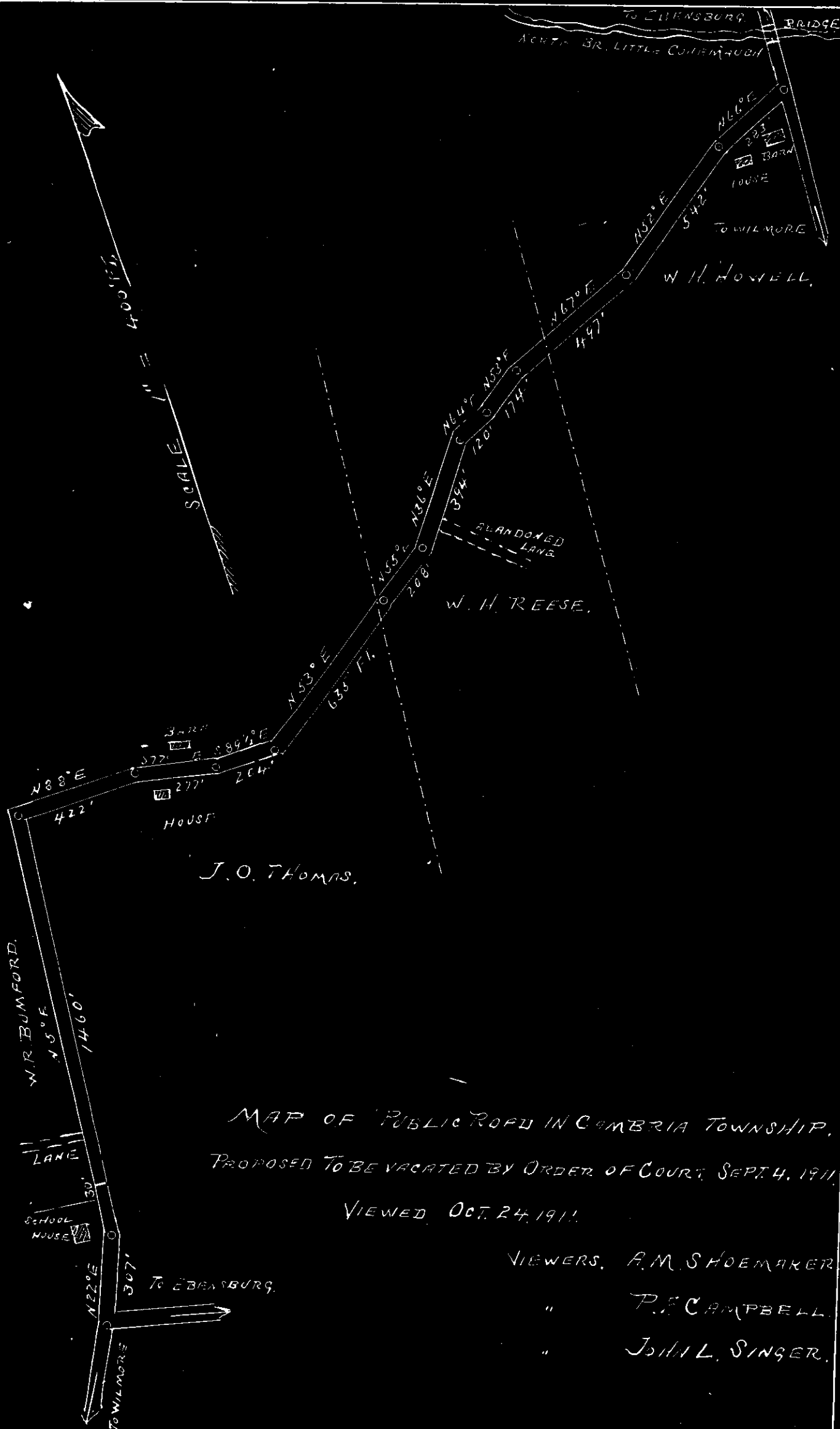


R.D. # 3 Sept 1911

Not Microfilmed



MAP OF PUBLIC ROAD IN CAMBRIA TOWNSHIP,  
PROPOSED TO BE VACATED BY ORDER OF COURT, SEPT. 4, 1911.

VIEWED, OCT. 24, 1911.

VIEWS. A. M. SHOEMAKER  
" P. F. CAMPBELL.  
" JOHN L. SINGER.

Ebensburg, Pa. Nov. 23, 1911.

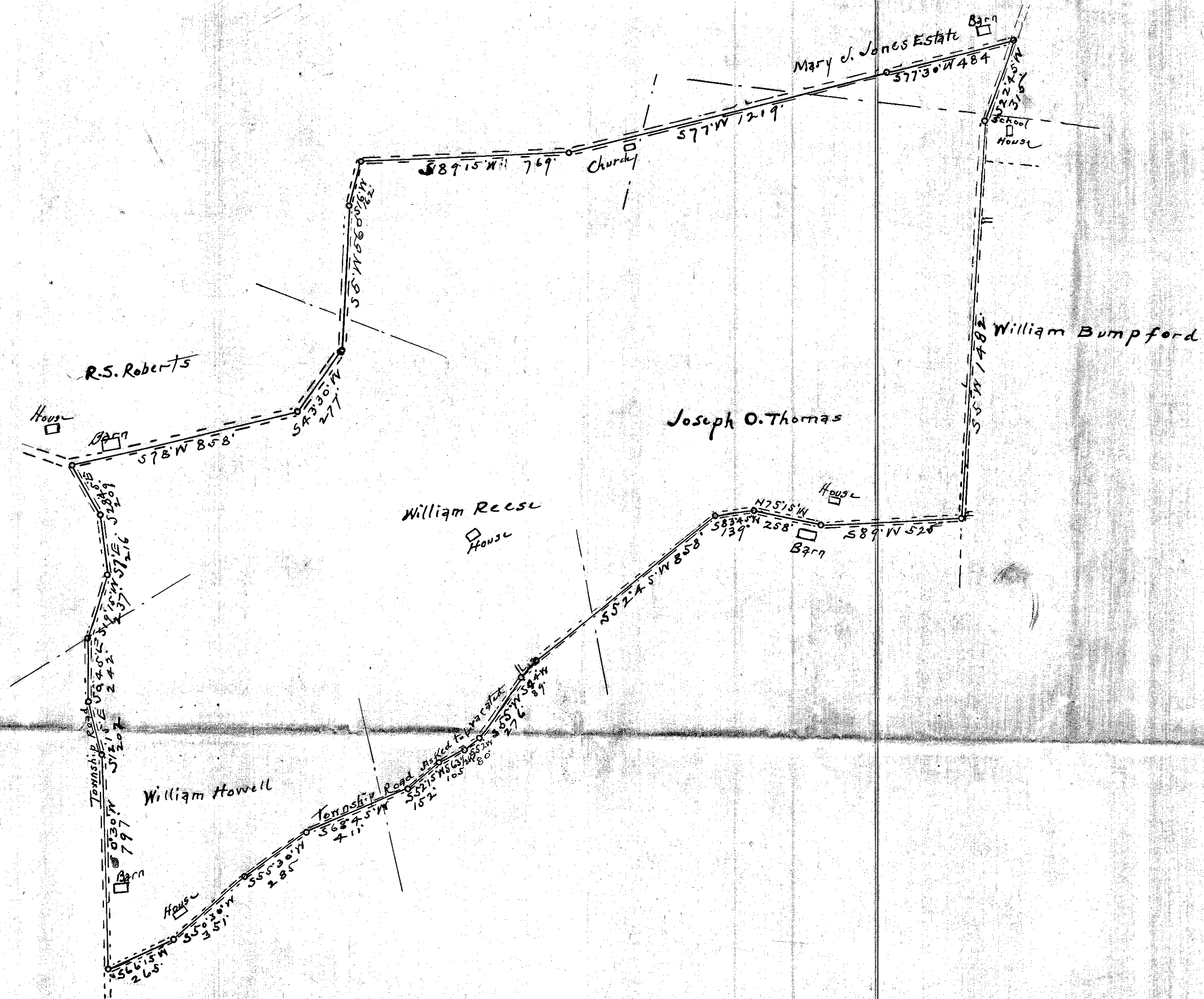
WILLIAM DAVIS, ESQ.,

DR.

To taking and transcribing ten pages testimony in the matter of a  
Petition to vacate a road in Cambria Township, \$4.00

*Rec'd Payment*  
*Mary Evans.*

Scale line = 300 feet Surveyed Nov 17 1891 by J.L. Elder Surveyor



K N O W A L L M E N B Y T H E S E P R E S E N T S

That we, L.J.Hughes, Daniel W. Jones, and John G. Griffith, residents of the Township of Cambria, County of Cambria, and State of Pennsylvania, are held and firmly bound unto the Commonwealth of Pennsylvania, for the use of the County of Cambria, in the sum of One Hundred Dollars, lawful money of the United States, to be paid to the said County of Cambria, its certain Attorney or assigns, to which payment well and truly to be made, we do bind ourselves, our heirs, executors, and Administrators, and every of them, firmly by these presents. Sealed with our seals and dated this second day of September, A.D. 1911.

The condition of this obligation is such, that in the event costs are incurred in the application or petition of the citizens of Cambria Township, said county, for the appointment of viewers to vacate a part of a public road which begins at a point at or near the barn of William W. Howells in the public road leading from Ebensburg to Wilmore and ending at a point at or near the public school house known as the Reese E. Reese school, in said Township, and that said costs shall be paid by the undersigned, or the Township of Cambria, the undersigned being citizens and the Supervisors of the said Township of Cambria, bind themselves, their heirs, executors and administrators, or any of them to pay or cause to be paid unto the County of Cambria its Attorneys or assigns, the said costs which is not required to be paid by the County, or whatever the same may be without fraud or further delay, then this obligation to be void and of none effect or else to be and remain in full force and virtue.

Signed, sealed and delivered

in the presence of

Wm. Davis

(  
(  
(  
(

L. J. Hughes  
Daniel W. Jones  
John G. Griffith

(SEAL)

(SEAL)

(SEAL)

103 Sept Sess 1911 R.D.

In re petition to vacate a  
part of a public road leading  
from Chestnutville to the Reese  
& Reese School house in  
Cambria Township.

Bond

Sept. 4, 1911, this bond  
is approved,  
By the Court

Filed 4 September, 1911.

..... *A. S. Kinkead* ....., Clerk.

No. 3, Sept. Session, 1911

Order to view and vacate

road in Cambria Township

Filed 9 Dec 1911

Viewers.

A. M. Shoemaker

P. F. Campbell

John L. Singer

Clerk *hooked* 90 cts.

Wm. Davis.

ENTRUSTED MONTAGUE-HEALD ELECTRIC PRINTING

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."



## REPORT OF VIEWERS.

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

We, the undersigned viewers appointed by your Honorable Court as shown by the annexed order, respectfully report:

That in pursuance of our appointment, after having given due public notice of the view and of the time and place of meeting of the viewers, by giving notice to the supervisors of Cambria township and by posting printed hand bills in public and conspicuous places at and near the termini of the road proposed to be vacated; We all met in accordance with the notice given, and having been first duly qualified according to law to perform all the duties of our appointment faithfully; we viewed the road proposed to be vacated, the character of the land over which it passed as well as the location of the farms which abutt or adjoin the same, and from thence adjourned our meeting to a later day to take testimony; of which day, hour and place of meeting, to take testimony, all parties had due notice and in accordance with this notice, we met at the Court House in Ebensburg, on November 20th., 1911, where parties both for and against the vacation of the road appeared with counsel and considerable testimony was taken and the case argued at some length by counsel; After which, the viewers, having carefully considered the circumstances of the case, the testimony of the witnesses and the location of the road with reference to its necessity for public use, and are unanimously of the opinion that the road in question ought to be vacated from a point in the public road, from Ebensburg to Wilmore, near the barn of William W. Howell to a point, in the road in question, thirty feet North of the northerly line of the School property, along said road.



5th. Since the road in question has not been a burden on the township for a great number of years, therefore it is not likely to become a burden on them in case it is not vacated.

Referring to the first and as we consider, the all important point, we are impressed that there is no necessity for this road, either for the traveling public at large or for the general use of the citizens of southern Cambria Township for the various reasons hereinafter stated: The road would be of advantage to Mr. Thomas as it would more closely connect his two farms in Cambria Township, but this private advantage we do not regard as constituting a necessity for a public road. That the public road in question, as such, has not been considered a necessity, is evidenced by the conduct of the adjoining and abutting property owners and their predecessors in title who, as appears from the testimony, have participated in obstructing the road with gates, bars &c., thus keeping it closed as against the public, for a quarter of a century or more, and have not at any time during that period ever requested that the road be worked or improved, though it has for a long period been in a rough wet, stony and unsafe condition for public travel; which conduct shows so conclusively their opinion as to the necessity for the road, their desire and their intention to abandon it; and this evidence together with the fact that, though we carefully viewed the premises and listened to all the contentions made by the counsel opposing the vacation, has impressed us that there is no necessity for the road since there are no changes or improvements in that locality which tend to create a new necessity where none has existed for more than twenty five years.

Considering the second and third points together, we observe that the figures on the draft, submitted by the counsel opposing the vacation, to be less than one eighth of a mile shorter than the road now in use; while the manner of improving the grade on the

road in question, as suggested by the same counsel, is by increasing its length, which would necessarily lessen the slight difference in length now existing between the two roads; while the profile offered in evidence shows the grades of the two roads to vary but slightly.

With reference to the fourth point, we feel that as the law provides for the public roads to be kept clear and unobstructed that we must regard them as being kept in a passable condition.

The fifth point we regard as not well taken, for from the mere fact that the road has actually not been a burden on the taxpayers, does not relieve the taxpayers of the duty to keep the road in a good state of repairs or to be liable for injuries which may result from their neglecting to do as the law requires.

Thus, in view of the whole situation and mindful of all the matters and things to which our attention has been called; we are of opinion that the road ought to be vacated between the points noted, which we feel will work no practical inconvenience to any but one man, viz; William Bumfort, who can still reach the public highway from his own farm with but little inconvenience.

Witness our hands this 23<sup>rd</sup> day of November A. D. 1911.

<i>Cost of View</i>		<u>A. M. Shoemaker</u>
A. M. Shoemaker	3 1/2 days	<u>P. F. Campbell</u>
" "	" Expenses	<u>J. L. Singer</u>
P. F. Campbell	3 days	Viewers.
" "	" Expenses	
John L. Singer	2 days	
" "	" Expenses	

	\$17.50
	3.80
	15.00
	4.25
	.75
	10.00
	9.00

# ROAD NOTICE!

NOTICE IS HEREBY GIVEN THAT THE VIEWERS APPOINTED BY THE COURT OF  
QUARTER SESSIONS TO VIEW THE GROUND *road from a point in the*  
*public road leading from Ebensburg to Wilmore, begin-*  
*ning at or near the barn of Wm. H. Howell, in Cambria Twp.*  
*ending at a point in the public road leading from Ebens-*  
*burg to Wilmore, at or near the residence of John J. Jones,*  
*in said Township of Cambria; for the purpose of deter-*  
*mining as to the propriety of locating that portion of*  
*said road beginning at the northern end of same and*  
*ending at a point at or near the public school house, on*  
*said road - Northern termini of said road*  
WILL MEET AT THE HOUSE OF COMMONS IN THE TOWNSHIP  
OF *Cambria* AFORESAID, ON THE *24th* DAY OF *October*  
19*11*, AT *9:30* O'CLOCK *a.m.*, FOR THE PURPOSE OF VIEWING SAID GROUND.

*October 10th 1911*

*A. M. Shoemaker*  
*P. H. Campbell*  
*John L. Singer*  
VIEWERS.

Now Oct 1911- service of the  
within notice accepted by the  
undersigned supervisors of  
the township of Cambria

L. J. Hughes  
John. G. Griffith  
Daniel W. Jones

# ROAD NOTICE!



NOTICE IS HEREBY GIVEN THAT THE VIEWERS APPOINTED BY THE COURT OF QUARTER SESSIONS TO VIEW THE GROUND

*from a point in the public road leading from Ebensburg to Wilmore, beginning at or near the barn of Mrs. M. Howell, in Cambria Twp., and ending at a point in the public road leading from Ebensburg to Wilmore, at or near the residence of John J. Jones, in Cambria Twp., and to determine as to the propriety of vacating that portion of said road between the northern end of same and a point, at or near the school house on said road*

*northern terminus of said road.* WILL MEET AT THE HOUSE OF *IN THE TOWNSHIP OF Cambria* AFORESAID, ON THE *24th* DAY OF *October*, 19*11*, AT *9:30* O'CLOCK *A.M.*, FOR THE PURPOSE OF VIEWING SAID GROUND.

*W. M. Shoemaker  
P. G. Campbell  
John L. Shiger*  
VIEWERS.

*October 10th 1911*

And now, November 20, 1911, having been duly sworn to take and transcribe the annexed Testimony, I hereby certify that, as Stenographer, I took the testimony of the Witness called in shorthand and transcribed the same, and that the following is a correct copy of the testimony taken before the Board of Viewers in the matter of the Petition to vacate a certain road in Cambria Township, leading from William Howell's to John J. Jones'.

Mary Evans  
Stenographer.



Depositions on the part of the Petitioners for vacating a road in reply to the testimony that was taken for those against vacating a road.

LEMUEL HUGHES, called and sworn:

DIRECT EXAMINATION BY WILLIAM DAVIS.

Q. Mr. Hughes, state whether or not you are one of the Supervisors in Cambria Township?

A. Yes, sir. This will be the sixth year.

Q. Are you acquainted with the road described in the Petition in question?

A. Yes.

Q. To your knowledge how long is it since the Township have worked on this road?

A. I think about fifteen years since the Township have worked on it.

Q. Have you been asked to work on this road during the past six years years since you were supervisor?

A. No, sir.

Q. Has the road been in use by the traveling public during the past fifteen years?

A. Oh, more or less. I expect there has been some traveling on it.

Q. Do you know who uses that end of the road which is asked to be vacated in the Petition in this case?

A. I never seen nobody travel it but Joseph O. Thomas, it is out of my way.

- Q. State whether or not you consider this road useless and burdensome on the tax payers of Cambria County?
- A. I did, and dangerous to the public.
- Q. Do you consider it inconvenient and burdensome to the traveling public and the tax payers?
- A. I do.
- Q. What is the character of this road, describe it as you have seen it?
- A. It is stony a good deal, and a spring spouting out of the hill above it.
- Q. Would you consider it expensive and burdensome for the tax payers to place it in a condition to be used by the traveling public at the present time?
- A. I would.
- Q. State whether or not the road has been considered by the Supervisors as an abandoned one?

BY MR. REED.

The question is objected to for the reason that the Board of Supervisors do not have the power to consider any road abandoned. That is a question for the Viewers and the Court.

A. We consider it abandoned because there was gates on it and no work done on it, and we didn't make any records of it.

- Q. CROSS-EXAMINATION BY MR. REED.  
At the time you got up this Petition you swore that it was a Township Road, didn't you, Mr. Hughes?

A. We do not deny that.

- Q. At that time then you didn't consider it abandoned?

A. Well, not really off the records, but it was abandoned as

far as the public was concerned.

Q. You know that it was being used more or less every winter when the other road was drifted?

A. No, sir, for the last ten years the Howell's Hill has not been closed. We have the mail route along the other road and we got to keep that open. The mail runs on that road and we keep that open.

Q. Mr. Hughes, you swear here that this road is burdensome upon the tax payers and yet you say that they have not done anything to it for the last fifteen years?

A. It would be burdensome if put in condition that another road is.

Q. Then for the last fifteen years it has not been any burden on the Township?

A. Not that I know of.

Q. During your time as Supervisor you have not even been asked to work on it, have you?

A. No.

Q. How long has it been since you have been along the road?

A. It has been a good while, probably six years.

Q. How many springs have you seen along the road?

A. O indeed, I didn't count them. There are many springs along the road.

Q. Are there more than three?

A. I can hardly tell where the spring starts from.

Q. That condition prevails on other roads in wet weather too?

A. Not so much if they are worked.

DANIEL JONES called and sworn:

DIRECT EXAMINATION BY MR. DAVIS:

- Q. You are one of the Supervisors of Cambria Township where this road in question is located?
- A. Yes, sir.
- Q. Have you ever been asked as Supervisor to work on this road?
- A. No, sir.
- Q. Do you know of any complaints made in that community why the road was not kept in condition for the traveling public?
- A. No, I did not.
- Q. Do you consider that road necessary in that community.
- A. It would be a more direct road between Ebensburg and Wilmore.
- Q. Do you consider that road a necessity in that community?
- A. We never use that road, never travel that way.
- Q. Do the traveling public have sufficient roads in that community without the one in question?
- A. They have one road, I guess. Yes.
- Q. Have you heard any complaint because the road was not kept open?
- A. No.
- Q. Would you consider it burdensome on the tax payers to place it in a condition to be used for the traveling public?
- A. Yes, it would now.
- Q. State whether or not, in your judgment, it is <sup>a</sup> useless road for the traveling public?
- A. Well, it is all the road they use in the winter time, certain times of the year when the other road is drifted.
- Q. Did you hear Mr. Hughes testify that the other road, known as the

Howell Hill had not been drifted for the past ten years?

A. Yes.

Q. Do you know that the other road is kept open by the Supervisors and that they are compelled in order that the mail may travel over the same?

A. Yes, by coming through the fields in some places.

Q. Is that not the case in every public road in Cambria County, that they are compelled to go through the fields in certain places?

A. Yes, sir.

Q. You signed this Petition?

A. Yes.

Q. In this Petition you have signed it that it should be vacated for the reason that you believe it has become useless, inconvenient and burdensome on the tax payers, is that correct?

A. I thought so at the time.

Q. Do you think so now?

A. No, I do not think so now.

Q. Do you now think that the road should be imposed on the tax payers of Cambria County, knowing that all the persons residing thereon have a private road or a road over their own lands to the public road?

A. Yes.

Q. Did you ever drive over it with a load or team?

A. Yes.

Q. How many years ago?

A. It is four or five years ago.

Q. Could you get in and out there over the same road that is traveled by William Reese, William Bumford, and Joseph O. Thomas without going down past William Howell's over the part that is to be vacated?

A. Yes.

CROSS EXAMINATION BY MR. REED:

Q. This road has not been burdensome on the Township since you have been Supervisor, has it?

A. No, sir.

WILLIAM HOWELL, called and sworn.

DIRECT EXAMINATION BY MR. DAVIS.

Q. Mr. Howells how long have you lived in Cambria Township?

A. Well, since 1869.

Q. Are you acquainted with the road asked to be vacated in this Petition?

A. Yes, sir.

Q. Did you consider this road necessary?

A. No, sir.

Q. State whether or not you consider it useless, inconvenient and burdensome to the tax payers of Cambria Township?

A. I think it does.

Q. Is your answer yes sir, or no sir?

A. Yes, it is.

Q. How long is it since the Township has been paying any attention to it?

A. I was a Supervisor in 1885 and was Supervisor for three years, but Joseph O. Thomas then lived where William Bumford lives now, they were working their taxes <sup>for</sup> Joseph O. Thomas' Father, and then the first year I paid so much of the road tax on the old road, that road in question now, and when they got through working the taxes that year they put the gate on North

of the school house, and after that time they did not get no taxes from me nor anybody else for about twenty-five years. About twenty years afterwards I was Supervisor for three years.

Q. Did you do any work on this road at that time?

A. No, sir.

Q. Do the people in that community have other roads over which they can travel when there are drifts in the winter?

A. Yes, sir. Well, I think it drifts more about Joseph O. Thomas' than in other places, but it don't drift down below.

CROSS EXAMINATION BY MR. REED:

Q. It was Richard Thomas that placed the gate across the road?

A. Yes, sir.

Q. And you ordered Joseph O. Thomas to report it to the Court and take the gate off?

A. No, sir, I never did.

Q. The gate was taken off?

A. No, it was there until it rotted down.

Q. How long was it?

A. It was there fifteen years ago, any way was as near as I can judge.

Q. Have you been along during the winter time along the property of Joseph Thomas since wire fences were put up along the road?

A. I believe I have walked, and did drive over.

Q. Don't you know, Mr. Howell, there has not been any drifting there to shut up the roads?

Sure, from the barn up to the turn of the road it was drifted full.

Q. When did you see this?

- A. A couple years ago I walked through there.
- Q. This road has not been a burden on the tax payers for fifteen or twenty years?
- A. No, I guess not.
- Q. It is not useless?
- A. It is not used very much except Joseph Thomas and William Reese. I do not know of anybody else.
- Q. Do you know that other people use that sometimes in the spring or fall of the year?
- A. No, I don't know very many.
- Q. Well, there is some?
- A. Well, I don't know. They come on the other road.
- Q. Then you are not having this road vacated because it has been a burden on the Township for the last fifteen or twenty years, are you?
- A. No. Well we considered it abandoned when we put the gates on.
- Q. Then when it was not burdensome to the tax payers and the gates were on there and the people were not demanding you to make repairs on it, why did you want it vacated.
- A. Well, they would not shut the gates, it was between two roads. I was the last one to put gates. I thought I was entitled to gates on, they don't want to shut them. I never refused any man in my live when they shut the gates.
- Q. Well then, when they keep the gate shut are you perfectly willing that the road be not vacated?
- A. I don't care if they keep the gate shut. I don't care.
- Q. There is no mail route from your place up to Robert Roberts?
- A. No, but that place does not drift. It has not drifted for



ten or twelve years so far as I know.

Q. You know that buggies and rigs have gone up on this road they are wanting to vacate when they could not by the hill past Robert Roberts'?

A. No.

Q. Do you know Mr. White who lives near Wilmore?

A. I do.

Q. Do you remember the time he failed to get up the hill past Roberts! and came back past your house?

A. I do not remember.

RE DIRECT BY MR. DAVIS.

Q. Would you consider it burdensome to place that road in a fit condition for the traveling public and keep it up hereafter?

A. Sure.

RE CROSS BY MR. REED.

Q. Isn't it burdensome to keep any road in repair for the traveling public?

A. Sure.

JACK JONES, called and sworn.

DIRECT EXAMINATION BY MR. DAVIS.

Q. How long have you known the piece of road that has been petitioned to vacate?

A. Thirty years or more.

Q. Would you consider that road necessary for the traveling public in that community?

A. Well, I don't see what the two roads is for and they are pretty near side by side and I don't see why it is.

Q. Considering the two roads are side by side would you consider it burdensome on the traveling public to keep it up hereafter?

A. I think it is.

CROSS EXAMINATION BY MR. REED.

Q. Don't you think it is right and necessary those people living up there have a way to get out to come to the County Seat?

A. Yes, sir.

Q. Don't you think, Mr. Jones, that inasmuch as these people living up in that section have not asked the Township to make any repairs on it for the last fifteen or twenty years that it is only right and fair that they should have a right of way out towards the County Seat?

A. Well, certainly they have a right to get a way out.

REDIRECT BY MR. DAVIS.

Q. Is it necessary for them to have two right of ways out?

A. Well, no, I don't think.

RE-CROSS BY MR. REED.

Q. Then do you think it is right to make them go around a mile and a half farther when they are keeping it up at their own expense?

A. They could go down the old road, I guess, nobody will stop them to travel.

TESTIMONY CLOSED.

No 3. Sept. Term, 1911

In the matter of the Petition  
to vacate a road from William  
Howells to the Farm of John  
J. Jones.

---

Testimony on behalf of those  
opposed to vacating a road.

Filed 9 Dec 1911

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY.

NO. 3, SEPTEMBER SESSIONS, 1911.

IN THE MATTER OF THE ORDER TO VIEW AND VACATE A ROAD IN CAMBRIA TOWNSHIP.

ADDITIONAL EXCEPTIONS TO THE REPORT OF VIEWERS.

FIRST. The Act of the 23rd of June 1911, Pamphlet Laws 1123, or a greater part thereof, is unconstitutional, and for that reason the view should not be permitted to stand.

SECOND. That the viewers appointed under the Act of 1911, failed to comply with the provisions as set forth in said Act by establishing rules and regulations.

THIRD. That Patrick Campbell, one of the viewers, at the time he was appointed and served on said Board, was not eligible, for the reason that he was ~~was~~ a duly elected engineer of the Borough of Portage, and receiving compensation therefor.



Attorney for Exceptants.

County of Cambria, SS.

Before me, the Prothonotary in and for said County, personally appeared S. L. Reed, Attorney for Exceptants, who being duly sworn according to law deposed and said, that the above exceptions, so far as the facts are concerned, are true to the best of his knowledge and belief, and that he verily believes that the legal questions raised are proper and such that should be passed upon by the Court. Sworn and subscribed before me this 8<sup>th</sup> day of February, 1912.

S. L. Kinkaid  
Prothy

Sworn



In the Court of Quarter Sessions  
of Cambria County.

No. 3 Sept. Sessions, 1911.

---

In the matter of the Order  
to View and vacate a road in  
Cambria Township.

---

ADDITIONAL EXCEPTIONS TO THE  
REPORT OF VIEWERS.

*Filed 8 Feb 1912*

REED.

And now, November 20, 1911, having been duly sworn to take and transcribe the annexed Testimony, I hereby certify that, as Stenographer, I took the testimony of the Witnesses called in shorthand and transcribed the same, and that the following is a correct copy of the testimony taken before the Board of Viewers in the matter of the Petition to vacate a certain road in Cambria Township, leading from William Howell's to John J. Jones'.

Mary Evans  
Stenographer.

Testimony taken this the Twentieth day of November, 1911,  
before the Board of Viewers in the matter of the Petition to vacate  
a Public Road in Cambria Township, leading from William Howells to  
John J. Jones'.

J. L. Elder, Esq., called and sworn.

DIRECT EXAMINATION BY S.L. REED, ESQ.,

Q. Mr. Elder, you are a surveyor and civil engineer?

A. Yes, sir.

Q. How long have you been working at that?

A. About twenty years.

Q. Do you know where the road is leading from William Howells  
to John J. Jones' farm for which a Petition has been presented  
for vacation?

A. Yes, sir.

Q. Did you make a survey of that road for the purpose of ascertaining  
the grade?

A. Yes, sir.

Q. When did you make that survey?

A. Last Friday or Saturday.

Q. Did you make a map of your work?

A. Yes, sir.

Q. Do you have it with you?

A. Yes, sir.

Q. Is this the result of your work?

A. Yes, sir, that is the map showing the location of the two  
roads.

Q. What other road do you refer to ?

A. The road that I refer to, I made the survey of both roads, one starts from William Howell's and coming up by Joseph O. Thomas to the Jones Farm; and then from William Howell's by R.S. Roberts to the Jones Farm.

Q. Did you take the grade?

A. I took the grade on the road around the Thomas place, but I only took it from the Howell's place up to the Roberts place, I did not have time to take the other.

Q. Which is the better grade, if any?

A. The one around by Thomas' I consider the better grade.

Q. Are you familiar with both those roads?

A. Yes, since I surveyed them.

Q. State whether or not the opportunity for changing the grade in passed the Thomas Farm is better than on the road running up by R. S. Roberts Farm?

A. Better chance to change the grade for the light grade.

Q. Kindly state why?

A. Well, by swinging in to the right you can get more distance and lessen the grade by Reese's house.

Q. Do you know whether or not there is a School House on the road by which the Petition is presented to vacate?

A. Yes, sir.

Q. Have you any other papers showing your work?

A. Yes, sir, I got a profile.

Q. Is this the profile?

A. Yes, sir.



We now offer the map and profile showing the result of Mr. Elder's work on the ground.

Counsel for the Petitioners objects to the map and profile offered in evidence and all matters contained therein, which are not bearing directly on the road in question which is to be vacated and described in the Petition, and further object to any testimony introduced by this or any other witness pertaining to this other than the one described in the Petition.

By Mr. Reed.

The purpose of introducing this map and the profile is to show that the road which is sought to be vacated as a better grade than the other road, and that it is a more direct route leading from the County Seat, Ebensburg, to Wilmore than the other road which passes Mr. Howell's Farm.

Counsel for Petitioners in response to the purpose of the offer replies by stating that there is but one question before this Board of Viewers, and that is the necessity of the road described in the Petition. And should they determine that this road described in the Petition is not necessary, that would be the extent of their jurisdiction.

By Mr. Reed:

I wish to state that this is the only usual and ordinary method of settling these questions on a road of this kind.

Counsel for Petitioners objects to the draft or any part thereof, and to the profile or any part thereof be considered by the viewers that extends beyond the points of the Public Road to be vacated as described in the Petition.

CROSS-EXAMINED BY WILLIAM DAVIS, ESQ.:

Q. Mr. Elder, from your observation of that road has it been traveled lately?

A. It has been some traveled.

Q. Does not show any evidence of being a Public Road by either being traveled or otherwise?

A. Well, it has been traveled, but it don't look where as though it had been worked on lately.

Q. Did you observe any bars or gates upon it?

A. There was gates there but they were open. Two or three.

Q. From your personal observation of the road does it show any evidence of public improvement for many years?

A. Well, I don't know exactly. There has been a road but it is has been traveled, but has not been worked on for late years.

BY MR. SHOEMAKER .

Q. Mr. Elder, from the condition of the ground along the old road, you say, that from all appearances from the point of the public road below William Howell's house up as far as Joseph O. Thomas', the same has been practically abandoned for a number of years?

A. Well, I would not say it has been abandoned, there is an indication that there has been traveling over it.

Q. What is the condition of the ground, would you say, for construction of a public road?

A. It would be favorable in making these changes.

Q. Just as it is now without making any changes?

A. For improvement, well, it could be improved.

Q. Would it be favorable for a public road ?

A. In a spounting condition of the road, I think it would be favorable to be improved.

JOHN MCCORMICK, called and sworn:

DIRECT EXAMINATION BY MR. REED:

Q. Mr. McCormick, where do you live?

A. I live in Summerhill Township.

Q. Do you know the road that starts in by William Howell's up to The Joseph Thomas Farm out by the School House?

A. I do.

Q. About how long have you known that?

A. About 55 or 56 years; since 1855.

Q. Do you know whether or not that road has been traveled ever since?

A. Yes, I have traveled it.

Q. Are you familiar with the roads leading from Ebensburg to Wilmore?

A. Yes.

Q. State whether or not that is the most direct route from Ebensburg to Wilmore?

A. Yes, I understand it is a direct, I don't know, I think it is most direct, and there is a road past Isaac J. Hughes, I don't know the difference.

Q. What would <sup>you</sup> say about the grade of that road as compared with the other road that leads up over the Howell's hill?

A. It is a better grade.

Q. Do you know whether or not there is a School House located along this road that leads up past Mr. Howell's up through Joseph O. Thomas place and out from the other road?

A. Yes.

Q. Do you know whether or not there are farmers living up that section along this road?

A. Yes, sir, I know William Reese, Joseph O. Thomas and William Bumford. Bumford lives West of the road.

CROSS-EXAMINED BY MR. DAVIS.

Q. Have you ever made a measurement of any road leading from Ebensburg to Wilmore with a view of ascertaining the most direct route?

A. I did not make a measurement.

Q. As a matter of fact Mr. McCormick, had you not heard the people in that community state that the most direct route from Ebensburg to Wilmore leads past Isaac Hughes'?

A. I said I don't know whether or not that is the most direct.

Q. Is not the road that is proposed to be vacated by the Petition a wet spouty road?

A. It is not. I would not consider it a wet spouty road.

Q. Have you not seen the water flowing freely on parts of this road the year round?

A. I have water from a couple of springs crossing the road

and along it some.

Q. Would you confine it to a couple?

A. I only know two, the Reese spring, and one above. Water comes up and is not kept off the road.

Q. How many years is it since this road has been abandoned by the traveling public?

A. I do not know that it is ever abandoned by the traveling public.

Q. You say you don't know, by that I understand you are not prepared to answer the question?

A. I know I have not abandoned it. I am one of the traveling public. In winter I prefer that to the other road and have done it.

Q. You are confining your questions to your own action?

A. No, I am not, I have other people travel it to. I have not traveled it most lately.

Q. How many years since you traveled that road with your team?

A. Well, I don't remember exactly, I guess ten years since I traveled it with a team.

Q. Are you positive that you did travel it within ten years with your teams?

A. Well, I may have traveled it since ten years. I know that sometimes I would have traveled it, but the road is rough and should have been worked on.

Q. You live in Summerhill Township?

A. Yes, sir.

Q. How far from this road?

A. A little over two miles.

Q. When were the last improvements made upon the road described

in the Petition by the Supervisors of Cambria Township?

A. I do, not know that, I never saw them work on it.

Q. When did you walk over it last?

A. Well, I walked over it from Ebensburg to home, about six or seven years ago.

Q. What was its condition then?

A. Well, its condition the road is built, it has not been worked upon.

Q. Is that all the description you can give?

A. Well, it is stony. There is one place down near this spring of Will Reese's that it has been wet some.

RE-DIRECT BY MR. REED:

Q. Didn't you come along the road this morning, Mr McCormick?

A. I did, I came along with Mr. Thomas.

BY MR DAVIS:

Q. You didn't find very smooth riding ,did you?

A! No.

WILLIAM REESE called and sworn.

DIRECT EXAMINATION BY MR. REED:

Q. William, do you know where this road, which they are seeking to vacate, is?

A. I certainly do.

Q. State whether or not this is the main road leading into your farm?

A. It is the main road.

- Q. Have you any other public road leading into your farm?
- A. I have from the Wilmore side.
- Q. In coming to Ebensburg or going home, how much farther would you have to travel by going around the other road?
- A. Well it would make probable a mile farther.
- Q. Do you know something about the grade of this road that goes up past your house?
- A. I always thought it was a pretty good grade.
- Q. Have you been using this grade?
- A. I have.
- Q. About how long, William?
- A. That is how long, well, I have used it for thirty years. I have been along the road that long.
- Q. Do you use this road in coming to Ebensburg?
- A. I use it.
- Q. State whether or not in the winter time this road drifts less than the other road coming up from the Howell's hill, if you know?
- A. Yes, it drifts less than the other road. I have known people going over the other road and have been blocked, they come up over our place and come down over this road.
- Q. Do you know of the School House along this road?
- A. Yes, sir.
- Q. Do you send your children to that school?
- A. I do.
- Q. Do they use this road in traveling to and from the school house?
- A. They did.
- Q. Would you have any other road by which you could send your children to school other than this road without sending them through or across some body else's property?

- A. I could by sending them around the other road.
- Q. How much farther would you have to send them by the other road, as near as you can tell?
- A. Well, it would be quite a bit farther, it would be about one half mile farther, I did not measure it.
- Q. In sending your children around the other way, would they encounter snow drifts?
- A. Yes.
- Q. Have you asked or demanded the Supervisors of the Township to keep up this road, or have you, Mr. Thomas and the others along through there been keeping it up at your own expense?
- A. Well, we have kept it up as much as it is kept up for some years.
- Q. Do you ever help Mr. Thomas to run the road machine on it for yourselves?
- A. Yes, sir.
- Q. This road has not been an expense to Cambria Township has it for the last several years?
- A. I would not think so.
- Q. State whether or not it is of very great convenience to you, Mr. Thomas, and Mr. Bumford to have this road so that you can get into and from your properties?
- A. Why I would consider it as a great convenience if we had it, if it was fixed up.
- Q. Can this road be worked conveniently with the road machine?
- A. I think we worked it except one short piece that we skipped.

CROSS-EXAMINED BY MR. DAVIS:



- Q. You say it has been no expense to Cambria Township for several years, how many years?
- A. Well, I could not answer that.
- Q. As near as you can?
- A. I don't know that, I never worked for the Township on this road, that is I never was paid for it by the Township, and I have lived there thirty-seven years.
- Q. Mr. Reese, this road has been abandoned by the Township?
- A. Well, they have not done any work on it for several years. When I was small they may have worked it.
- Q. Do I understand that your age is thirty-seven?
- A. Thirty-seven years.
- Q. Then you have been working on the public roads for the past twenty years, have you not?
- A. Well, I suppose I have.
- Q. For how many years have the gates or bars been placed upon this road?
- A. I could not answer that.
- Q. As near as you can recall?
- A. You mean to say the first one, I could not tell.
- Q. You know of them being there for the past ten years or more?
- A. Yes, sir.
- Q. You state you have a private road leading from your residence to the other public road leading from Ebensburg to Wilmore?
- A. I do.
- Q. Is not the other road a better road than this one described in the Petition?
- A. Under the present condition of the road, it is a better road, that is, it is in a better condition than the other

road but it is much farther from my place to Ebensburg.

Q. By saying it is much farther what points do you consider?

A. Well, I mean from where I start from.

Q. Yet you have traveled the other road for many years from your place to Ebensburg?

A. Not altogether.

Q. Is the other road the one you have used the most?

A. In traveling to Wilmore I travel the other road the most, well then I could not tell, I travel the both.

Q. When you come to Ebensburg you are only required to travel over a part of the road described in the Petition?

A. Yes, part of the road.

Q. How many pairs of bars or gates are you required to let down in traveling to Ebensburg?

A. Well, there is three gates at the present time.

Q. Do your children travel over the road described in the Petition when they go to school or do they go across the fields?

A. Well, they usually go along the road.

Q. How do they reach the school when the road is drifted?

A. I do not know that road is drifted.

Q. You say they usually travel this road?

A. Yes.

Q. What other road do they go?

A. They go over Mr. Thomas' field.

Q. That is much nearer, is it not?

A. Well, I don't know as it is, I never measured it. I could not say

Q. What is the distance your children are required to travel to reach this school house when they go from your private road to the other public road?

A. Well, I would judge it is about a mile and a quarter. I don't know, I never measured it, it may not be that.

Q. Is it a mile and a quarter?

A. Well, as near as I can tell, it is.

Q. How many farms do your children pass around in reaching this school on the other road?

A. They pass through the Mary Jones Estate farm outside of ours.

Q. Why did you skip a piece of this road when you went over it with the machine?

A. I don't know maybe our time was short.

Q. Is there not a large part of it that no machine could effect in any way on account of rocks?

A. Not to my knowledge.

Q. Is it rocky?

A. The road you mean, well, there is some rock there. They are not solid rock, they are loose stones.

WILLIAM BUMFORD, called and sworn.

DIRECT EXAMINATION BY MR. REED.

Q. Mr. Bumford, do you know where the road is that they are trying to vacate in Cambria Township?

A. Yes, sir.

Q. Is it near your place?

A. My land runs down through it.

Q. State whether or not you use this road in coming to and from your farm?

A. I do.

- Q. Have you any other way of getting in and out of your farm?
- A. No, sir.
- Q. Do you have children?
- A. Yes sir.
- Q. Do they go to the school house located on this road?
- A. Yes, sir, they go to this school house , but they do not go over this road.
- Q. How do they go?
- A. Across the fields.
- Q. How long have you lived there, Mr. Bumford?
- A. Well, I got it in 1906, and moved there in February afterwards.
- Q. Have you any other way of getting in and out from your farm than by this road?
- A. No, sir.
- Q. If this road is vacated and you would have to around by the school house out to the other road, and then come to Ebensburg about how much farther would you be compelled to travel?
- A. It is only the one end of it I am using.
- Q. If this road is vacated and then you would go out by the school house and come up to Ebensburg, how much farther would you have to come to Ebensburg?
- A. I don't know.
- Q. Do you use this road entirely in coming to Ebensburg?
- A. No, I don't use that one. I just use the end next to the school house.
- Q. About how much of that do you have to use?
- A. I come out about ten rods from the corner of the school house yard and get on the road.

Q. If the other road, the Township road, is put in a good condition for traveling, how much nearer would it be for you to go to Ebensburg?

A. I suppose it would be about a half mile nearer for me.

CROSS-EXAMINATION BY MR. DAVIS:

Q. Have you always been accustomed to using the end of this road leading from the school house to the Ebensburg, Wilmore road, both in your travels to Wilmore and Ebensburg?

A. Yes, sir.

Q. Then to vacate a part of this road described in the Petition would not change your course in traveling either way?

A. No, if they would not shut me out.

Q. Have you a private road from your own fields to that portion of this road which leads from the school house to the Ebensburg and Wilmore road?

A. Yes.

Q. Does your farm reach the part of this road that passes the school building?

A. The school lot was taken off the farm.

Q. Well, there is nothing to prevent you from crossing your own farm to reach that portion of this road which leads from the school house to the Ebensburg and Wilmore road?

A. I can come out in the school house lot if they let me cross that.

Q. The portion of this road which leads from the school house to the public road leading from Wilmore to Ebensburg adjoining your field, does it not?

A. Just the one they are trying to vacate.

Q. Then you can come out at any point you wish on this Public Road leading from the school house to the Wilmore Road?

A. Yes, I can.

Q. Then if the public road is not vacated past the school house lot it will not affect you in reaching it?

A. I can reach it but I have my road made, you know.

Q. Through the same field?

A. Yes, through the same field.

Q. Can you reach a portion of this public road which is not to be vacated from your own field?

A. I can the way you explained it to me.

Q. You can reach the portion of this public road not to be vacated by merely changing your lane across your own field a part of the way?

A. Yes, sir.

Hearing adjourned at 12.15 to meet at 1:30 P.M.

MR. THOMAS DORAN, called and sworn:

DIRECT EXAMINATION BY MR. REED.

Q. You live in Summerhill Township?

A. Yes, sir.

Q. Do you know the road that starts in at William Howell's and goes up through the Reese place up past the school house?

A. Yes, sir.

Q. How long have you known that road?

A. Fifty years.

Q. Have you been supervisor of Summerhill Township?

A. Yes, sir.

Q. How many terms?

A. I don't just remember, several times.

Q. As Supervisor have you had considerable experience in making roads?

A. Quite a bit.

Q. From your experience as Supervisor and your knowledge of the road just described, state whether or not it is practicable to make that a good Township Road?

BY MR. DAVIS.:

The testimony is objected to as irrelevant and immaterial.

A. I think it would be practical.

Q. Do you know the grade on the other road that goes up around by Robert's.

A. Yes, sir.

Q. What would you say as to which could be made a better road for the traveling public.

BY MR. DAVIS.

The question is objected to as irrelevant and immaterial for the reason that the question is not before the Board of Viewers.

A. I think it can be made a better road, the grade will not be so great.

Q. Do you know anything about whether or not the road which goes up past Mr. Roberts' drifts in winter time?

A. Yes, sir. Badly.

Q. Do you know whether or not the other road drifts badly?

A. I do not think it does. The West wind generally comes lengthwise with the road.

CROSS EXAMINATION BY MR. DAVIS.

Q. When did you drive this road in question last?

A. Well, it is a long time, quite a spell. It may be twenty years.

Mr. WILLIAM DORAN, called and sworn.

DIRECT EXAMINATION BY MR. REED.

Q. Mr. Doran, are you familiar with the road that starts in by Howell's and goes up through Reeses', Joseph Thomas' and the school house?

A. Yes, sir.

Q. How long have you known that road?

A. Forty-five or fifty years.

Q. What would you say as to the practicability of making it a good Township Road?

A. Oh, it can be very easily, with a little money and a good bit of work.

Q. What would you say about the relative grade between this road and the road that runs up past Mr. Roberts'?

BY MR. DAVIS:

Objected to as irrelevant and immaterial, there being but one road in question.

A. I think the grade of this road or the road they want to vacate a much better grade.



Q. Do you know anything about the drifting of the two roads?

A. Yes, sir, I think the road we travel now drifts much worse, and it might drift up between William Bumford's and Joseph Thomas'. But the road we have now drifts bad.

CROSS EXAMINATION BY MR. DAVIS:

Q. How long since you have driven over this road with your teams?

A. Twenty-five or thirty years.

GEORGE BUMFORD, called and sworn.

DIRECT EXAMINATION BY MR. REED.

Q. George, you know this road which they are seeking to vacate?

A. I do.

Q. How far is it from where you live?

A. About one mile and a half.

Q. Have you been over the road recently?

A. I drove over it about six weeks ago.

Q. Are you familiar with the other road that leads up past Robby Roberts'?

A. Yes.

Q. Do you know whether or not that road drifts badly in the winter time?

BY MR. DAVIS.

All evidence pertaining to any road other than the road in question described in the Petition now before the Viewers is objected to as irrelevant and immaterial.

A. It does drift pretty bad in places, we can hardly get through at all.

Q. Do you know whether or not the road that they are seeking to vacate drifts as badly as the other?

A. No.

Q. In going to your Brother's place or farm would you have any other public road to travel?

A. No, sir.

CROSS EXAMINATION BY MR. DAVIS:

Q. Could not you travel the same private road that your brother travels?

A. Yes, but he goes from the one end of this road; he goes from the same end of this road.

Q. How long is it since you drove over the road in question with a team and load?

A. Well, it is not my road. It is not fit to go across the way it is. I do not know, I could not say how long I had a team, except a horse and buggy.

Q. Do you ever haul a load with your team to market over this road?

A. No.

REDIRECT BY MR. REED:

Q. You don't live along the road?

A. About one and a half miles.

Q. And you have another road you can go to market?

A. Yes.

RE-CROSS BY MR. DAVIS.

Q. And the other road is much better than this road?

A. Yes, the road I use is much better than this one.

DANIEL JONES, called and sworn:

DIRECT EXAMINATION BY MR. REED:

Q. You are the Road Master and Supervisor of Cambria Township?

A. Yes, sir.

Q. You know the road which they are seeking to vacate from William Howell's up to the school house?

A. Yes, sir, I know it.

Q. State whether or not that road can be worked with a road machine and put in good condition?

A. I think it can.

CROSS-EXAMINATION BY MR. DAVIS.

Q. How long is it since the Township has paid any attention to this road?

A. I don't know.

Q. Have they done so within your knowledge?

A. No.

Q. How old are you?

A. Forty-one years.

Q. How far do you live from the road?

A. Close to a mile.

SAMUEL EVANS, called and sworn.

DIRECT EXAMINATION BY MR. REED.

Q. Where do you live, Samuel?

A. I live on Summerhill road, below Pensacola.

Q. Do you know the road they are seeking to vacate up past Howell's and the school house?

A. Yes, sir.

Q. Were you ever over it?

A. Yes, sir.

Q. How long ago?

A. The last time I was over it, I don't just remember the date; I don't think it was over six weeks ago.

Q. Do you know the other road?

A. Yes, sir.

Q. What do you say as to the practicability as to making this road a good road?

A. I think it would be the proper road to make it a Township road.

CROSS EXAMINATION BY MR. DAVIS.

Q. How many miles do you live from this road?

A. I judge about two miles.

Q. Do you use it?

A. I used it about six weeks ago.

Q. For what purpose?

A. Hauling two tons, a gasoline engine, on low wheels.

Q. Where did you haul it to?

Joseph O. Thomas'.

Q. From what point?

A. From Mr. Howell's.

Q. Did you go up the hill or down?

A. I went up from Mr. Howell's to Mr. Thomas'.

Q. What was the character of the road?

A. Well, there was some pretty ugly stones, but I could twist around easier than I could pull the other hill.

Q. Any water there?

A. There was one real swampy place in the road.

JOSEPH O. THOMAS, called and sworn.

DIRECT EXAMINATION BY MR. REED:

Q. Joseph, you are familiar with the road which they are seeking to vacate which runs near your property.

A. Yes, sir.

Q. How long have you known that road?

A. About fifty years.

Q. State whether or not it is important to you and your neighbors in that community that the road remain open?

BY MR. DAVIS.

The question is objected to in as far as his neighbors and the traveling public is concerned.

A. Yes, it is important for me, my neighbors, and for the general public.

Q. Is there a school house located on the road just at the terminus where they are trying to vacate?

A. Yes, sir.

Q. If this road is vacated will the road leading from the Wilmore road to the school house terminate at any cross road?

A. No.

- Q. When the traveling public come into that road as far as the school house if they want to go on to Ebensburg or go farther, is there any opportunity for them to do so other than turn around and go back to the Wilmore road in case this road is vacated?
- A. No, sir.
- Q. Were you along with the Surveyor when he made the map in taking the grades?
- A. Yes, sir.
- Q. What do you say about the grade and the practicability of opening this road to the public or keeping this road open to the general public?
- A. The grade is easier as it stands, and can be easily remedied at the steepest place. We have worked that road with a road machine, except from three to four rods, and that cannot be worked for more than one reason; on the one side there were trees and roots there, the other side was pretty stony, and we were not putting the road in an excellent condition, were we to make the road in a good condition we could easily make it.
- Q. Relative to the school house located on the road, is it important that the road be opened all the way through?
- A. Yes, I think it is.
- Q. State why?
- A. People travel to the school house on both sides, teachers come from both sides, superintendent comes from both sides, friends of education visiting the schools comes from both sides.
- Q. What inconvenience would it be to you to have this road closed up?
- A. In the first place in coming to Ebensburg I would have to travel from a mile and a quarter to a mile and a half farther.

Q. Now what is the second place?

A. In the winter time when it is drifted I would have to stay at home on account of the drifts, and the road from my place to William Howell's I have not known to drift in fifty years. In the spring of the year when the sledding is gone that I cannot travel on runners, I could not take a buggy or a wagon on the other hill or on the other side of the church on the same road. There are always a week, sometimes two or three, between sledding and wagoning when the other road is impassible.

Q. During that time, what road does the traveling public use?

A. Past our place.

Q. You know where William Reese lives?

A. Yes.

Q. Do you know whether or not his children travel this road to go to school?

A. Yes, I see them nearly every day.

Q. If this road is vacated and you or your grantees were to refuse his children crossing your fields, would that interfere with his children attending school?

A. He has a private road leading to the other public one, but that makes the distance from one-fourth to one half mile greater.

Q. In coming to the County Seat, Ebensburg, how much farther would you have to travel if this road was vacated?

A. From a mile and a quarter to a mile and a half, or over.

Q. Do you know about how much farther William Reese would have to travel, as near as you can make it?

A. No, I don't. He would not have to travel quite as far, he could travel on his private road.

Q. What inconvenience would it be to William Bumford?

A. Why it would make it a little farther for him, about half a mile or less.

CROSS EXAMINATION BY MR. DAVIS.

Q. You say if this road was closed you could not get out from your home at all on account of the drifts?

A. Yes, certain times of the year.

Q. How often during the week do you come to market?

A. From one to six days each week.

Q. Do you travel down this road which we propose to vacate?

A. No, I don't travel to my market this direction.

Q. Then you could reach the part of this road which is not to be vacated by traveling over your own land, could you not?

A. Not according to your theory if the road is on the West side of the school house, the road comes on the East side now.

Q. The road being on the East side as testified by you, could you reach that end of the public road by traveling over your own lands on the way to market?

A. Yes, I could reach it any place from the school house lot to turn into from my own land.

Q. Then you do get out from home by going over a road other than the one vacated during the entire winter?

A. I can get away from my home either direction any time without taking the road which is proposed to be vacated.

Q. What is the distance from your private road where it connects with this public road to the school house lot?

A. I have no private road. The distance from my home to the school house is about two thousand feet.



- Q. Then in case this road should be vacated and this land should revert to you, would there be anything to prevent you from traveling over the school house lot?
- A. No, sir.
- Q. You stated that in the event the traveling public turn from the Wilmore road to the school house that in the event that was the end of the road they could not turn around, do you mean to say that the traveling public could not turn around upon thirty-three feet of ground with the school house lot adjoining the same?
- A. No, sir.
- Q. What is the size of the school house lot?
- A. One half acre.
- Q. How do you people get to church in the winter, and carry mail through the week, and reach the market if this road should be closed?
- A. The men has been coming through my fields and Mr. Reeses fields for weeks in succession. People come to church from Mr. Reeses grounds.
- Q. Do you mean to say that the people residing in Cambria Township and Summerhill Township, and all the traveling public having occasion to travel to and from Ebensburg and Wilmore could not do so provided this road is vacated?
- A. Yes, sir.
- Q. Mr. Thomas, if this is the only road that you could travel during the winter on account of the drifts why have you permitted gates and bars to be erected thereon and allowed the Supervisors to neglect the road for the past fifteen or twenty years and not keep the same in the proper condition for the traveling public?

A. The main reason was I didn't want to make disturbance. I would sooner put up with those conditions than make disturbance.

Q. Does the traveling public have a parallel road upon which they can travel from Ebensburg to Wilmore without it?

A. They have three. This would be a part of the one.

Q. Would it not be burdensome on the tax payers to have the fourth road by keeping this one in question up?

A. No, not as burdensome as to keep the Cherryridge up.

Q. Is it not a fact Mr. Thomas, that there are too many public roads in that community at the present time, and that fact prevents the tax payers from keeping the roads in as good a condition as they should be?

BY MR. REED:

The question is objected for the reason that if it be shown by the evidence that the road is necessary for the witness or others along the road, it makes no difference how many public roads are in that community.

A. No, there are not too many. We have to have some basis as to whether there are too many, taking the financial standing of the district.

Q. How many gates and bars are there upon this road?

A. Two gates, no bars.

Q. Who placed them there?

A. William Howell.

Q. How long have they been there, or any of them?

A. One, I suppose, about two years; the other one was only put there last August, but there was two poles that William Reese put there.

Q. Has there been any wires there?

A. Yes, William Reese put two wires across the road at the same time. The poles and wires were on the line between me and William Reese, the poles were on the line between William Reese and William Howell or near about the line, and the gate is where the road in question starts is at the north end of the road.

BY MR. REED.

WILLIAM BUMFORD re-called.

Q. Mr. Bumford, you signed the Petition to vacate this road, didn't you?

A. Yes, sir.

Q. State whether or not you understood it at the time you signed it?

A. I didn't.

Q. Is it your desire that the Viewers vacate this road?

A. No, sir.

BY MR. DAVIS:

Q. What part didn't you understand?

A. I didn't think anything about it when Mr. Hughes brought the paper to me.

Q. Did Mr. Hughes tell you what road was to be vacated by that Petition?

A. Yes, sir.

Q. You knew the road well, didn't you?

A. I knew it, yes.

703 Sept 1911

In the matter of the Petition  
to vacate a road from William  
Howells' to the Farm of John  
J. Jones.

---

Testimony on behalf of those  
in favor of vacating a road.

Filed 9 Dec 1911

SEVENTH. The evidence shows that school children, the children of William Reese, and others, will not have any direct road to the public school without crossing properties owned by other people or by traveling much further through roads that drift badly.

EIGHTH. The evidence shows that the road which was vacated is the only public road in and to the properties of Joseph O. Thomas, Wm. Reese and William Bumford, and it would work a great hardship to them and their children if the road were vacated.

NINTH. Under all the facts and the evidence and the law upon the case, the report of the viewers should be set aside as being unjust, illegal and inequitable.

Joseph O. Thomas

County of Cambria, SS.

Before me, the Prothonotary, in and for said County, personally appeared Joseph O. Thomas, who being duly sworn according to law deposed and said, that the matters of fact set forth in these exceptions are true to the best of his knowledge and belief; and that the legal matters herein set forth are true to the best of his information, knowledge and belief.

Sworn and subscribed to before  
me this 12<sup>th</sup> day of  
December, 1911.

Joseph O. Thomas

A. D. Kirkead

clerk. L. L.

In the Court of Quarter Sessions of Cambria County.

No. 3, September Sessions, 1911.

In the matter of the Order to view and vacate a road in Cambria Township.

THE SEVERAL EXCEPTIONS TO THE REPORT OF VIEWERS.

FIRST. The evidence submitted to the viewers shows conclusively that the road which was vacated was not burdensome to the citizens of Cambria Township.

SECOND. The evidence shows that the road vacated was a great convenience to the traveling public, and had a better grade than the other roads which will be used when this road is vacated.

THIRD. The road which was vacated leads to and past a Public School House, and therefore, under the law, it can not be vacated.

FOURTH. The report shows that the viewers only vacated a part of the public road and leaves the balance of said road terminate in a cul de sac, on the private property of Joseph O. Thomas. This cannot legally be done by the viewers.

FIFTH. One of the Petitioners to vacate the road entertained one or more of the viewers by giving them dinner, which is against public policy and which has been held by some Courts to be sufficient to set aside a report of viewers.

SIXTH. The viewers failed to file their report in open Court according to law.

In the Court of Quarter  
Sessions of Cambria County.  
No. 3, September Term, 1911.

---

In the matter of the Order  
to view and vacate a road in  
Cambria Township.

---

EXCEPTIONS TO THE REPORT  
OF VIEWERS.

*Filed 12 Dec 1911.*

REED.

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

The petition of the undersigned inhabitants and citizens of  
the Township of Cambria, in said County, respectfully sheweth:

That a road has been long since laid out from a point at or near  
the barn of William W. Howell's, in the public road leading from Eben-  
sburg to Wilmore, to a point at or near the residence of John J. Jones,  
in the public road leading from Ebensburg to Wilmore, in said Town-  
ship, and that they are desirous of having that portion of said pub-  
lic road lying between the point where the same connects with the  
Ebensburg and Wilmore road at or near William W. Howells barn and en-  
ding at a point at or near the public school house, known as the Reese  
E. Reese school, in said Township, vacated for the reason that your  
petitioners believe that said road has now become useless; inconven-  
ient and burdensome upon the taxpayers of said township.

Your petitioners therefore, pray the Court that the said road  
may be vacated, agreeably to the Act of General Assembly in such case  
made and provided, and that viewers may be appointed for that pur-  
pose; and they will ever pray, &c.

L. J. Hughes  
William W. Howell  
Samuel Howell  
Rowland D. Jones  
D. L. Owens  
John J. Jones  
John S. Jones  
Lincoln Leazer  
Reese

John J. Morgan  
Geo. D. Pryce  
David Pryce  
John Kinchman  
John J. Jones  
John J. Jones  
Wm. H. Jones  
J. J. Davis



Jra Bloom  
Benj Evans  
Harry J. Jones  
H. A. Devereaux

T. J. Roberts

Arthur Jones

Los H. [unclear]  
John J. Evans

Robert S. Rhexter

L. O. Evans

Abadiuh Rees

I. S. Hanks

John B. Griffith

R. L. Evans

J. S. Evans

Jas Lloyd

A. P. P. [unclear]

Geo J. Jones

John S. Davis

Owen Jones

Herman Roberts

John Bumpford

Abner J. Bumpford

Gustine Kemler

E. M. Jones

H. B. Davis

Wm Bumpford

Geo Bumpford

W. R. Roseland

E. G. White

John S. [unclear]

Chas. J. [unclear]

D. W. Fann

Wm. J. Vorhauer

Geo. H. Vorhauer

S. W. Evans

Cambria County, SS:

Before me the Prothonotary in and for said County personally came . . . L. J. Hughes . . . who being duly sworn according to law says that the persons whose names are hereto attached affixed their own signatures and that the facts set forth in the above and foregoing petition are correct and true to the best of his knowledge and belief.

Sworn and subscribed before me this  
2<sup>nd</sup> day of ~~August~~ <sup>Sept.</sup>, A.D. 1911.

A. S. Kinnear  
Prothy

{ L. J. Hughes

No. 3, Sept. Term, 1911

Petition to vacate a part of  
a public road in Cambria  
Township leading from  
Chm. Howells to John Jones

Filed 4 September, 1911

And now Sept. 4, 1911, this  
within petition read and  
considered and Alfred M.  
Shormaker, F. H. Campbell  
and John L. Singer are  
appointed viewers to view  
the road and report to the  
Court.

By the Court

WM. DAVIS,  
ATTORNEY AT LAW,  
EBENSBURG, PA.

HENRY HALL, PRINTER, INDIANA, PA.