.

Q-- It maybbe said that you know every inch of the land?

A-- I believe I know every rod, wouldn't say every inch.

Q-- State whether or not you know where the private road is laid out from the public road leading to St. Lawrence and up through the land of Mary A. Davis to : Harrison Manion's place? A-- Yes, I know the ground, and walked over it before it was laid out and since.

Q-- State whether or not you know of any former private road leading from that public road to the Manion farm? A-- No. When I lived there I had permission from Mr. Sheehan for a road on the ppposite side of the creek over where the Elder survey is now; we used it I think for about seventeen years.

Q-- That was made across the creek from the Elder survey and up into the same farm that Mr. Manion now owns? A- Yes, sir.

Q-- State what is the character of the land over which this private road as laid out by Mr. Elder ~~traverses?~~ ^{traverses?} A-- It is an old pasture field. I believe, as near as I can say about thirty-one years ago, there was some oats sowed intit but it has never been plowed or cultivated since that time.

Q-- What in your opinion would Mary A. Davis suffer in material damages as a result of that private road crossing at a point as laid out by Mr. Elder? A--I can't say that she is damaged any. I answer that question no for the reason that she has fences down from the upperside of the creek and by putting this road on the other side of the stream it eliminates the fences onnthe upperside/ therefore, I can't say that she suffers any material damage.

Q-- Would the location of this private road as laid out by Mr. Elder deprive Mary A. Davis fr m the use of the water in that creek for her stock etc.? A-- No, sir; for the reason that

this road crosses the creek, and she would have water in the old pasture field, there in the flat on the other side.

Q-- State whether or not the private road as ^{laid} ~~xxx~~ out by Mr. Elder is on the opposite side of the bank from the creek and from the buildings of Mary A. Davis? A-- Yes, sir; it starts at a point down at the public road and, after it crosses the stream, it is on the same side of the stream as the buildings.

Q-- The greater portion of the road however runs along the opposite side of the creek from the Davis buildings? A-- Near about two-thirds, as near as I can guess at it.

Q-- What would you say would be reasonable damages to Mary A. Davis for the taking and occupancy by Mr. Manion of this private road as laid out by Mr. Elder? A-- I will have to answer your question by putting the coat on myself: if I owned that land and any other man would give me twenty-five dollars and make the fences I would say go through.

Q-- You estimate that damages at no more than twenty-five dollars? A-- No, sir; if I owned the land and anybody wanted to go through they could go through for that.

Q-- Are you familiar with the road as laid out by the reviewers up to the Manion farm? A-- Yes, I am.

Q-- State whether or not that is a more circuitous route? A-- Yes, a great deal.

Q-- You have heard Mr. Elder state the distance, state if that is about right? A-- Yes, I think that is about right.

Q-- What would you say as to the character of the land over which the reviewers laid out the road as compared with the land over which Mr. Elder laid out the road? A-- It goes through what you might call a swamp.

Q-- Which? A-- The last view.

Q- The re-view? A-- The review. I don't think a man could walk through there with ordinary shoes on.

Q-- Would it be expensive to open that road up to the Manion farm as laid out by the reviewers? A-- Yes, it would take an immense amount of money, because it is very swampy ground, and you would have to haul stone in there, and at the terminus of the road there would a costly bridge to build.

Q-- State whether or not the road as laid out by Mr. Elder runs closely to the creek? A-- ^{right on the bank of the creek.} After it crosses the creek it stays [^] At one point there is a sharp bend in the creek and it cuts off a piece ~~and~~ I suppose it would make a good sized town lot.

CROSS-EXAMINATION by Mr. Leech:

Q-Is the land covered by the Campbell route on lower or higher ground than the Elder? A-- It is so level that I wouldn't like to say it is lower or higher. In the Beaverdams, as a general thing, the nearer you get to the stream the ~~drier~~ the land is.

Q-- How much of the road laid out by Campbell follows the line between Mary A. Davis and the adjoining property? A-- About four hundred feet, without figuring it.

Q-- That would be about one third of it? A-- It wouldn't make one third; but then it don't follow the line exactly.

Q-- I mean the Campbell route-- doesn't the Campbell route follow the edge of Mrs. Davis' property? A-- Just for a little piece, then it strikes the creek and then meanders out and in takes the creek route, before it comes to the terminus.

Q-- Wouldn't the Elder route be subject to interference in the way of ice and slush from the stream in the spring and winter? A-- I never saw anything like that in my time. As a general thing, when there is an ice gorge, it comes out on the other side of t

the creek; but on this Elder road I don't remember of ever seeing the ice out there.

Q You lived on the Manion farm? A-- I cleared that off.

Q-- You sold the farm to Manion who is your son-in-law? A-- Yes, he is my son-in-law.

J.S. McKee, sworn.

DIRECT EXAMINATION by Mr. Hasson:

Q-- Where do you live? A-- White Township.

Q-- How long have you lived there? A-- I was born and raised in White Township when White and Reade Townships were all one.

Q-- About how many years? A-- I will be fifty-six in September.

Q-- You have lived there all your life time then? A-- I have been in the present White Township since I was seven and one-half years old.

Q-- You were one of the viewers with Mr. John L. Elder in laying out what we have been calling the Elder private road? A-- Yes.

Q-- How long have you been familiar with the land over which that road passes? A-- I couldn't tell you how many years ago I

passed over the township road and by it but I have been on this ground two different times and close by it.

Q-- ~~How long~~ You know the land very well? A-- Yes, I was over it yesterday; over it three different times.

Q-- State whether or not you are likewise familiar with the route of the road as laid out by the reviewers? A-- Yes, I was over it yesterday; I had it in my mind as far as it is possible to have it.

Q-- State the character of the road which you assisted in laying out, as to the land being hilly or level? A-- It is about as level as you could expect to find a piece of land in the bottom.

Q-- Would it be expensive to open that road? A-- I don't see any expense connected with it outside of the bridge and that is not much; there is nothin to cut down except perhaps a few willow trees and some thorn bushes.

What
Q-- Would you say would be the expenses incident to the opening of the road? A-- That would depend on what you would call opening the road; to open it enough for a man to go through outside of the bridge, it could be done by merely cutting down a few small trees.

Q-- Would the road be a good road to haul over, and level? A-- Yes, as far as the level part of it is concerned it would be a good road.

Q-- Would it be shorter than the road as laid out by Mr. Campbell? A-- Yes.

Q-- Are you familiar with the values of land in the vicinity where Mrs. Davis' land is located? A-- No, I am not, I have never heard anything about what land is selling for there.

Q-- Have you any idea or do you feel you can give the

amount which you properly compensate her in damages for the taking and occupancy of the road by Mr. Manion? A-- Well, I don't know about that, as to what she might think. I have known cleared land to sell in White Township for forty dollars an acre people who were willing to take it and did take it.

Q-- It has been testified by Mr. Elder that the road laid out by your set of viewers occupies three-eighths of an acre of land; taking all things into consideration, what would you say would be proper damages for Mrs. Davis for the taking of that road? A-- When I was a viewer there I decided to give her one hundred dollars and did so feel that that would give her a big price, in view of what she asked ~~what~~ thought that would do and that she ought to accept it.

What
Q-- Would you say as to the character of the ground over which Mr. Campbell's private road was laid, that is the road of the reviewers? A-- From the run up at the corner, only where the bridge would have to be, leaving out a wire fence that is ~~already~~ there, where it makes a lefthand turn, it is close to the bank of the stream, after that it is comparatively swampy and it is longer and would have to be bridged in four different places, bridges of different sizes of course.

Q-- What would be the cost of opening the road laid out by the reviewers? A-- That is a question I couldn't answer, for the reason that there are some trees to come out and some swamps to be filled in which would be expensive work.

Q-- As compared with the road laid out by Mr. Elder what would the cost be? A-- From looking over that ground yesterday we concluded that the review was worth (would cost) two dollars or more to every one on the other.

Q-- You mean by that that it would cost twice as much to open it up? A-- Yes, and it would probably take two and one-half times as much to make it as good a job .

Q-- What do you say about the relative cost of making the bridge under the Campbell survey compared with that of the cost of making the bridge under the Elder survey? A-- The bridge under the Elder survey can be made at least from eight to ten feet shorter and span the stream.

Q-- Speaking generally, will it be cheaper than the bridge under the Campbell survey? A-- Yes, because the banks are better, wall-like on both sides and it is in a crooked place in the stream, that necessarily would have to be protected or it would wash out, where the other bridge would cross the stream in a straight place and wouldn't have so likely to wash out.

Q-- In fixing damages for Mrs. Davis at one hundred dollars did you take into consideration, not only land occupied by the road but between the road and the creek? A-- Yes, I did. I took into consideration that before I had heard anything concerning that particular piece of land, then I heard something about it. Right opposite this where the road crosses the stream Mr. Davis has a small field that he used for calf pasture. I said that he could connect this piece with the larger piece and also heard that he said himself that he could use it.

Q-- State whether or not at the time the viewers laid out what we are calling the Elder road the Davises seemed to be entirely satisfied with the route of the road? A-- Yes, there was no objections made that I know about putting the road there.

Q-- They seemed to be entirely satisfied? A-- Yes.

Q-- The only question then was the amount of damages? A-- Yes, that is the way I understood it.

Q-- State whether or not the occupancy of that private road by Mr. Manion would prevent Mrs. Davis or the occupants of that farm of the use of the creek for watering purposes?
A-- Not in the least.

Q-- State whether or not the private road is on the same side of the creek as the Davis buildings or on the opposite side of the creek from the farm buildings? A-- It started from the opposite side and crosses the creek before it gets to Manion's land.

Q-- State what portion of the private road is on the opposite bank of the creek from the buildings of the Davises'? A-- About two-thirds I presume; it might be a ^{trifle} ~~little~~ more.

CROSS-EXAMINATION by Mr. Leech:

Q-- How much of Mary Davis' land is cut off by this proposed private road as laid out by Mr. Elder? A-- I am not able to say the acreage; it is less than an acre.

Q-- That is between the private road and the creek? A-- Yes.

Q-- How much is on the other side of the private road? A-- It is a pretty extensive piece; it runs back in to the woods and up against another field, I don't know how many acres there are in it.

Q-- Why do you say there would have to be four bridges on the Campbell survey? A-- If I remember, I took part of that back; there are two places that need to be bridges or filled with large stone to make it solid; it is very swampy; if there are enough stones put in there it will do, unless there would be objections to its backing the water, in which case they would have to bridge it.

Q-- You think that the cost of opening the Campbell road would be about two and one-half times as much as the cost of opening the Elder road? A-- Yes, I believe so.

Gilbert Hollis, sworn.

DIRECT EXAMINATION by Mr. Hasson:

Q-- Where do you live? A-- White Township.

Q-- Are you familiar with what is known as the Manion and the Mary A. Davis farms in White Township? A-- I helped to survey them.

Q-- You were one of the viewers? A-- yes.

Q-- State what you know about the character of the land over which you assisted Mr. Elder to lay out a private road to Mr. Manion's land? A-- It is level land.

Q-- Has the land been farmed? A-- It has been at one time.

Q-- State whether in recent years that land has been farmed? A-- Not as long as I can remember, that is plowed; of course it was pastured.

Q-- Used as a pasture land? A-- Yes.

Q-- Your private road for the Manion property runs along Slate Run or Slate creek? A-- yes.

Q-- Do you encounter any hills in going over that road? A--
A-- No, sir.

Q-- What would be the expense of opening that road up, approximately? A-- The only expense to amount to anything would be to bridge it so it would be passable.

Q-- Could that bridge be built cheaply? A-- I think it could.

Q-- State whether or not the road as laid out by Mr. Elder is much shorter than that laid out by Mr. Campbell for the reviewers? A-- Yes, it is shorter.

Q-- What is the nature of the land over which the road as reviewed would pass? A-- Part of the land is very swampy.

Q-- Would the expense of opening that road be materially greater than the expense of opening the Elder road? A-- It certainly would.

Q-- What do you say about the bridge that would be made necessarily in the opening of the Campbell road? A-- It would take more to build that bridge than the other one.

Q-- The road would be greater? A-- It would be longer and not in as good location.

Q-- You say the location of the road as laid out by Mr. Campbell wouldn't be as good as the road laid out by Mr. Elder? A-- Not in my estimation.

Q-- State whether or not in your opinion it would be ~~XXXX~~ necessary to build a pier on the one side of the creek for the bridge on the Campbell road? A-- I think it would; the one side is much lower than the other.

Q-- Your board of viewers allowed Mary A. Davis the sum of one hundred dollars damages for the road as laid out by your board of viewers? A-- yes.

Q-- What do you say as to the sufficiency of that amount of damages? A-- I think it was sufficient.

Q-- Would the road as laid out by your board of viewers prevent Mrs. Davis or the occupants of her farm from the use of the creek for water? A-- I don't ~~know~~ see how it would.

Q-- State whether the road is on the opposite side of the creek from where the buildings on the Davis farm are located?

A-- It starts on the opposite side and comes across on the same side.

Q-- About what percentage of the road is on the opposite side of the creek from the Davis buildings? A-- I judge two-thirds.

CROSS-EXAMINATION by Mr. Leech:

Q-- All that land is more or less swampy in wet seasons?

A-- Oh, yes; it is all pretty flat.

Q-- In estimating damages did you take into consideration the fact that you cut a man's field in two so that it interferes with the selling of his land for farming purposes or for pasturing purposes? A-- It cuts off a small corner in my estimation.

Q-- Do you think that the estimate made by Mr. McKee is right, that it would cost two or two and one-half times as much to open the Campbell road as to open the Elder road? A-- Yes, I do.

Michael Warner, called:

DIRECT EXAMINATION by Mr. Hasson:

Q-- Where do you live? A-- White Township.

Q-- What official position, if any do you hold in White Township? A-- I am a farmer.

Q-- Were you ever road supervisor in that township? A-- I was, two years.

Q-- Are you familiar with the cost of opening roads? A-- No, sir, I didn't open any roads, only worked on the old roads.

Q-- You have had considerable experience on working on roads? A-- Yes, I worked ~~three~~ three years, one year was supervisor and two years road-master.

Q-- Are you familiar with the farm of Mary A. Davis and the farm of Harrison Manion in White Township? A-- yes.

Q-- Are you familiar with the location of the private road, leading from the public road to St. Lawrence, up to the farm of Harrison Manion as laid out by John L. Elder and others? A-- Yes, I am slightly, never was over the ground very much.

Q-- Are you familiar in a general way with the private road through the Manion farm as laid out by James Campbell? A-- I saw it yesterday.

Q-- Which road do you believe to be in the best location? A-- The Elder road.

Q-- Why do you say that? A-- It appears to be more drier and the easier built.

Q-- Do you say that the cost of building the Elder road is less than that of building the Campbell road? A-- yes, sir.

Q-- Is the Elder road shorter than the Campbell road? A-- I think so, it looks that way, I didn't measure it.

Q-- What do you think would be the cost of opening the Elder road? A-- Outside of the bridge it wouldn't cost a great deal to make it passable.

Q-- Give us some idea? A-- It could be ^{opened} ~~open~~ for less than the other road.

Q-- Is the character of the Campbell road more swampy than the Elder road? A-- It surely is.

Q-- Would the bridge over the creek be longer and more expensive to build on the Campbell road than on the Elder road? A-- Yes.

Q-- The viewers on the Elder road awarded Mrs. Mary A. Davis the sum of one hundred dollars; would you consider that award of damages as sufficient or not, considering that the road as laid out occupies three-eighths of an acre? A-- I kind of think so, it would be plenty in my estimation.

Q-- Do you know whether the occupancy of the private road as laid out by Mr. Elder would prevent the occupants of the Davis farm from using the creek for the purpose of watering stock? A-- It surely would not; the upper part comes across the creek and the lower part is on the same side ^{that} ~~on~~ the buildings are on.

Q-- Mr. McKee testified that it would cost about two and one-half times as much to open the Campbell road as it would to open the Elder road; is that estimation in your opinion about correct? A-- It is; I don't know ~~whether it would~~ ^{whether it would} take the contract at that amount; I would sooner farm than take the contract.

Wm. Dishart, sworn.

DIRECT EXAMINATION by Mr. Hasson:

Q-- About how long have you lived in White Township? A--
Thirty-one years, I guess.

Q -- Are you living there now? A-- Yes, sir.

Q-- Are you familiar with the Mary A. Davis and the
Harrison Manion farms? A-- Yes, sir .

Q-- Are you familiar with the location of the private road
across the Mary A. Davis to the Manion lands as laid out by
John L. Elder? A-- Yes, sir.

Q-- Are you familiar with the private road across the same
lands to Mr. Harrison Manion's land as laid out by James Camp-
bell? A-- Yes.

Q-- Which road do you believe to be the better? A- The
road laid out by Mr. Elder.

Q-- Why? A-- Because it is the shortest and much easier
built.

Q-- Answer the question? A-- Because it wouldn't cost so
much to build the road.

Q-- Why? A-- Because of the difference in the lay of the
land? A--

Q-- What is the character of the land over which the
Elder road passes? A-- It is along the bank of the creek. In
our country the closer we get to the creek the better the soil
would be for a road on account of the water being banked back
and the sediment ~~is~~ forms a bank and throws the water back.

Q- Do you know whether or not the road laid out by Mr?
Elder would make a good private road? A-- yes, sir.

Q-- What in your opinion would be the cost of opening your
road? A-- Well, it would depend on how good a man would want

~~to build the road~~

to build the road; ~~it~~ to make it passable, to pass back and forth the expense would be very small outside of a bridge across the creek.

Q-- What would be the expense of opening the Campbell road?

A-- It would be very expensive.

Q-- Why? A-- Because of so many "slues" through it; the land being level it wouldn't drain itself.

Q-- Is it swampy land? A-- Yes, sir.

Q-- State whether or not there is timber on the Campbell route which would have to be cut and stumps to be blasted out?

A-- Yes.

Q-- State whether or not there are numerous swamps which would require either bridging or filling with a large amount of stone on the Campbell road before it could be used? A-- yes, there is.

Q-- Would the bridge on the Campbell road be longer and more expensive to build than the bridge on the Elder road? A-- Yes; it would.

Q-- Why? A-- It would cost considerable more, because the one side of the bank is much higher than the other and it is in a curve and would have to be protected to save the bridge from washing out.

Q-- Which bridge is the longer? A-- The one on the Campbell survey.

Q-- State whether or not in your opinion the Elder survey is the shortest and most practical route to the Harrison Manion farm from the public road? A-- It is.

Q-- The board of viewers which laid out the Elder road awarded Mrs. Mary A. Davis the sum of one hundred dollars damage; state whether or not in your opinion that was a fair

allowance of damages? A-- I think it was.

Q-- You believe it was? A-- Yes.

Q-- When you say that do you take into consideration, not only the ground occupied by the private road but as well the ground lying between the private road and the creek? A-- Yes.

Q-- Mr. McKee testified that it would cost at least two and one-half times as much to lay out the Campbell road as it would to lay out the Elder Road; state what you have to say about that?

A-- It certainly would; there is one slue there.

Q-- In which road? A-- In the Campbell survey; there is one place where there is about eight inches of water that wouldn't drain itself and that is thirty feet across and there are several swampy places and there is no material there to build bridges; there are three of them.

Q-- There are three such places on the Campbell road? A-- Yes; it is very hard to build anything to carry the water away when the water wouldn't drain away.

Q-- In your opinion is it practical to gut a trench from the Campbell road to the creek? A-- No, sir; not on the Campbell road.

Q-- Would the Elder road be dry or wet? A-- It would be principally dry; it is on the bank of the creek.

Q-- Would the location of the Elder road deprive Mary A. Davis or the occupants of her farm from the use of the creek for watering their cattle etc.? A-- No, sir.

CROSS-EXAMINATION by Mr. Leech:

Q-- Would you consider it any inconvenience, if you owned the land, to have a private road taken from you and given to another man, so that you would no longer have control over your

own property because of giving the private road? A-- I suppose it would be an inconvenience provided this was the case.

Q-- You know that by this proceeding it is proposed to take from Mary A. Davis a long narrow strip of land in the shape of the right-of-way so as to cut her off from a portion of the field and which would be exposed by the laying down of fences, ect.? A-- I can't see it that way.

Q-- If Mrs. Davis were to lay down one fence now couldn't she pasture on both sides of the road as laid out by the Elder survey? A-- Not very well; she would have to cross the bridge on the township road and pasture on the far side of the creek.

Q-- In wet seasons everything is swampy and muddy down there? A-- Most generally.

Q-- And in dry seasons everything is pretty dry around there? A-- Yes.

Q-- When you say the water stands as you have described there on the Campbell road you mean that the water stands on that road in wet seasons? A-- It stands there when it is wet enough to create water, because it wouldn't drain itself.

RE-DIRECT EXAMINATION by Mr. Hasson:

Q--The farm you live on lies very close to the Davis farm? A-- Yes, sir, near the Manion farm; the Manion farm lies between my farm and Mr. Davis'.

Q-- State whether or not at present the Davises, when they want to turn their cattle from the side of the farm over where the buildings are erected to the side of the farm opposite the creek they have to lay down the fences between the two places? ~~fences between the two places~~ A--Certainly.

Q-- Which way do they do it? A-- It depends on the height of the water; you can generally see them drive them across the bridge.

Q-- On the Township road? A-- Yes.

Q-- Is the height of the creek usually such as to render it unsafe to send cattle across the creek when there is any freshet at all? A-- It is a very deep channel; it is a logging stream; and cattle can't get across it only in dry weather.

Q-- State whether or not the Davises have been using the fields on the opposite side of the creek from the buildings for pasture purposes or for farming? A-- For pasturing purposes .

Q-- That is the side opposite the creek from the buildings?

A -- That is the side of the creek opposite from the buildings.

Harrison Mannion, sworn:

DIRECT EXAMINATION by Mr. Hasson:

Q-- You are an acceptant in this proceeding? A-- Yes.

Q-- You are trying to get a private road through the land of Mary A. Davis? A-- yes.

Q-- It is stated in the report of the viewers who laid out the Campbell road that you acquiesced in their report; state whether or not that is correct? A-- No, sir.

Q-- In your opinion what would it cost to lay out the Campbell road taking into consideration the building of the bridge and the building of the road to the township road? A-- I don't know; I think they said that it would be two and one-half times as much; I think if they could build it two and one-half times as much, then ^{by adding} ~~along~~ one and one-half, I would like to give it to them; I wouldn't build it for that.

Q-- Would it cost you considerable more money to open the Campbell than to open the Elder road? A-- yes, sir.

Q-- Were you present when the Elder road was laid out? A-- yes, sir.

Q-- What did Mr. and Mrs. Davis say as to that road, if anything? A-- Mrs. Davis was satisfied about the road but Mr. Davis wouldn't show up.

Q-- Was Mrs. Davis there? A-- She was at the house. We met at the house and Mrs. Davis asked me not to run too close to the creek so that any cattle grazing along there wouldn't be in danger of falling into the creek.

Q-- State whether or not Mr. Elder respected that wish of Mrs. Davis? A-- Yes.

Q-- When viewers who laid out the Campbell road met for that purpose did they make an effort with you to have you agree

with Mrs. Davis as to the amount of damages? A-- Didn't see Mrs. Davis at all.

Q-- Did they make an effort with you to have you agree with Mrs. Davis as to the amount of damages she was to receive? A-- No.

Q-- What was the character of the land over which the Elder road passes? A-- It is nice level land; it is right on the bank of the creek.

Q-- Are there many obstructions in the road that would have to be removed before you could build it? A-- Not many.

Q-- Are there obstructions in the Campbell road? A-- Yes, sir.

Q-- Would the Campbell road be very much longer than the Elder road? A-- Well, it would be some longer.

Q-- How do you get into your farm now? A-- By driving in through Mr. Noel's field.

Q-- What distance does that cause you to go to get into that land? A-- In the neighborhood of two miles.

Q-- Two miles ~~like~~ out of your way? A-- Yes.

Q-- Under the Elder survey, as shown by the draft, you could enter your farm by traversing a distance of 982.5 feet; that is correct is it? A-- Yes.

Q-- Now you say that under the present conditions you are compelled to go around about way through private fields of Mr. Noel a distance of approximately two miles? A-- yes, sir.

CROSS-EXAMINATION by Mr. Leech:

Q-- What Mr. Noel? A-- James A. Noel.

Q-- How long has that road been ~~open~~ traveled, ~~for~~ if you know? A-- I don't know; you will have to talk to Mr. Luther about

that, it was there when I went there, eight or nine years ago.

Q-- In using that it would require you to travel two miles by that road, do you mean from your house? A-- Yes, sir.

Q-- How far does it require you to travel if you estimate it only from where you leave the township road? A-- It is about the same distance, near about the same distance as down at the creek.

Q-- As which road? A-- To leave the township road, to go into my land it is near about the same distance as the other road.

Q-- That is from the point in the township road where you leave the township road to come in at present would require you to travel about as far as if you would live on the Campbell road; is that right? A-- No.

Q-- The Campbell road is about fifteen hundred feet? A-- I don't know what the other one is.

Q-- The other one is about nine hundred feet long? A-- Yes.

Q-- How far from the township road into your land as you now go? A-- That would be near about the same as the Elder road, maybe a few yards farther.

RE-DIRECT EXAMINATION by Mr. Hasson:

Q-- How far is that Greenwich hill from where you live now, how much would it take you away from the point where you would start in on the private road as laid out by Mr. Elder? A-- That would take me pretty close to two miles.

S.J. Luther, recalled.

DIRECT EXAMINATION By Mr. Hasson:

Q- State whether or not you had a talk with the Davises prior to the laying out of what is now known as the Elder private road? A-- I had on the Saturday before the view.

Qp - What did they say to you as to the road? A-- Mr. Davis went with us over the road and it was agreed upon that we should have that road.

Q-- Is that the road as laid out by Mr. Elder? A-- The same road.

Q-- What did he say as to the land it would take? A-- There is one place there, a little neck in the creek where there is an abrupt turn; it cut off about the size of a town lot. I said, " Mr. Davis, there is more land than you should have cut off; I will pay you one hundred dollars an acre, I will give you one hundred dollars an acre for that." He said, "That cuts no ice; I will leave my fences down and throw it into my calf pasture, as my calf pasture is too small anyway."

Q-- He was perfectly satisfied with the route of the road A-- Apparently; I thought the thing was settled.

No cross-examination.

It is agreed by Counsel for Harrison Manion and the
acceptant that testimony on part of Mary A. Davis may be taken
upon this same rule before F.C. Sharbaugh, Commissioner, to take
testimony, on Monday April, 17th, 1911, between the hours of
9:00 A.M. and 5:00 P.M..

STATE OF PENNSYLVANIA, §
 § ss.
COUNTY OF CAMBRIA. §

I hereby certify that the foregoing typewritten
pages Nos. 1 to 30, inclusive, contain a full, complete, and
accurate transcript of the testimony of the witnesses in the
above-stated case, taken on the rule hereto attached, and that
the same was taken at the time and place stated in the rule and
pursuant to agreement of counsel as therein noted.


Commissioner to take testimony.

Master Service

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

Of *March* *Term*, A. D. 1900, No. *8*

Exceptionis.

In re Private Road
in
White Township

And now, to wit, the *11th* day of *April* A. D. 1901, Rule
on part of *Petitioner* to take deposition of witnesses
before *F. C. Sharbaugh*, Esq., Commissioner, to be read on the
hearing of the above stated case.

Cambria County, ss:

Extract from the Record of said Court, Cer-
tified the *11th* of *April*
1901.

J. S. Kirkendall

Prothonotary.

clerk,

To **J. W. Leech, Esq., Attorney for Mary A. Davis,**

TAKE NOTICE, That in pursuance of the above Rule the deposition of witnesses to
be read in evidence on the **hearing** of the above stated **case** on
part of ~~the~~ **Harrison M. Mannion** will be taken at the **Office of F. C. Shar-**
baugh on **Friday**
the **14th** day of **April**, A. D. 1901, between the hours
of **9:00** o'clock A. M., and **5:00** o'clock P. M., before **F. C.**
Sharbaugh, Esq., Commissioner, 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.

H. A. McGuire

Atty. for Harrison M. Mannion.

R.D.
No. 8 March Term, 1900

In re Private Road

in

White Township

Rule on part of Petitioner

To take depositions

McGuire

Ebensburg, Pa., April 11th, 1911.

Now, April 11th, 1911, J. W. Leesh, Attorney for Mary A. Davis, through whose land the private road ~~passes~~ ^{passes} for by Harrison M. Mannion in White township, passes, hereby accepts service of the within rule to take depositions before F. C. Sharbaugh, Esq., Commissioner, Friday, April 14th, 1911, between the hours of 9:00 o'clock, A. M., and 5:00 o'clock, P. M.


Atty. for Mary A. Davis

No. 8 March Sessions, 1910.

In re Private Road
in
White Township.

DEPOSITIONS OF WITNESSES.

*Permissum fee \$10.00
Paid by W. A. M. Jones, Esq.
to J. C. Sharbaugh in
Comm.*

Filed 1 August, 1911,

J. C. Sharbaugh,
Attorney-at-Law,
Ebensburg, Cambria County, Pa.
OPERA HOUSE BLOCK