

20th March 1931

no. 3

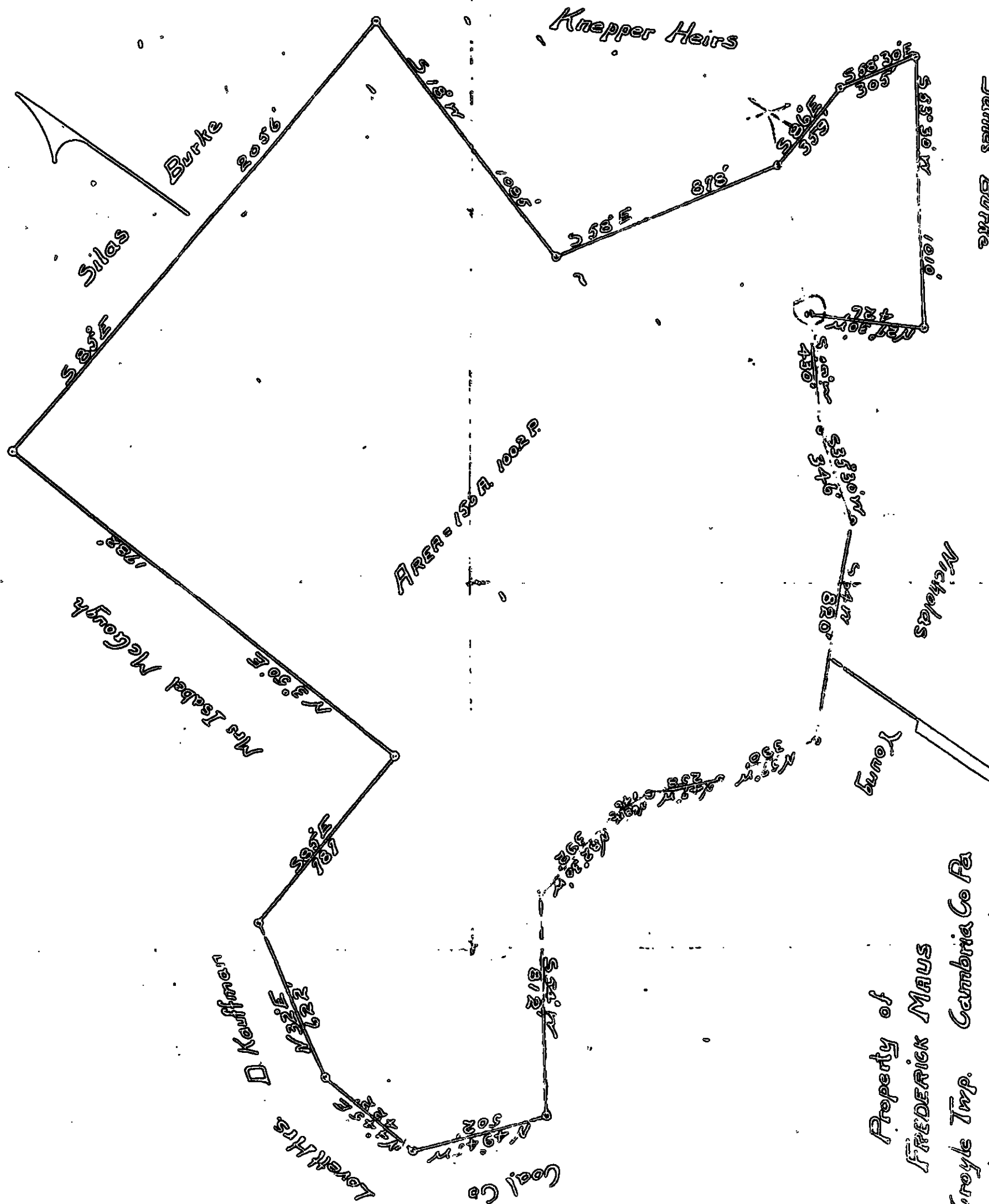
Rat. Recaptured

Exceptants Ex No 2
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44

14

24



Property of
FREDERICK MAUS
 Grayle Twp. Cambria Co Pa
 July 7. 1909 G.D Costlow

Rot Microfilmed

RD# 7

Mar. 1938

map #2

Not Recd. Filed

In Re: Laying Out a proposed
Road in Croyle Township,
Cambria County, Penna.

In the Court of Quarter Sessions
of Cambria County, Penna.
No. 7, March Sessions, 1938

S. E. Dickey
S. H. Jencks
Louis E. Kaylor
Viewers

Road
No. 7 March Sessions 1938 Docket

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

Re: Laying out a proposed Road
in Croyle Township, Cambria
County, Fenna.

Report of Reviewers

~~Order to Review~~

Report of Reviewers

*James McCann
A. M. Shormaker
L. E. Kaylor
Re. Viewers*

Filed: Dec. 3, 1938

12 Dec. 1938 Approved.

*By the Court
M. M. M. M. M.*

*15 May 1939 Conference Adjourned by
Professor*

10-11-39

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNA.

In Re: Laying Out a Proposed
Public Road in Croyle Township,
Cambria County, Pennsylvania

(No. 7, March Sessions, 1938.

ROAD DOCKET

REPORT OF RE-VIEWERS

To the Honorable, the Judges of the abovenamed Court.

We, the undersigned Viewers, appointed by the attached order of the Court to re-view a proposed public road in Croyle Township, Cambria County, Pennsylvania, respectfully report as follows:

That we have been duly sworn as Members of the Permanent Board of Viewers of Cambria County, as shown by the records of the Court; that due public notice of the time and place of meeting was given by posting notices, as required by law, along the route and at the termini of the said proposed road, as shown by copies of said notices hereto attached and by notice given to the Cambria County Commissioners, acceptance of service being hereto attached, and to the Supervisors of Croyle Township, copies of notice being also hereto attached. That we met in accordance with the notices given and at the time and place designated and proceeded with the duties of our appointment. There were present the three Re-Viewers and a large number of interested citizens.

We viewed the route as already laid out by the original View and as recorded by them in the Road Docket file; we also viewed the proposed route as desired by the petitioners for the review and heard the opinions of all those present, and after due and careful consideration we have arrived at the following conclusion:

That the road as proposed in the original View is not properly located to serve the best interests of the people living in that

locality; that the terminals of the proposed road are not located properly; that there is a considerable difference between the termini as prayed for by the petitioners for the original View and the termini as located by the original View. We are convinced that a road in that locality is necessary but the termini should be relocated and the route of the proposed road changed and located in a different direction so that more people living in the locality would be benefitted.

As we have no authority to change the termini, we have therefore agreed that the only proper solution in this case is for the Honorable Court to refuse the Petition for the original View and then the interested parties present a new Petition, with the termini and route so located that the greater number of people living in that locality would be benefitted.

Witness our hands and seals this Oct 14th day of October, 1938.

RE-VIEWERS

James Mc Cann
Tomie E. Taylor
A. M. Shoemaker

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNA.

Re: Laying out a proposed Road
in Croyle Township, Cambria
County, Penna.

No. 7 March Sessions, 1938. Road Docket.

PETITION FOR REVIEW.

TO THE HONORABLE THE JUDGES OF THE ABOVE NAMED COURT:

The petition of the undersigned inhabitants of Croyle Township, in the County of Cambria and State of Pennsylvania, respectfully represents:

1. On the 8th day of June, 1938, a petition was presented to this Honorable Court to the number and sessions above designated, asking for the appointment of viewers for the purpose of viewing and reporting upon the propriety of laying out as a public road or highway a road between terminal points hereinafter described, and, on said 8th day of June, 1938, the Court appointed S. E. Dickey, S. H. Jencks and Louis E. Kaylor, members of the Permanent Board of Viewers, as viewers to view the premises and make report thereon.

2. The Report of the Viewers appointed as aforesaid was filed in this court on the 11th day of July, 1938, showing that they had held their view on the 6th day of July, 1938, and laid out a road in accordance with the petition as shown by a draft filed therewith.

3. The road as laid out and returned by the Viewers is in many respects useless, burdensome and unnecessary, the same accommodating less than one-half of the families residing in the vicinity and who could have been accommodated by a road properly laid out, and one portion of said road in particular is of a prohibitive and unlawful grade, being of the grade of approximately eighteen feet to the hundred.

4. That if a road shall be confirmed and laid out in the place as returned by the report of the Viewers, a great injustice will be done to these petitioners, and to other inhabitants of the Township of Croyle aforesaid, as well as to the general traveling public, and no good purpose will have been achieved.

WHEREFORE, your petitioners pray the Court to appoint Re-viewers in the proceedings above mentioned, and in accordance with the provisions of the

Act of Assembly in such case made and provided, to the end that a review may be had herein.

And they will ever pray, etc.

State of Pennsylvania
County of Cambria

SS:

F. L. Maus being duly sworn according to law says that the matters set forth in the foregoing petition are true and correct as he verily believes.

Sworn and subscribed before me
this 8th day of September, 1938.


F. L. Maus

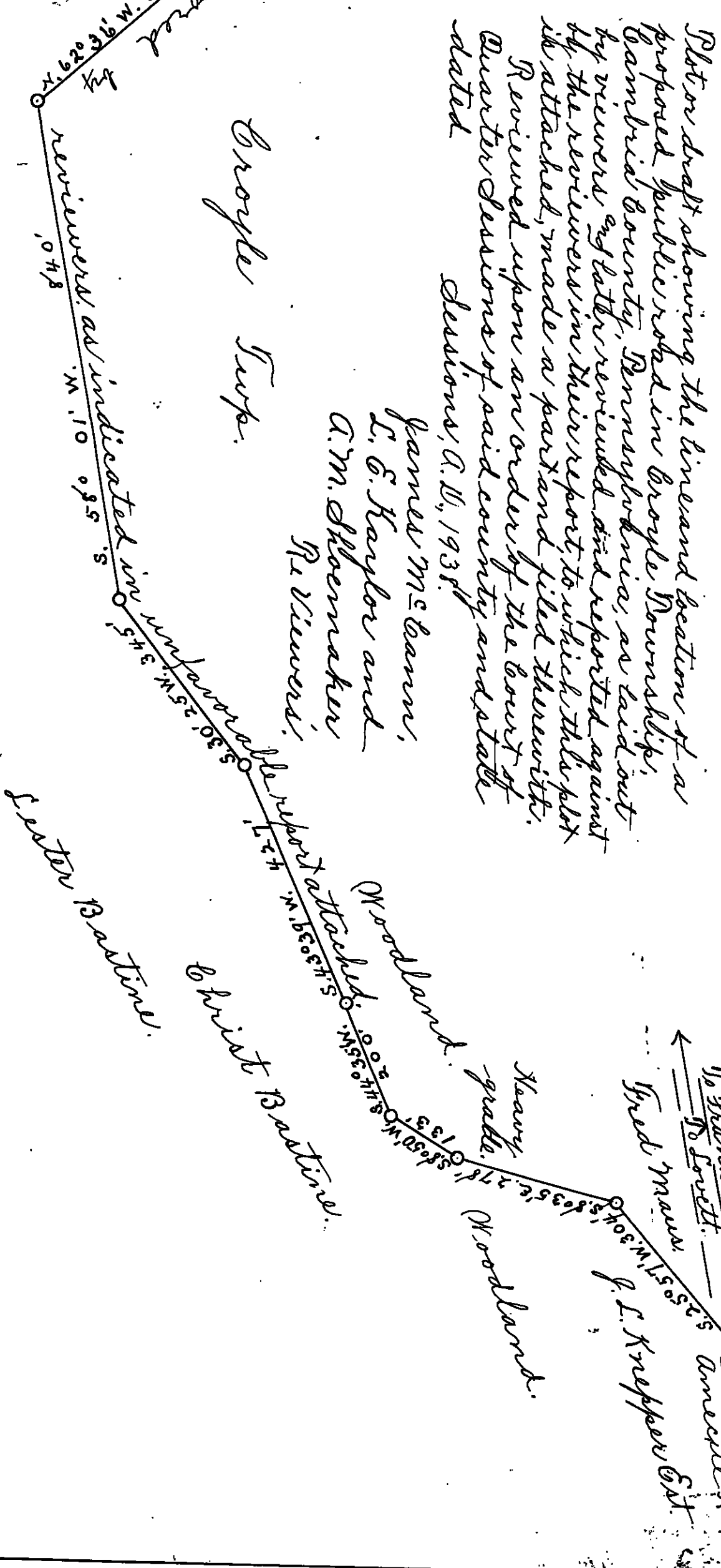
Helen E. McClune
Notary Public.
My com. expires March 2, 1941.

Now, September 10, 1938, review granted as prayed for, and James McCann, A. M. Shoemaker and L. E. Kaylor are appointed Viewers.

By the Court
McCann, P.J.

Extract from the Record.
Certified this 12th day
of September A. D. 1938.


Clerk of Courts



Plot or draft showing the line and location of a proposed public road in Groble Township, Cumberland County, Pennsylvania, as laid out by viewers ^{and} later reviewed and reported against by the reviewers in their report, to which this plot is attached, made a part and filed therewith.

Reviewed upon an order of the Court of Quarter Sessions of said county, and a date dated

Decisions Q. B. 1938

Sessions, A. H., 1938

James McEann,
L. E. Taylor and
A. M. Shoemaker
Peabody,

Pe Wines!

427
f. 32

to visit 13th

Easter Postcard.

Fred Maass.
3505 7th W. 3000
D. L. Kreppeler Co.

4.24

Point of beginning.

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY,
PENNSYLVANIA.

In Re: Laying out a proposed (No. 7 March Sessions
Road in Croyle Township, Cam-) 1938.
bria County, Pennsylvania.. (Road Docket.

NOTICE OF RE-VIEW

We, the undersigned Viewers, appointed by the
above named Court, to Re-View and determine as to
whether a road already viewed and determined is
properly located and necessary, as prayed for by the
petitioners.

The Road as proposed begins on the Portage
Wilmore brick Road, distant 792 Feet from where the
said Portage Wilmore brick Road intersects with an
Amasite Road, likewise leading to Portage, and the
place of ending being on a road leading from Lovett
to Beaverdale, known as Route 869 - distant 2453
Feet from where said Beaverdale Road, known as Route
869, intersects with the Portage Wilmore brick Road;
the distance of the said proposed road from beginning
to end being approximately one mile.

Will meet at the place of beginning of said
proposed road on Saturday, October 1st, 1938, at
9:30 A. M. for the purpose of performing the duties
of our appointment, at which time and place all in-
terested persons may appear if they think proper.

VIEWERS	(JAMES MCCANN
)	
	(A. M. SHOEMAKER
)	
	(L. E. KAYLOR

Sept 2/1938

I herby acknowledge
Receipt of a copy of the
Within Notice

John Kauffman, Secy.

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA
COUNTY, PENNSYLVANIA.

In Re: Laying out a proposed) No. 7 March Sessions
Road in Croyle Township, Cam- (1938.
bria County, Pennsylvania.) Road Docket.

NOTICE OF RE-VIEW

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place of ending being on a road leading from Lovett
to Beaverdale, known as Route 869 - distant 2453
Feet from where said Beaverdale Road, known as Route
869, intersects with the Portage Wilmore brick Road;
the distance of the said proposed road from beginning
to end being approximately one mile.

Will meet at the place of Beginning of said
proposed road on Saturday, October 1st, 1938, at
9:30 A. M. for the purpose of performing the duties
of our appointment, at which time and place all in-
terested persons may appear if they think proper.

VIEWERS

(JAMES McCANN

(A. M. SHOEMAKER

(L. E. KAYLOR

*Accepted Sept 20 - 1938
H. J. Dowd
Clerk.*

Ebensburg, Pa.

November 25th., 1938.

County of Cambria

To A. M. Shoemaker - - - Dr.

In re Re-view of Road in Croyle Township.

To one day on View	-	-	-	-	\$12.00.
26 miles @ 10¢ per mile	-	-	-	-	2.60.
To Engineering work & collecting data	-	-	-	-	15.00.
Tracing cloth	-	-	-	-	.40.
					\$30.00.

I hereby Certify that the above bill is an exact copy of the one filed in the Commissioners Office James McEwen

Johnstown Pa Dec 3-1938
Cambria County to
James McCann Dr.

Go Preparing Notices. Serving them
on County Commissioners and Township
Supervisors and posting as required
by law

40 miles at 10 Cts.

15.00
4.00
-

1 Day on view
28 miles at 10 Cts

12.00
2.80

Go Gathering Data. Preparing
report and filing same
Stenographer

12.00

2.50

\$51.30

I hereby certify that the above bill is
an exact copy of the one filed in the
Commissioners Office

James McCann

In Re: Proposed Public Road
inn Croyle Township. E
Cambria County Pa.

In the Court of Quarter Sessions
of Cambria County, Penna
No. 7, March Sessions. 1938

To Louis E. Kaylor, Dr.

October First, To Making View,

\$12.00

To Mileage, 43 Miles at 10 c,

4.30
\$16.30

DEC 20 1938 CERTIFIED

I hereby Certify that the above bill is
an exact duplicate of the one
filed in the Commissioners Office
James McEwen

No. 7 March Sessions, 1938, Road
Docket.

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

Re: Laying out a Proposed Road
in Croyle Township, Cambria County,
Penna.

EXCEPTIONS.

*Now May 15th 1939,
Captains to report of
Verdict Sustained
By the Court*

Filed: Sept. 10, 1938

SHETTIG & SWOPE
ATTORNEYS AT LAW
EBENSBURG, PA.

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNA.

Re: Laying out a Proposed Road
in Croyle Township, Cambria
County, Penna.

NO. 7 March Sessions, 1938. Road Docket.

EXCEPTIONS.

Now, September 9, 1938, comes F. L. Maus, by his attorneys Shettig & Swope, and files exceptions to the Report of the Viewers in the above stated proceeding as follows:

1. The petition, the Notice to View, the Report of the Viewers, and the map attached thereto are not in accordance with the provisions of the Act of Assembly with respect to designating the termini of roads proposed to be laid out in this Commonwealth, in that the place of beginning of the proposed road is described as "Beginning on the Portage-Wilmore brick road distance 792 feet from where the said Portage-Wilmore brick road intersects with an amiesite road likewise leading to Portage". There is no brick road leading from Portage to Wilmore, nor is there any brick road known or recognizable by the description "Portage-Wilmore brick road". Further, the place of ending of said proposed road is described in the petition as being "on a road leading from Lovett to Beaverdale, known as Route 869, distance 2453 feet from where said Beaverdale road, known as Route 869, intersects with the Portage-Wilmore brick road".

The second reference to the "Portage-Wilmore brick road" is an error inasmuch as there is no road of brick construction between Portage and Wilmore, and no road recognizable under such designation.

2. The original petition filed on June 8th, 1938, avers the place of ending as being "on a road leading from Lovett to Beaverdale, known as Route 869, distance 2453 feet from where said Beaverdale road, known as Route 869, intersects with the Portage-Wilmore brick road". On June 27th, 1938, a petition was presented asking to amend the place of ending as designated in the original petition by having the distance above given as 2453 feet amended to 1200 feet.

Notwithstanding said amendment, the notice of view which was posted by the Viewers in the vicinity of the premises involved in this proceeding avers the place of ending to be "on a road leading from Lovett to Beaverdale, known as Route 869, distance twenty-four hundred fifty-three (2453) feet from where said Beaverdale road, known as Route 869, intersects with the Portage-Wilmore brick road".

3. It is averred that the notice to view is vague, indefinite, illegal, erroneous and misleading; that the same undertakes to describe the terminal points of the proposed road by reference to a non-existent public road, to wit, the "Portage-Wilmore brick road"; the notice to view is further erroneous and misleading and designed to cause bewilderment to persons reading the same, and to cause them to be at a loss and uncertainty as to the location of the place of ending, because the same avers that such place of ending is 2453 feet from a certain point, whereas a later petition avers that the distance should be 1200 feet, and such is the distance as shown by the report of the viewers filed.

Shetty + Swope
Attorneys for Exceptant.

State of Pennsylvania |
County of Cambria | SS:

F. L. Maus being duly sworn according to law says that the matters set forth in the foregoing Exceptions are true and correct as he verily believes.

Sworn and subscribed before me
this 8th day of September, 1938.

Helen E. McClure
Notary Public.
My com. expires March 2, 1941.

Fred L. Maus

In Re: Laying Out a proposed
Road in Croyle Township,
Cambria County, Penna.

In the Court of Quarter Sessions
of Cambria County, Penna.
No. 7, March Sessions, 1938

S. E. Dickey
S. H. Jencks
Louis E. Kaylor
Viewers

Duplicate

S. E. DICKEY & CO.
CIVIL MINING AND CONSULTING ENGINEERS
803-811 JOHNSTOWN TRUST BLDG.
JOHNSTOWN, PENNA.

Sept. 9, 1938

James M. Jones, Clerk of Courts,
Ebensburg, Pa.

Dear Sir:

Re: No. 7, March Sessions, 1938

As per your instructions of September 1st, I
enclose you herewith duplicate copy of bill filed with
the report.

You will please file this certified copy with
the report, as I have mailed the original direct to the
County Commissioners.

Very truly yours,

S. E. Dickey
Viewer

In Re: Laying out a proposed
Road in Croyle Township,
Cambria County, Penna.

In the Court of Quarter Sessions
of Cambria County, Penna.
No. 7, March Sessions, 1938

To S. E. DICKEY, S. H. JENCKS & LOUIS E. KAYLOR, Dr.

To S. E. DICKEY Dr.

Obtaining information, data & preparing notices of View	\$ 12.00	
Stenographer & Stationery	2.00	
Posting and serving notices of view	12.00	
Mileage	3.00	
Making View	12.00	
Mileage	3.00	
Data & making survey, Engineering Corps, 1 day	23.00	
Mileage	3.00	
Plotting survey & preparing plan	12.00	
Drawing material & blue prints	2.00	
Data & preparing report	12.00	
Stenographer & Stationery	<u>2.50</u>	\$ 98.50

To S. H. JENCKS Dr.

Making View	\$ 12.00	
Mileage	<u>3.40</u>	\$ 15.40

To LOUIS E. KAYLOR Dr.

Making View	\$ 12.00	
Mileage	<u>3.40</u>	\$ 15.40

Total cost of View \$ 129.30

I, S. E. Dickey, do hereby certify that this is
an exact copy of the bill presented to the County Commissioners
for payment.

Sworn & subscribed to this
8th day of Sept. A. D. 1938

Mary F. Willett
Notary Public
My Com. expires April 8, 1939

S. E. Dickey

No. 7 March Sessions, 1938. Road
Docket.

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

Re: Laying out a proposed Road
in Croyle Township, Cambria County,
Penna.

agreed

April 20, 1938

PETITION FOR REVIEW.

*Now Sept. 10, 1938,
review granted as
prayed for, and
James McEwen
Wm. Schroeder
and L. E. Taylor
were appointed referees*

By the Court
SHETTIG & SWOPE
ATTORNEYS AT LAW
EBENSBURG, PA.

Filed: Sept. 10, 1938

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNA.

Re: Laying out a proposed Road
in Croyle Township, Cambria
County, Penna.

No. 7 March Sessions, 1938. Road Docket.

PETITION FOR REVIEW.

TO THE HONORABLE THE JUDGES OF THE ABOVE NAMED COURT:

The petition of the undersigned inhabitants of Croyle Township, in the County of Cambria and State of Pennsylvania, respectfully represents:

1. On the 8th day of June, 1938, a petition was presented to this Honorable Court to the number and sessions above designated, asking for the appointment of viewers for the purpose of viewing and reporting upon the propriety of laying out as a public road or highway a road between terminal points hereinafter described, and, on said 8th day of June, 1938, the Court appointed S. E. Dickey, S. H. Jencks and Louis E. Kaylor, members of the Permanent Board of Viewers, as viewers to view the premises and make report thereon.

2. The Report of the Viewers appointed as aforesaid was filed in this court on the 11th day of July, 1938, showing that they had held their view on the 6th day of July, 1938, and laid out a road in accordance with the petition as shown by a draft filed therewith.

3. The road as laid out and returned by the Viewers is in many respects useless, burdensome and unnecessary, the same accommodating less than one-half of the families residing in the vicinity and who could have been accommodated by a road properly laid out, and one portion of said road in particular is of a prohibitive and unlawful grade, being of the grade of approximately eighteen feet to the hundred.

4. That if a road shall be confirmed and laid out in the place as returned by the report of the Viewers, a great injustice will be done to these petitioners, and to other inhabitants of the Township of Croyle aforesaid, as well as to the general traveling public, and no good purpose will have been achieved.

WHEREFORE, your petitioners pray the Court to appoint Re-viewers in the proceedings above mentioned, and in accordance with the provisions of the

Act of Assembly in such case made and provided, to the end that a review may be had herein.

And they will ever pray, etc.

Frederic J. Mans
James A. Burke
Arthur Burke
Martha Burke
Leo M. Bastian
Bernard Neff
Mrs. Lulu Neff
Carl Sherbine
Mrs. Carl Sherbine
W. J. Diamond
Gerald Diamond
W. W. Black
Wade Black
Wm. L. Miller
L. M. Kauffman
John L. Wisinger
Mar. John Wisinger
Geo. P. Sherbine
Mrs. Geo. P. Sherbine
W. H. Carpenter
Mrs. W. H. Carpenter
Christopher Bastian
Mrs. F. J. Mans
Odean Croyle
M. H. Croyle
John F. Rice

Thos. J. Donaghy
Arthur Weaver

Bertie Weaver
Lewis Maus

State of Pennsylvania

SS:

County of Cambria

F. L. Maus being duly sworn according to law says that the matters set forth in the foregoing petition are true and correct as he verily believes.

Sworn and subscribed before me
this 8th day of September, 1938.

Helew E. McClune

Notary Public.

My com. expires March 2, 1941.

Fred L Maus

IN THE COURT OF QUARTER SESSIONS
CAMBRIA COUNTY, PENNA.

NO. 7 MARCH TERM 1938

IN RE: Laying Out of a Pub-
lic Road or Highway in
the Township of Croyle,
County of Cambria and
State of Pennsylvania.

PETITION FOR THE APPOINT-
MENT OF VIEWERS.

Filed: June 9, 1938.

MAHLON J. BAUMGARDNER
ATTORNEY AT LAW
JOHNSTOWN, PENNA.
SWANK BLDG.

IN RE: Laying out of a public
Road or Highway in the Township
of Croyle, County of Cambria and
State of Pennsylvania

IN THE COURT OF QUARTER SESSIONS
OF CAMBRIA COUNTY, PENNSYLVANIA

No. 7 *March* Term, 1938.

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The petition of the undersigned inhabitants of the Township of Croyle, County of Cambria and State of Pennsylvania, respectfully represents:

That your petitioners labor under great inconvenience for want of a public road or highway in the said Township of Croyle, Cambria County, Pennsylvania:-

The place of beginning being on the Portage - Wilmore brick road, distant seven hundred ninety-two (792) feet from where the said Portage - Wilmore brick road intersects with an amasite road, likewise leading to Portage and the place of ending being on a road leading from Lovett to Beaverdale, known as route #869, distant two thousand four hundred fifty-three (2453) feet from where said Beaverdale road, known as route #869, intersects with the Portage - Wilmore brick road. The distance of the said proposed road from beginning to end being approximately one (1) mile.

That written notice to the Supervisors of Croyle Township of this petition, with an acceptance of service thereon, advising them of the date of the presentation of this petition and marked Exhibit "A".

Your petitioners, therefore, pray the Court to appoint three members of the Permanent Board of Viewers of Cambria County to view the ground proposed for such road and if they see the necessity therefore, lay out the same and make a report of their proceedings in the next sessions of Court.

<u>Andrew Yanick</u>	<u>Abraham Trumbly</u>
<u>Frank Humbert Jr</u>	<u>N. F. White</u>
<u>Edward Bastion</u>	<u>Arthur Pfoz</u>
<u>Bernard Napp</u>	<u>Wm. Shepard</u>
<u>Barth Warner</u>	<u>John P. Foutz</u>
<u>Frank C. Hammer</u>	<u>Joseph Nastase</u>
<u>James Burke</u>	<u>Peter Vitaller</u>
<u>R. E. Hannelly</u>	<u>Natalie Norton</u>
<u>Willie Hannelly</u>	<u>Walter Stupis</u>
<u>Henry Sauter</u>	<u>H. A. Brown</u>
<u>Rudolph Miller</u>	<u>Anthony Nastase Jr</u>
<u>John Helebrant</u>	<u>Chas. Chapman</u>
<u>J. M. Foutz</u>	<u>David W. Rhoads</u>
<u>G. H. Miller</u>	<u>C. H. Bets</u>
<u>Stanley Hissinger</u>	<u>G. D. Miller</u>
<u>Frank Plummer</u>	<u>S. R. Miller</u>

Chas. B. Thacker

Leo R. Vento

Howard McClelland

John Robb

Eugene Futsko

James Roib

Mike Sissig Jr. Beaverdale Pa.
Warren M. Parks

Morris Levine Beaverdale Pa.

H. D. Diefenderfer Beaverdale Pa.

C. P. Pius Beaverdale, Pa.

John Tolenta Sidman Pa.

Leo

STATE OF PENNSYLVANIA
COUNTY OF CAMBRIA

SS:

Personally appeared before me, the undersigned authority,

FRANK HUMBERT, JR. - - - - who having first been duly sworn

according to law doth depose and say that he is one of the

petitioners above named and that the statements contained in

said petition are true and correct.

Sworn to and Subscribed before me
this 28th day of May A. D. 1938.

Blanche M. Nite

NOTARY PUBLIC
MY Comm. Expires 3/5/41

Frank Humbert Jr

ACCEPTANCE OF SERVICE

And Now, May 23, 1938, service of the above stated notice is hereby accepted and/or consent herewith given for the opening of the said road.

W. J. Donaghy
John Kauffman
John L. Rice
SUPERVISORS OF CROYLE TOWNSHIP.

And Now, June 2 - 1938, we, the Commissioners of Cambria County, Pennsylvania, hereby accept service of a copy of the within petition and hereby waive the usual service of notice as required by the rules of court and the Acts of Assembly.

H. J. Dow
Clerk

IN RE: Laying out of a Public
Road or Highway in the Township
of Croyle, County of Cambria and
State of Pennsylvania.

IN THE COURT OF QUARTER SESSIONS
OF CAMBRIA COUNTY, PENNSYLVANIA
NO. TERM, 1938.

NOTICE TO SUPERVISORS

TO: Thomas J. Donaghy, John Hice and John Kauffman,
Supervisors of Croyle Township, Cambria County, Pennsylvania.

You will please take notice that there will be a petition presented to the Court of Quarter Sessions of Cambria County at Ebensburg, Pennsylvania in the said County at 10:00 o'clock A. M., the 6th day of June, 1938, asking the court for the appointment of Viewers to view and lay out a proposed road in the Township of Croyle, Cambria County, Pennsylvania:

The place of beginning being on the Portage - Wilmore brick road, distant seven hundred ninety-two (792) feet from where the said Portage - Wilmore brick road intersects with an amasite road, likewise leading to Portage and the place of ending being on a road leading from Lovett to Beaverdale, known as route #869, distant two thousand four hundred fifty-three (2453) feet from where said Beaverdale road, known as route #869, intersects with the Portage - Wilmore brick road. The distance of the said proposed road being approximately one (1) mile from beginning to end.



Attorney for Petitioners

D E C R E E

And Now, to-wit, the 8 day of June A. D. 1938, on motion of Mahlon J. Baumgardner, attorney for Petitioners, the Court authorizes *H. Jenkins* and *J. E. Dickey* Chairman and *Louis E. Kaylar* as the Board of Viewers upon the foregoing petition and furthers orders that the said Board of Viewers shall hold their first meeting as required by law, acts of assembly or rules of court as made and provided after giving due notice of said meeting as required by law and make report to the Court of Quarter Sessions on the first Monday of September, A. D. 1938.

By the Court
McKenna

IN THE COURT OF QUARTER SES-
SIONS OF CAMBRIA COUNTY, PA.
NO. 7. *March* SESSIONS 1938

IN RE: Laying out of a pub-
lic Road or Highway in the
Township of Croyle, County
of Cambria and State of
Pennsylvania.

PETITION FOR APPOINTMENT OF
VIEWERS - AMENDED

Filed: June 27, 1938

MAHLON J. BAUMGARDNER
ATTORNEY AT LAW
JOHNSTOWN, PENNA.
SWANK BLDG.

IN RE: Laying Out of a Public
Road or Highway in the Township
of Croyle, County of Cambria and
State of Pennsylvania.

IN THE COURT OF QUARTER SESSIONS
CAMBRIA COUNTY, PENNSYLVANIA.
No. 7 *Bar* *Term*, 1938.

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The petition of the undersigned, Mahlon J. Baumgardner,
counsel for inhabitants of the Township of Croyle, County of
Cambria, State of Pennsylvania, respectfully represents:

That on the 8 day of June, 1938, your petitioner
presented petition signed by numerous residents of the Township
of Croyle, asking that a public road be laid out in the Township
of Croyle, County of Cambria and State of Pennsylvania, stating
that they labor under great inconvenience for want of a public
road or highway in the said Township of Croyle, Cambria County
Pennsylvania:-

The place of beginning being on the Portage - Wilmore
brick road, distant seven hundred ninety-two (792) feet from where
the said Portage - Wilmore brick road intersects with an amasite
road, likewise leading to Portage and the place of ending, in the
first petition, being on a road leading from Lovett to Beaverdale,
known as route #869, distant two thousand four hundred fifty-three
(2453) feet, was inadvertently wrong and that the place of ending
is on the said road leading from Lovett to Beaverdale, known as
route #869, distant twelve hundred (1200) feet from where said
Beaverdale road, known as route #869, intersects with the Portage
Wilmore brick road.

Your petitioner, therefore, prays your Honorable Court
that the former petition may be amended to comply with the peti-
tion herewith presented.

Mahlon J. Baumgardner

STATE OF PENNSYLVANIA

COUNTY OF CAMBRIA

SS:

Personally appeared before me, the subscriber, a Notary Public in and for said county and State, MAHLON J. BAUMGARDNER, petitioner above named, who having first been duly sworn according to law, doth depose and say that the matters and facts contained in the foregoing petition are true and correct to the best of his knowledge, information and belief.

Mahlon J. Baumgardner


Sworn to and Subscribed Before me
this 25th day of June, A.D. 1938.


B. Partridge M. White
NOTARY PUBLIC

My Commission Expires: Mar. 5, 1941.

D E C R E E

AND NOW, to-wit, the 27th day of June, A. D. 1938,
the within petition having been read and considered, the Court do
permit amendment of same as prayed for in said petition and that
the Viewers appointed in the former petition proceed to perform
their respective duties and that the Clerk of Court of said County
of Cambria notify the Chairman of the Board of Viewers of the
presenting of the within petition and of this decree.



McLaughlin


125
In Re: Laying out a proposed
Road in Croyle Township,
Cambria County, Penna.

102-112
In the Court of Quarter Sessions
of Cambria County, Penna.
No. 7, March Session, 1938

REPORT OF VIEWERS

To the Honorable, the Judges of the above named Court,
we the undersigned Viewers, appointed by the annexed order of the
Court to view the proposed road within mentioned, respectfully
report:

That we have been duly sworn or affirmed as members of
the Permanent Board of Viewers of Cambria County, as shown by the
records of the Court; that having given due public notice of the
time and place of meeting, by posting notices as required by law
along the route and at the termini of the said proposed new road,
as evidenced by copy of said notice hereto attached, and by service
of such notice on the County Commissioners of Cambria County, the
Supervisors of Croyle Township and the Solicitor for the Petitioners,
service of said notice by the County Commissioners, the Supervisors
of Croyle Township and the Solicitor for the Petitioners being
hereto attached; that we met in accordance with the notice given
on the 6th day of July A. D. 1938 at 10:00 o'clock A. M. (Eastern
Standard Time) and proceeded with the duties of our appointment and
viewed the premises and route of the proposed new road; that said
proposed new road is now opened as a private road and has been
used for a long number of years by the persons living along the
route of said road and is now being used by same, excepting the
end from the Portage-Wilmore Brick Road to the property of Frank
Humbert, Jr. which has been obstructed by cutting and falling trees
across the road by Fred L. Maus, an adjoining property owner, to
prevent the use of same; that the Viewers named herein, the three
Supervisors of Croyle Township, the Solicitor for the Petitioners
and a large number of property owners and taxpayers were present

during the view; objections against the proposed road in favor of a different route was made by two or three persons present; that after viewing the premises and the route of the proposed road, we are of the opinion that a necessity exists for the proposed new road, therefore; we proceeded to lay out said new road as follows: Beginning at a point in the Portage-Wilmore Brick Road, a public highway, at a distance of 792.0 feet, measured along the center line of said Portage-Wilmore Brick Road in a westerly direction from the intersection of an Amiesite Road, a public road, leading to Portage, thence S. 25° 57' W. 304.0 feet; thence S. 8° 35' E. 278.0 feet; thence S. 8° 53' W. 133.0 feet; thence S. 44° 35' W. 200.0 feet; thence S. 43° 39' W. 427.0 feet; thence S. 30° 25' W. 345.0 feet; thence S. 58° 01' W. 840.0 feet; thence N. 62° 36' W. 398.0 feet; thence N. 51° 50' W. 266.0 feet; thence N. 73° 28' W. 141.0 feet; thence N. 86° 46' W. 420.0 feet; thence S. 75° 16' W. 1141.0 feet; thence S. 83° 24' W. 886.0 feet, to the place of ending, said ending being at a point in State Highway Route No. 869, a public highway, leading from Lovett to Beaverdale, total length being 5779.0 feet, all of which is shown colored green on the blue print attached hereto and made a part hereof:

That the original petition was amended ten (10) days prior to the making of the view correcting the location of the ending of the proposed road in Route No. 869, a copy of which is hereto attached; that the road was laid out in accordance with said amendment.

That the route of said road as laid out, beginning at an iron pin at the northeast corner of Frank Humbert, Jr. property and extending westwardly to the corner of Lester Bastine and Fred L. Maus, follows the center line of a dedicated street fifty (50') feet in width; the remainder of the road as laid out follows a private road aforementioned. We therefore recommend that the total width of right-of-way for said proposed new road be fifty (50') feet. The character of the land and improvements through which the

proposed road passes are indicated on the plan.

That after taking into consideration all the matters before us, we are of the opinion that the road as prayed for by the petitioners and laid out by us is necessary and convenient, therefore, we recommend that the prayer of the Petitioners be granted.

We have been unable to obtain written releases from the abutting property owners; however, in consideration of the benefits and damages sustained or that may seem likely to be sustained by the abutting property owners by reason of opening and maintaining of said proposed new road, we assess no benefits and no damages to any of the abutting property owners.

Witness our hands and seals this 11th day of July A. D. 1938.

S. E. Dickey
A. H. Henders
Louis E. Taylor
Viewers

In Re; Laying out a proposed
Road in Croyle Township,
Cambria County, Penna.

In the Court of Quarter Sessions
of Cambria County, Penna.
No. 7, March Session, 1938

To S. E. DICKEY, S. H. JENCKS & LOUIS E. KAYLOR, Dr.

To S. E. DICKEY Dr.

Obtaining information, data & preparing notices of View	\$ 12.00	
Stenographer & Stationery	2.00	
Posting and serving notices of view	12.00	
Mileage,	3.00	
Making View	12.00	
Mileage	3.00	
Data & making survey, Engineering Corps, 1 day	23.00	
Mileage	3.00	
Plotting survey and preparing plan	12.00	
Drawing material & blue prints	2.00	
Data & Preparing report	12.00	
Stenographer & Stationery	<u>2.50</u>	\$ 98.50

To S. H. JENCKS Dr.

Making View	\$ 12.00	
Mileage	<u>3.40</u>	\$ 15.40

To LOUIS E. KAYLOR Dr.

Making View	\$ 12.00	
Mileage	<u>3.40</u>	\$ <u>15.40</u>

Total cost of View \$ 129.30

IN RE: Laying Out of a Public
Road or Highway in the Township
of Croyle, County of Cambria and
State of Pennsylvania.

" IN THE COURT OF QUARTER SESSIONS OF
" CAMBRIA COUNTY, PENNSYLVANIA.
" No. 7 March Sessions 1938.

DE C R E E

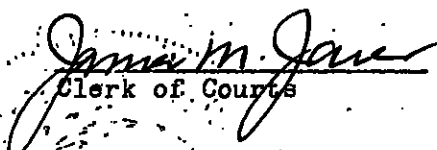
And now, to-wit, the 27th day of June, A. D. 1938,
the within petition having been read and considered, the Court do
permit amendment of same as prayed for in said petition and that
the Viewers appointed in the former petition proceed to perform
their respective duties and that the Clerk of Court of said County
of Cambria notify the Chairman of the Board of Viewers of the
presenting of the within petition and of this decree.

By the Court,

McCann, P.J.

Extract from the Record.

Certified this 27th day
of June A. D. 1938.


Clerk of Courts

In Re: Laying out a proposed
Road in Croyle Township,
Cambria County, Penna.

In the Court of Quarter Sessions
of Cambria County, Penna.
No. 7, March Session, 1938.

NOTICE OF VIEW

We, the undersigned Viewers appointed by the above named Court, for the purpose of viewing for a proposed public road in Croyle Township, Cambria County, Pennsylvania, beginning on the Portage-Wilmore Brick Road, distance Seven Hundred ninety-two (792) feet from where the said Portage-Wilmore Brick Road intersects with an Amiesite Road, likewise leading to Portage, and the place of ending being on a road leading from Lovett to Beaverdale, known as route #869, distance Two Thousand Four Hundred Fifty-three (2453) feet from where said Beaverdale Road, known as Route #869, intersects with the Portage-Wilmore Brick Road, the distance of said proposed road from beginning to ending being approximately one (1) mile, will meet at the place of beginning on the 6th day of July A. D. 1938 at 10:00 o'clock A. M. (Eastern Standard Time) for the purpose of performing the duties of our appointment, at which time and place all interested persons may appear.

S. E. DICKEY
S. H. JENCKS
LOUIS E. KAYLOR

June 20, 1938

Viewers

Now this 18 day of June A. D. 1938,
service of the above notice is hereby accepted.

By

Richard B. Cunningham
Solicitor for

Attorney for Portage

In Re: Laying out a proposed
Road in Croyle Township,
Cambria County, Penna.

In the Court of Quarter Sessions
of Cambria County, Penna.
No. 7, March Session, 1938.

NOTICE OF VIEW

We, the undersigned Viewers appointed by the above named Court, for the purpose of viewing for a proposed public road in Croyle Township, Cambria County, Pennsylvania, beginning on the Portage-Wilmore Brick Road, distance Seven Hundred ninety-two (792) feet from where the said Portage-Wilmore Brick Road intersects with an Amiesite Road, likewise leading to Portage, and the place of ending being on a road leading from Lovett to Beaverdale, known as route #869, distance Two Thousand Four Hundred Fifty-three (2453) feet from where said Beaverdale Road, known as Route #869, intersects with the Portage-Wilmore Brick Road, the distance of said proposed road from beginning to ending being approximately one (1) mile, will meet at the place of beginning on the 6th day of July A. D. 1938 at 10:00 o'clock A. M. (Eastern Standard Time) for the purpose of performing the duties of our appointment, at which time and place all interested persons may appear.

S. E. DICKY
S. H. JENCKS
LOUIS E. KAYLOR

Viewers

June 20, 1938.

Now this 23 day of June A. D. 1938,
service of the above notice is hereby accepted by the
Supervisors of Croyle Township, Cambria County, Pa.

John Kaufman

In Re: Laying out a proposed
road in Croyle Township,
Cambria County, Penna.

In the Court of Quarter Sessions,
of Cambria County, Penna.
No. 7, March Sessions, 1938

NOTICE OF VIEW

We, the undersigned Viewers appointed by the above named Court, for the purpose of viewing for a proposed public road in Croyle Township, Cambria County, Pennsylvania, beginning on the Portage-Wilmore Brick Road, distance Seven Hundred Ninety-two (792) feet from where the said Portage-Wilmore Brick Road intersects with an Amiesite Road, likewise leading to Portage, and the place of ending being on a road leading from Lovett to Beaverdale, known as route #869, distance Two Thousand Four Hundred Fifty-three (2453) feet from where said Beaverdale Road, known as Route #869, intersects with the Portage-Wilmore Brick Road, the distance of said proposed road from beginning to ending being approximately one (1) mile, will meet at the place of beginning on the 6th day of July A. D. 1938 at 10:00 o'clock A. M. (Eastern Standard Time) for the purpose of performing the duties of our appointment, at which time and place all interested persons may appear.

S. E. DICKER
S. H. JENCKS
LOUIS E. KAYLOR

June 20, 1938.

Viewers

Now this 21 day of June A. D. 1938
service of the above notice is hereby accepted for the County
Commissioners of Cambria County.

H. F. Gw
Chief Clerk

In Re; Laying out a proposed
Road in Croyle Township,
Cambria County, Penna.

In the Court of Quarter Sessions
of Cambria County, Penna.
No. 7, March Sessions, 1938

NOTICE OF VIEW

We, the undersigned Viewers appointed by the above named Court, for the purpose of viewing for a proposed public road in Croyle Township, Cambria County, Pennsylvania, beginning on the Portage-Wilmore Brick Road, distance Seven Hundred Ninety-two (792) feet from where the said Portage-Wilmore Brick Road intersects with an Amiesite Road, likewise leading to Portage, and the place of ending being on a road leading from Lovett to Beaverdale, known as route #369, distance Two Thousand Four Hundred Fifty-three (2453) feet from where said Beaverdale Road, known as route #369, intersects with the Portage-Wilmore Brick Road, the distance of said proposed road from beginning to ending being approximately one (1) mile, will meet at the place of beginning on the 6th day of July A. D. 1938 at 10:00 o'clock A.M. (Eastern Standard Time) for the purpose of performing the duties of our appointment, at which time and place all interested persons may appear.

S. E. DICKEY
S. H. JENCKS
LOUIS E. KAYLOR

June 20, 1938

Viewers

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."

1938
March
NO 7
SESSIONS, 182

Order to view Proposed Public Road

in Croyle Township

Viewers

S. E. Dickey

S. H. Jencks

Louis Kaylor

Clerk 90 cts.

Filed July - 11 - 1938



Not returned

By the Clerk

Commonwealth of Pennsylvania, }
County of Cambria. } SS.

At a Court of Quarter Sessions of the Peace of the County of Cambria held at Ebensburg, in the said County, on the 8th day of June A. D. 1938, before the Honorable Judge of the said Court: Upon the petition of divers inhabitants of the Township of Croyle, in the said County, setting forth that they labor under inconvenience for want of a public road or highway, to lead from beginning on the Portage-Wilmore brick road, distant seven hundred ninety-two (792) feet from where the said Portage-Wilmore brick road intersects with an amasite road, likewise leading to Portage and the place of ending being on a road leading from Lovett to Beaverdale, known as route #869, distant two thousand four hundred fifty-three (2453) feet from where said Beaverdale road, known as route #869, intersects with the Portage-Wilmore brick road. The distance of the said proposed road from beginning to end being approximately one (1) mile.

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

S. E. Dickey

surveyor, and

S. H. Jencks and Louis E. Kaylor

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.

Report to be filed by first Monday of September, A. D. 1938.

By the Court.

McKenrick, J.

Attest:

James M. Jones, Clerk.

MAHLON J. BAUMGARDNER
ATTORNEY AT LAW
JOHNSTOWN, PENNA.
SWANK BLDG.

December 14, 1938.

Clerk of Courts
Ebensburg, Pa.

Dear Sir:

I am enclosing herewith Answer to Exceptions in
the matter of Laying Out a Proposed Road in Croyle Township,
Cambria County, Pa., entered to No. 7, March Sessions, 1938.

Yours very truly,

MJB/mf
Encl:


MAHLON J. BAUMGARDNER

IN THE COURT OF QUARTER SES-
SIONS OF CAMBRIA COUNTY, PA.
No. 7, March Sessions, 1938.

RE: Laying out a Proposed
Road in Croyle Township,
Cambria County, Penna.

ANSWER TO EXCEPTIONS

Filed: Dec. 15, 1938

MAHLON J. BAUMGARDNER
ATTORNEY AT LAW
JOHNSTOWN, PENNA.
SWANK BLDG.

Re: Laying out a Proposed
Road in Croyle Township,
Cambria County, Penna.

IN THE COURT OF QUARTER SESSIONS
Cambria County, Pa.
No. 7 March Sessions, 1938

ANSWER TO EXCEPTIONS

In Answer to paragraph one: "The petition, the Notice to View, the Report of the Viewers and the map attached thereto are not in accordance with the provisions of the Act of Assembly with respect to designating the termini of roads proposed to be laid out in this Commonwealth, in that the place of beginning of the proposed road is described as 'Beginning on the Portage-Wilmore brick road distant 792 feet from where the said Portage-Wilmore brick road intersects with an amiesite road likewise leading to Portage.' There is no brick road leading from Portage to Wilmore, nor is there any brick road known or recognizable by the description 'Portage-Wilmore brick road.' Further, the place of ending of said proposed road is described in the petition as being 'on a road leading from Lovett to Beaverdale, known as Route 869, distant 2453 feet from where said Beaverdale Road, known as Route 869, intersects with the Portage-Wilmore brick road.'"

It is averred that the Portage-Wilmore brick road referred to in said petition is commonly known as the road leading to Portage and Wilmore and that the road mentioned in the petition intersects with the said Portage-Wilmore road and that the said brick road known as the road leading to Portage and Wilmore is known in that locality as the Portage-Wilmore brick road. It is admitted that the place of ending of said proposed road is on a road leading from Lovett to Beaverdale, known as Route 869, distant 2453 feet from where said Beaverdale road, known as Route 869, intersects with the Portage-Wilmore brick road,

was set forth, but that the petition for the purpose of amending said distance of 2453 feet to 1200 feet was presented to the Court of Quarter Sessions of Cambria County, and was accordingly amended. It is further alleged that the amiesite road mentioned in said petition does exist and that the said amiesite road leads to Portage or Wilmore and is designated so by highway road signs.

In answer to the second reference to the Portage brick road between Portage and Wilmore, that there is no road of brick construction between Portage and Wilmore recognizable under such designation, it is averred that the road leading to Portage and Wilmore is commonly known as the Portage-Wilmore road in that locality and that your petitioner in giving the description of the said road gave the description as outlined in said petition and that the said road leading to the Portage-Wilmore road, as aforesaid, is commonly known in that neighborhood as said road.

In answer to paragraph 2, that the original petition avers the place of ending as being on a road leading from Lovett to Beaverdale, known as Route 869, distant 2453 feet from where said Beaverdale road, known as Route 869, intersects with the Portage-Wilmore brick road. It is reaffirmed that the said Portage-Wilmore brick road is so known in the vicinity of the said road proposed to be laid out as set forth in the petition, and it is admitted that on June 27, 1938, a petition was presented asking to amend the place of ending by having the distance above given at 2453 feet amended to read 1200 feet and in the second division of the second paragraph - "Notwithstanding said amendment, the Notice of View which was posted by the Viewers in the vicinity of the premises involved in this proceeding, avers the place of ending to be 'on a road leading from

Lovett to Beaverdale, known as Route 869, distant twenty-four hundred fifty-three (2453) feet from where said Beaverdale road, known as Route 869, intersects with the Portage-Wilmore brick road."

In answer thereto it is admitted that the distance mentioned in the Notice to View was 2453 feet from where said Beaverdale Road intersects with the Portage-Wilmore road and it is also averred that the petitioner in the Exceptions, Fred L. Maus, together with the three members of the Board of Supervisors and a large number of citizens were present in pursuance to said Notice to View as posted, and the Viewers, together with the Supervisors, and the petitioner in the Exceptions, Fred L. Maus, walked over the entire route of the proposed road.

While the question was raised as to whether this road or another road would be the better road to lay out, all the parties present were there pursuant to Notice and to the Notices posted by the Viewers.

In answer to paragraph 3, it is denied "that the Notice to View is vague, indefinite, illegal, erroneous and misleading; that the same undertakes to describe the terminal points of the proposed road by reference to a non-existent public road, to-wit: the 'Portage-Wilmore brick road;' the Notice to View is further erroneous and misleading and designed to cause bewilderment to persons reading the same, and to cause them to be at a loss and uncertainty as to the location of the place of ending, because the same avers that such place of ending is 2453 feet from a certain point, whereas a later petition avers that the distance should be 1200 feet, and such is the distance as shown by the Report of Viewers filed." All of this is denied and it is reaverred that all the parties in interest were present at the View and waived any irregularity, should any exist, in the Notice to View and at that

time no question was raised as to the Notice to View and, as hereinabove stated, all the parties in interest walked over the proposed road from the place of beginning to the place of ending.

A large group of citizens were present and it was suggested that the road be laid along a different course. The Board of Viewers laid out a road and made their Report, having accompanying therewith a blueprint.

Andrew Yanich

STATE OF PENNSYLVANIA }
COUNTY OF CAMBRIA } SS:

Personally appeared before me, the undersigned authority, a Notary Public in and for said County and State

who having first been duly sworn according to law deposes and says that the matters and facts set forth in the foregoing Answer to Exceptions are true and correct to the best of his knowledge, information and belief.

Andrew Yanich

Sworn to and subscribed before me
this 19th day of October, 1938.

B. L. White

NOTARY PUBLIC

My Commission Expires: March 5, 1941.

In Re; Laying out a proposed
Road in Croyle Township,
Cambria County, Penna.

In the Court of Quarter Sessions
of Cambria County, Penna.
No. 7, March Sessions, 1938

NOTICE OF VIEW

We, the undersigned Viewers appointed by the above named Court, for the purpose of viewing for a proposed public road in Croyle Township, Cambria County, Pennsylvania, beginning on the Portage-Wilmore Brick Road, distance Seven Hundred Ninety-two (792) feet from where the said Portage-Wilmore Brick Road intersects with an Amiesite Road, likewise leading to Portage, and the place of ending being on a road leading from Lovett to Beaverdale, known as route #869, distance Two Thousand Four Hundred Fifty-three (2453) feet from where said Beaverdale Road, known as route #869, intersects with the Portage-Wilmore Brick Road, the distance of said proposed road from beginning to ending being approximately one (1) mile, will meet at the place of beginning on the 6th day of July A. D. 1938 at 10:00 o'clock A.M. (Eastern Standard Time) for the purpose of performing the duties of our appointment, at which time and place all interested persons may appear.

S. E. DICKEY
S. H. JENCKS
LOUIS E. KAYLOR

June 20, 1938

Viewers

Exceptants' Ex. No. 1

2-28-39

No. 7 March Sessions, 1938.

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

In Re: Laying Out of a
Proposed Public Road or
Highway in the Township
of Croyle, County of
Cambria ~~County~~ and State
of Pennsylvania.

T E S T I M O N Y

Filed Mar. 9, 1939

FRANK J. MYERS
OFFICIAL STENOGRAPHER
FOR THE
FORTY-SEVENTH JUDICIAL DISTRICT
PENNSYLVANIA

In Re: Laying Out of a : IN THE COURT OF QUARTER SES-
Proposed Public Road or : SIONS OF CAMBRIA COUNTY,
Highway in the Township : PENNSYLVANIA.
of Croyle, County of Cambria :
and State of Pennsylvania. : No. 7 March Sessions, 1938.

I N D E X

Stenographer's Certificate 45

<u>EXCEPTANTS'</u> <u>TESTIMONY:</u>	<u>Direct</u> <u>Ex.</u>	<u>Cross-</u> <u>Ex.</u>	<u>Re-Direct</u> <u>Ex.</u>	<u>Re-Cross-</u> <u>Ex.</u>
Maus, F. L.	3	5	8 - 10	8 - 11
Weaver, Harold	14	15		
Maus, Paul	17	18	19	19

PETITIONERS' TESTIMONY:

Dickey, S. E.	22	28
Jencks, S. H.	30	No
Law, Samuel	32	No
Humbert, Frank	34	37
Humbert, Frank Jr.	38	40
Yanich, Andrew	40	No

In Re: Laying out of a	:	IN THE COURT OF QUARTER SESSIONS
Proposed Public Road or	:	OF CAMBRIA COUNTY, PENNSYLVANIA
Highway in the Township	:	
of Croyle, County of	:	No. 7 March Sessions, 1938.
Cambria and State of	:	
Pennsylvania.	:	

Ebensburg, Pa., February 28, 1939.

APPEARANCES:

For the Petitioners: Mahlon J. Baumgardner, Esq.
 For the Exceptants: Shettig & Swope, Esqs., by
 Thomas A. Swope, Esq.

And now, February 28, 1939, exceptions having been filed to the filing of the report of the board of viewers, and an answer filed to said exceptions, in the above captioned case, it is agreed by and between the parties hereto that depositions be taken before Frank J. Myers, official court stenographer, and the administration of the oath by the said Frank J. Myers to have the same force and effect as though depositions were taken before one of the honorable judges of said court; and further, that said Frank J. Myers transcribe the testimony here introduced and file the same of record in the office of the clerk of courts of Cambria County, Pennsylvania.

BY MR. BAUMGARDNER:

I move that the proceedings that have to do with the exceptions be dismissed for the reason that the affidavit of Fred L. Maus, agent for Ella Maus, does not contain, in the affidavit, that the exceptions are not taken for the purpose of delay, or that they verily believe that an injustice had been

done.

BY MR. SWOPE:

We now ask leave to amend the record and ask that Mr. Myers, the person designated to take depositions, swear Mr. Maus in order that he may make affidavit in accordance with the exception made by Mr. Baumgardner.

Fred L. Maus, being duly called, and sworn, made affidavit to the effect that the matters set forth in the foregoing exceptions are true and correct, as he verily believes, and that the exceptions are not filed for the purpose of delay, but because an injustice has been done to Ella Moss.

BY MR. BAUMGARDNER:

We object to the admission of the testimony insofar as the affidavit is concerned in which Mr. Maus adds to the affidavit the words that it was not done for the purpose of delay, but because he feels that an injustice had been done to Mrs. Maus; that the affidavit is the essential part of the exceptions and it is through said affidavit that the exceptions were filed to the above number and term, and that at this time it is too late to have the affidavit qualified to meet the requirements of law as it pertains to the question at issue.

BY MR. SWOPE:

In answer thereto we wish to state that it is nothing more than a mere technical objection, if the affidavit was made by Mr. Maus, or in the answer to the exceptions filed, the matter was not raised; and the further fact that the affidavit could have been taken at any time and has the same force and effect now as it would have had the words been added at the time the

affidavit was taken, on the 8th day of December, 1938.

F. L. MAUS, called, sworn.

FRANK J. MYERS, OFFICIAL STENOGRAPHER, FORTY-SEVENTH JUDICIAL DISTRICT, EBERSBURG, PA. DIRECT EXAMINATION BY MR. SWOPE:

Q. Where do you live, Mr. Maus? A. Croyle Township, Cambria County.

Q. You are a resident of Croyle Township and a taxpayer in Croyle Township? A. Yes, sir.

Q. How long have you lived in Croyle Township? A. I was born and raised there.

Q. Did you see a notice of view to lay out a proposed road in Croyle Township, Cambria County? A. Yes, sir.

Q. Did that proposed road traverse land of Mrs. Maus? A. Yes, sir.

Q. Now, I show you what has been marked for identification as exceptants' Exhibit No. 1 and ask you to state what it is? Is that the notice you saw? A. Yes, sir.

Q. This is the notice of view, is it not? A. Yes, that is the one I seen, after somebody called my attention to it. I didn't pay any attention to it until, I believe, Mr. Weaver told me about it, then I went and read it to see what it was.

Q. Now, this notice says that the beginning, that the place of beginning is: "Beginning on the Portage-Wilmore brick road, distance seven hundred ninety-two (792) feet from where the said Portage-Wilmore brick road intersects with an amiesite road, likewise leading to Portage." Now, is there a road known as the Portage-Wilmore brick road? A. Not to my knowledge.

Q. And how old are you, Mr. Maus? A. I am sixty-

six.

Q. Is there any road recognized by the description of the Portage-Wilmore brick road? A. I don't know of any.

Q. Is there any road recognized under the designation of the Portage-Wilmore brick road? A. Not that I ever heard tell of.

Q. Now, the notice further states that the place of ending of said proposed road is "on a road leading from Lovett to Beaverdale, known as route No. 869, distance two thousand four hundred fifty-three (2453) feet from where said Beaverdale road, known as Route No. 869, intersects with the Portage-Wilmore brick road." Now, the distance they laid out, the distance of the end of the termini of the road, what distance was that from the intersection of the two roads? A. Where this view came out at?

Q. Yes. A. Twelve hundred and a few feet. I don't know exactly the number of feet.

Q. Then, there was an error there of over twelve hundred feet? A. About twelve hundred.

Q. Was this misleading, in the fact that there was a distance of twelve hundred feet, over twelve hundred feet, from the end of the termini? Was that a misleading statement, a distance of over twelve hundred feet there? A. Well, I don't know. I couldn't say exactly whether it was misleading.

Q. Well, did it mislead you? Would you have known where to go to had you not been there on the ground and saw the people? A. No, I wouldn't. I wouldn't know where to go.

Q. Would you say that the Portage-Wilmore brick road is a road that is in existence and known in that community?

A. No, I never heard tell of such a thing as the Portage-Wilmore brick road. I wouldn't know where to find one.

Q. And the place where the road was actually laid out and the place designated in the notice of view where it was to be laid out, would that cause bewilderment to persons reading the notice, and would there be a difference in the survey and the location of the road? A. I was figuring on the road, on the beginning.

Q. I mean as to the distance, the difference there of over twelve hundred feet? A. Oh, yes.

CROSS-EXAMINATION BY MR. BAUMGARDNER:

Q. Well, the new road, as laid out by the viewers, has its place of beginning down near your home? A. It was the Lovett-Wilmore road.

Q. You call it the Lovett-Wilmore road? A. The Lovett-Wilmore-Portage road.

Q. The Lovett-Wilmore-Portage road? A. Yes, you can go either place on it.

Q. Now, that is the place of beginning? A. That is where they met.

Q. And do you know where the viewers had the road end, on what highway? A. Why, on Route No. 869, I believe. The Lovett-Beaverdale concrete road is where they ended.

Q. Were you present with the viewers when they went over the proposed road? A. I was there.

Q. How did you happen to be there? A. Well, I heard about it through the neighbors and, in the first place, my attention was called to it and I read the notice and wondered what it was, and I found out later that the people had signed it, stating that was where the road was to go through, from Lovett to

the ball field, as they posted and signed it. I found out later from others that it was just going in across the brick and not going across the hill.

Q. Did you read the entire notice, as it was posted?

A. I believe it was.

Q. And some of these notices were posted on the road as it crosses your land? A. Yes, sir.

Q. Then, of course, you also heard the neighbors talk about a road being proposed to go through there and end over on the Lovett-Beaverdale road? A. Yes.

Q. It was pursuant to the notice that you read along the proposed new road that you were in attendance at the view?

A. Well, no, it was to see what they were going to do across my land. As far as the notice, I wouldn't know that.

Q. But you were there because notices were posted along the road, the proposed new road? A. On my land.

Q. And on your land that a view was going to be held and on a certain date, which was on the 6th day of July, 1938, at ten o'clock in the morning? A. I believe.

Q. Did you go with the viewers from the time they started on the Portage-Lilly-Wilmore road to where they came out on the road known as Route No. 869, leading from Lovett to Beaverdale? A. Yes, sir.

Q. Did you walk with the viewers over the proposed road? A. I was in the gang.

Q. You didn't know that an order of court had been made later changing the termini from two thousand four hundred and fifty three feet to approximately twelve hundred feet, as this road meets the road leading from Lovett to Beaverdale?

BY MR. SWOPE:

That is objected to because he has not said that he knew about it and, furthermore, it is not set forth in the notice.

BY MR. BAUMGARDNER:

Q. When you went along with the viewers and the men who were present did you believe that the place where they ended, ~~XXXX~~ on Route No. 869, was the point mentioned in the petition, which was two thousand four hundred and fifty-three feet from where the Beaverdale road, known as Route No. 869, intersects with the Portage-Wilmore road? You didn't know the difference in feet, that is, whether that was two thousand four hundred and fifty-three feet, or a little over this twelve hundred feet, where this new road intersects Route No. 869 with the Portage-Wilmore brick road? A. No, I didn't know that.

Q. You didn't know the difference? A. No. I wanted you to change that so the whole community on the top of the hill would have an outlet, and you said you couldn't change the starting point, or the view point.

Q. I wasn't a viewer, Mr. Maus. You don't know whether that point was twelve hundred feet from the intersection, or whether it was twenty-four hundred and fifty-three feet from the intersection? A. I didn't measure it at that time, no, but I measured it afterwards.

Q. The road, as it comes on to Route No. 869, does that cross your land? A. Yes, sir. I don't own down to the brick.

Q. It doesn't cross your land as it intersects this road? A. Yes, it crosses the lower end.

Q. Do you mean the road from the beginning? A. I mean where you start.

RE-DIRECT EXAMINATION BY MR. SWOPE:

Q. I show you paper marked for identification as exceptants' Exhibit No. 2 and will ask you to state what that is? A. Here is where they want to come in at (Place designated by red X is the starting point). That goes from there to this corner here (Shown on the map as a lead pencil mark). It follows this line down through to here. There it cut across my ground here again. I wanted the viewers to come out here. That would have throwed them the twenty-four hundred feet.

RE-CROSS-EXAMINATION BY MR. BAUMGARDNER:

Q. The point marked X in red pencil is the starting point of the road as it was laid out by the viewers? A. The first set of viewers.

Q. And that starting point is on what you call the Wilmore-Portage road? A. No, it is the Portage-Wilmore-Lovett road.

Q. Is that what you call the Portage-Wilmore-Lilly road? A. No, it ain't that there. It is the Lovett-Wilmore-Lilly road.

Q. You testified here it was the Wilmore-Portage-Lilly road? A. No.

Q. Then, the road crosses your land up to a plan of lots laid out by the Logan Coal Mining Company? A. The Logan Coal Company.

Q. Then, from that point it follows your land and the Logan Coal Company's plot to a point, and you point on here it follows your land to a point three hundred and ninety-two feet from the land of the Logan Coal Company, then from said point

FRANK J. MYERS, OFFICIAL STENOGRAPHER, FORTY-SEVENTH JUDICIAL DISTRICT, EBERSBURG, PA.

three hundred and ninety-two feet to the place of ending it goes through your land, is that right? A. Yes.

Q. Now, you say, Mr. Maus, that you didn't know whether this point was twenty-four hundred and thirteen feet, or twelve hundred feet, from the intersection, as designated on the notice?

A. Not until after I measured it.

Q. Did you know when you walked with the viewers that the termini of the road was changed from one point to another, on the road leading from Lovett to Beaverdale? A. No, I told you I didn't until I measured it.

Q. You didn't insist, then, that the viewers should follow the course? A. I insisted that they should follow the course here, certainly I did. I insisted on coming out here, instead of crossing my land. (Crossing designated as south fifty-four degrees west eight hundred and twelve feet and shown by dotted red pencil mark).

Q. If they would have followed this course, south fifty-four degrees west eight hundred and twelve feet, how far up the Lovett-Beaverdale road would the terminus have been from where it is at present? A. Man, I am no engineer. I figure it would have thrown them on what they figured it, twenty-four hundred feet.

Q. What is the distance from the dotted line, as it intersects with the highway, and where, according to your figures, the proposed road intersects with the other highway? A. I don't know that. I never measured that, that new road. The road cuts right through here. This is the old original road. I wanted them to put it so it would come out here and hit this old original mountain road.

Q. And again I ask you, The road, the terminus on the

Beaverdale-Lovett road, is not on your land? A. No, Lovett lies in between me and the concrete road. The coal company is between me and the concrete road.

Q. Do you know the approximate distance from your land to the road to Lovett, to the intersection? A. No, I don't know that.

Q. You don't know that? A. No.

Q. You say that this road, as laid out by the viewers, is not the best road that could be laid out for the people that are affected thereby?

BY MR. SWOPE:

He doesn't say that in his exceptions. The only thing at issue here is the proper termini of the roads. The question is objected to as incompetent, irrelevant and immaterial.

(The last question is read to the witness).

BY THE WITNESS:

A. I would say no.

RE-DIRECT EXAMINATION BY MR. SWOPE:

Q. Then, the only reason, Mr. Maus, that you have to objecting to the road as laid out by the viewers is because it was not laid out according to the contents of the notice posted, and not for the reason that the ground taken was through your land, is that right? A. Well, yes, in a way, and I always figured that the road should benefit the majority of the public, and not just a part of them.

Q. And if the end of the road had gone as the notice

called for it would have then come out at the place that you thought would be the better road, is that correct? A. No.

Q. I mean the twenty-four hundred and fifty feet?

A. It wouldn't have made a better road, but the beginning of the road is what I made objection to, on account of cutting water away from my place at this point here. I have a spring on my land that kept the people on the hill. By making the road here it cut this water from me and throws this twelve or fifteen acres idle.

(Witness refers to point x on the line to a point designated as O in red pencil).

Q. Then, you would say that the notices posted were vague and indefinite and erroneous and misleading, the notice which was posted by them, being exceptants' Exhibit No. 1?

A. Yes.

Q. And that the notice to view is further erroneous,-- Would you say that the notice to view is further erroneous and misleading and would cause people to become bewildered by reading the same due to the fact that the notice shows the place of ending of the road as twenty-four hundred and fifty-three feet from a certain point, when, as a matter of fact, it ended twelve hundred feet from that certain point? A. Yes, because anybody would see where it was supposed to come out would know that a man couldn't make that without a tunnel.

RE-CROSS-EXAMINATION BY MR. BAUMGARDNER:

Q. You had no quarrel with reference to the place of the beginning of the road? A. Yes, sir.

Q. Well, doesn't the notice say exactly where the road

is to begin and didn't it begin at that point? A. Well, it begun there, but I have objections to its going there.

Q. And you don't care a whole lot where the road ends on the other part of the road? A. No.

Q. It is just the part that goes through land adjacent to the Lovett road that you are interested in? A. It will cause me a lot of damages.

Q. And you wouldn't care if the road ends five thousand feet from that point, or five thousand feet from another point? A. Yes, I would.

Q. You testified that you didn't know where the road would end? A. I don't know.

Q. You say you would have to have a tunnel if the road is placed twenty-four hundred and fifty-three feet from where the Beaverdale road intersects with the Portage-Wilmore brick road?

A. Well, any man who was there could see that. Was you there?

Q. You are testifying. A. Well, if you was there, any man that was there would know it wasn't a fit place for a road, where it was supposed to end.

Q. Did you walk across the road that you thought was to be ended at the certain point designated as the end of view? A. No.

Q. Have you followed the course of the road as it was posted to be laid out? A. The layout wasn't posted as it was laid out at all.

Q. Did you follow the notices as they were posted? A. I just followed the viewers.

Q. You didn't follow the notices at all? A. No, I didn't pay no more attention to them.

Q. And the only notices you saw were these that went

across your land, at the place of beginning? A. That is where the whole thing, the whole trouble started, at the beginning. Most of these signers was there and objected to the starting point. .

Q. How many people living on the point marked with a circle, how many people living on the upper side of your land are affected by the road as the viewers laid it off? A. How many can use it?

Q. Yes. A. Four.

Q. Would you name them? A. There is Curt Weaver, Andy Yanich and the two Humberts.

Q. And they are designated on this blueprint on land shown here in the name of Nicholas Young? A. Yes, sir.

Q. And that land is laid out by the Logan Coal Company in lots? A. I believe so.

Q. And it is on these lots that these people you have mentioned live? A. Yes, sir.

BY MR. SWOPE:

We offer in evidence exceptants' Exhibit No. 1 and exceptants' Exhibit No. 2. We also offer in evidence the following contained in the petition for the appointment of viewers:

"The place of beginning being on the Portage-Wilmore brick road, distant seven hundred ninety-two (792) feet from where the said Portage-Wilmore brick road intersects with an amasite road, likewise leading to Portage, and the place of ending being on a road leading from Lovett to Beaverdale, known as Route No. 869, distant two thousand four hundred fifty-three (2453) feet from where said Beaverdale road, known as Route No. 869, intersects with the Portage-Wilmore brick road. The distance

of the said proposed road from beginning to end being approximately one (1) mile."

We also offer in evidence the plan of the proposed public road situated in Croyle Township, Cambria County, Pennsylvania, being attached to the report of the viewers, filed to No. 7 March Sessions, 1938, in the Court of Quarter Sessions of Cambria County, Pennsylvania, for the purpose of showing that the termini of the road on the concrete Lovett-Beaverdale road is twelve hundred feet, instead of twenty-four hundred and fifty-three feet, as advertised in the notice of view, one of said notices being exceptants' Exhibit No. 1.

HAROLD WEAVER, called, sworn.

DIRECT EXAMINATION BY MR. SWOPE:

Q. Where do you live, Mr. Weaver? A. Why, I live about two miles above Lovett, in Croyle Township.

Q. And were you at the view? A. I was not.

Q. And how long have you lived in Croyle Township? A. Oh, about twenty years, I imagine.

Q. And do you know any road commonly designated as the Portage-Wilmore brick road down there? A. Well, I never heard it called that, not to my knowledge.

Q. The notice of view states that "the place of ending being on a road leading from Lovett to Beaverdale, known as Route No. 869, distant two thousand four hundred fifty-three (2453) feet from where said Beaverdale road, known as Route No. 869, intersects with the Portage-Wilmore brick road." Now, if that, if the ending of that road had been laid out twelve hundred

feet from that point, instead of twenty-four hundred and fifty-three feet from that point, would that confuse you as to the place of ending, and would you be misled by that notice? A. Well, if it was changed, and I didn't know about it, I imagine it would be.

CROSS-EXAMINATION BY MR. BAUMGARDNER:

Q. You didn't read the notice? A. No, I didn't.

Q. And you wouldn't say that these names, these different roads, may not go under other names other than what they have been testifying to as the Portage-Wilmore brick road? A. Well, it may go under different names, but all I hear it called is the Wilmore-Lovett road, the road to Charley Plummers.

Q. You wouldn't say, then, that the Portage-Wilmore brick road, as it intersects with an amisite road, likewise leading to Portage and the place of ending, being on a road leading from Lovett to Beaverdale, known as Route No. 869, distant two thousand four hundred and fifty-three feet, wouldn't be correct? A. Well, I just wouldn't know where the Portage-Wilmore brick road is.

Q. Well, this isn't the only road, where this proposed road starts, on Mrs. Maus' land, you wouldn't say that is the only road that leads from Wilmore to Portage? A. No, there are other ways.

Q. There are other roads that lead from Beaverdale? A. Yes, and other roads from Lovett.

Q. You wouldn't say that some people use the expression when they are going one way, when they are going from Portage to Lovett, and use another expression when they are going the

other way? A. They may, although I never heard the expression. They may call it different names. I couldn't say that.

Q. You have said you weren't present at the view?

A. No, I wasn't present.

Q. How far do you live from Mr. Maus' home? A.

Oh, I would say a mile.

Q. Did you ever use the portion of the road that starts at this place of beginning, which would cross the Maus tract? A. Well, no. I hauled hay up there one way, but I

don't know where the road is they are talking about.

Q. It would lead off from the road? A. It led from the road to Beaverdale. It turned off at Lovett, to these people's place.

Q. You don't know whether that is the road that is covered by this view or not? A. I couldn't say positively, no, sir.

Q. You do know there is a road leading from this point on the road leading from Lovett to Wilmore? A. Yes, there is a road there, leading from Lovett to Wilmore.

Q. That has been used, that is, the road past Mr. Maus' land up into this settlement of the Logan Coal Company?

A. Well, I wouldn't say it went clear through.

Q. You say you hauled something over that road?

A. I hauled hay up to a place in there. It actually follows the cement road to Beaverdale. It just goes up along the bank, in the direction of Mr. Maus' place.

Q. Do you know whether or not there is a road leading at the Maus land, a road leading from Portage to Wilmore? A. Do you mean was there a used road up there?

Q. Yes. A. I couldn't say that.

Q. If there is, you never used it? A. No.

Q. The hay you hauled in there you hauled in from the other side? A. Yes, from Lovett.

BY MR. SWOPE:

It is admitted that the notices put up by the board of viewers in this case are the same as exceptants' Exhibit No. 1, and that ten or twelve of the same were posted.

PAUL MAUS, called, sworn.

DIRECT EXAMINATION BY MR. MAUS:

Q. You are the son of Ella Maus, the owner of this land; are you not? A. Yes, sir, I am.

Q. And you were born and raised on the Maus farm? A. Yes, I was.

Q. And were you at the view? A. No, I wasn't there.

Q. Did you read the notice of view? A. Yes, I did read the notice.

Q. And do you know of any road in Croyle Township known as the Portage-Wilmore road, brick road? A. No, I don't.

Q. You were interested in this land? A. Yes, I was.

Q. In this view, as it affected your mother's land? A. Yes.

Q. Would you say that the designation of the point of beginning being set forth as the Portage-Wilmore brick road would tend to confuse people? A. Yes, it would.

Q. Now, the point of ending is designated in the notice of view as being two thousand four hundred and fifty-three feet distant from where the Beaverdale Road, known as Route No. 869, intersects with the Portage-Wilmore road, whereas the road as actually laid out is a distance of twelve hundred feet from the designated point? A. That is right.

Q. Was that change such as would confuse you in the location of the road? A. Well, it would have if I had been there.

Q. And did the designation of the starting point and the designation of the changing of the ending of the road cause you to become bewildered and confused as to the location of this road? A. It would have. I wouldn't have known where the road should have been.

CROSS-EXAMINATION BY MR. BAUMGARDNER:

Q. You weren't at the view? A. No, I wasn't at the first view.

Q. Do you stay with your father? A. Yes, I do.
and Wilmore

Q. What do you call the road that leads to Portage /
from Lovett? A. Where it passes the starting of this road?

Q. Yes. A. I call it Charley Plummer's brick road.

Q. You call it Charley Plummer's brick road? A. That is what I know it as.

Q. A lot of people call it the Lovett-Portage road and others call it the Lovett-Wilmore road and still others may call it the Portage-Wilmore road, as far as you know? A. I don't know.

Q. You knew where the road started when you saw the notice posted, did you not? A. I had an idea.

Q. You had an idea that it started on the road that had been used for quite a number of years, where the first notice was posted, is that correct? A. I thought it would start there; I wasn't sure.

Q. Well, would you have us believe that the point at the place of beginning of the road was not definite, or certain, that you didn't know where it would begin, according to the notice? A. I wasn't sure, no.

Q. You wasn't sure? A. No, sir.

Q. Did you read the whole notice? A. Yes, sir.

Q. Do you know where the viewers met? You weren't there. Did you follow the notices over the proposed road to be laid out, as posted by the viewers, prior to the time they made the view? A. No, I did not.

Q. Then you wouldn't be in a position to know whether it was twelve hundred feet from a certain point, or twenty-four hundred feet from a certain point? A. No, I wouldn't know that.

RE-DIRECT EXAMINATION BY MR. SWOPE:

Q. If you were directed to go to the Portage-Wilmore brick road, in Croyle Township, would you know where to go?

A. No, I wouldn't know where to go.

RE-CROSS-EXAMINATION BY MR. BAUMGARDNER:

Q. If you were directed to go, to travel the road

from Lovett and Wilmore to Portage, would you know which road to travel? A. Not exactly.

Q. You know this road, where the road is supposed to be laid out as a highway, has its place of beginning on the Charley Plummer brick road, is that correct? A. That is correct.

BY MR. SWOPE:

We offer in evidence the exceptions filed by the exceptants in this case on September 10, 1938.

EXCEPTANTS REST.

BY MR. BAUMGARDNER:

We wish to offer in evidence the amended petition for the appointment of viewers, entered to the above number and term, stating that the place of beginning being on the Portage-Wilmore brick road, distant seven hundred and ninety-two (792) feet from where the said Portage-Wilmore brick road intersects with an amasite road, likewise leading to Portage and the place of ending, in the first petition, being on a road leading from Lovett to Beaverdale, known as Route No. 869, distant two thousand four hundred and fifty-three (2453) feet, was inadvertently wrong and that the place of ending is on the said road leading from Lovett to Beaverdale, known as Route No. 869, distant twelve hundred (1200) feet from where said Beaverdale road, known as Route No. 869, intersects with the Portage-Wilmore brick road. This amended petition for changing the termini of the road, on Route No. 869, was signed by the court on June 27, 1938.

BY MR. SWOPE:

That is objected to as being incompetent, irrelevant and immaterial and it is objected to further for the reason that the description, as contained in the alleged petition to amend, petition for appointment of viewers, does not show the corrected distance in the notice of the viewers posted in this case.

BY MR. BAUMGARDNER:

In answer to that we wish to quote part of the decree of the court, dated the 27th day of June, 1938, that "the court do permit amendment of same as prayed for in said petition and that the viewers appointed in the former petition proceed to perform their respective duties and that the clerk of courts of said County of Cambria notify the chairman of the board of viewers of the presenting of the within petition and of this decree."

And also answer, in the second place, that Mr. Maus and all the parties interested in this view, having presented themselves before the viewers, on the day set forth in the notice, and having traversed the entire proposed road, are now estopped from taking advantage of any defect in the notice, having waived same by their presence in attending said view.

BY MR. SWOPE:

The order of the court is objected to as being incompetent, irrelevant and immaterial, as the court does not presume to affect any person's right without notice to them. The notice of view does not contain the changed location of this highway. The rights of the parties here are protected by exceptions duly taken prior to the final order of the court relative to this highway. The owner of this land had no notice whatsoever of any petition for appointment of viewers amended, or any order of

the court thereon and, therefore, cannot in any wise be affected by said order of court. Further, in answer to the statement of Mr. Baumgardner, counsel for the exceptants wish to state that all of the parties interested were not present at the view. All of the parties interested in a public road are all of the citizens of the township, whether present at the view or not. We ask that the statement that all of the parties interested in the view being present at the view be stricken from the record.

S. E. DICKEY, called, sworn.

DIRECT EXAMINATION BY MR. BAUMGARDNER:

Q. Mr. Dickey, you are a member of the permanent board of viewers of Cambria County? A. I am.

Q. Were you chairman of the board of viewers that was appointed by the court to go with Mr. Jencks and Mr. Kaylor to go into the necessity of laying out a public highway? A. I was.

Q. Entered to No. 7 March Sessions, 1938, in the Court of Quarter Sessions of Cambria County? A. Yes.

Q. Pursuant to said order of court what did you do?
A. Prepared notices of view and posted them, according to law. After the time specified in the notice we proceeded with the view. After posting the notices I received a decree from the court amending the ending of the location of the proposed highway. The contents of the change was made known publicly at the meeting of the view, before we proceeded.

Q. Do you know when you posted the notices, what day?
A. The notices are dated on June the 20th, 1938, and I believe

they were posted on or about that time.

Q. That would be how many days prior to the day of the view? A. The day set forth, the day of the view, was July the 6th. That would be sixteen days inclusive from that date. Perhaps the notices may have been posted a day or two following the date.

Q. After you received notice from the clerk of courts that the amended petition with reference to changing one of the termini, on Route No. 369, did you post new notices? A. I did not.

Q. Did you think it was necessary to post new notices?

BY MR. SWOPE:

That is objected to as calling for a legal conclusion from the witness.

BY MR. BAUMGARDNER:

Q. You may answer the question. A. Inasmuch as the notices had already been posted, it was my opinion that it was not necessary to post additional notices, as the amended courses could be made known during the view.

BY MR. SWOPE:

We move that this testimony be stricken out.

BY MR. BAUMGARDNER:

For what reason?

BY MR. SWOPE:

As calling for a legal conclusion from the witness and, further, it is incompetent, irrelevant and immaterial, not stating any fact.

BY MR. BAUMGARDNER:

Q. Were all of the viewers present, at the place of the beginning, as advertised in the notice? A. All the viewers were present, yes.

Q. Was Mr. Maus there? A. He was.

Q. Was Mr. Yanich and Mr. Humbert there, if you recall? A. Well, there was quite a crew there. I don't recall all the names, but I think the two gentlemen you named were present.

Q. The notice you gave, this notice of the petition being amended as to the change of the termini on the road leading from Lovett to Beaverdale, was given to you, not only to the viewers, but the parties in interest and others that were there?

BY MR. SWOPE:

That is objected to as to the parties in interest.

BY MR. BAUMGARDNER:

Q. Well, to all the persons that were present? A. That is right, the notice was given to the persons present.

Q. Did Mr. Maus make any objection to the notice? A. No objections were made at all as to the location of the ending of the road at no time during the view.

Q. Did Mr. Maus accompany the viewers and others from the place of beginning to the place of ending of the proposed highway, do you recall? A. He did.

Q. Do you recall whether or not the supervisors were present at that view? A. They were.

Q. Did they accompany the viewers and others from the point of beginning to the place of ending of said proposed highway? A. They did.

Q. Do you recall of any objections being made by any one in attendance at that view with reference to the change of the termini of the road leading from Lovett to Beaverdale?

A. There were no objections.

BY MR. SWOPE:

This is objected to as being incompetent, irrelevant and immaterial. The persons who followed the viewers at the time of the view did not know that the viewers were going to locate the road there; they didn't know that they were going to approve the road.

BY MR. BAUMGARDNER:

Q. When did you file your report? A. I believe it was filed on July the 11th, 1938.

Q. The map attached to the viewers' report, made part of the viewers' report and filed shows the layout of the road from the place of beginning to the place of ending? A. It does.

Q. And does the report of the viewers give the metes and distances, the courses and distances, as indicated on the blueprint? A. It does.

Q. The place of beginning is on a road leading ^{from} Wilmore to Portage, or from Portage to Wilmore, is that correct? A. The beginning is on a brick road designated as the Portage-Wilmore brick road and being the brick road leading from Lovett to Portage, or Wilmore.

Q. And the place of ending designated on the blueprint is twelve hundred feet distant from the road leading from Portage to Wilmore and known as Route No. 869? A. That is correct.

Q. If the road would have followed the course twenty-

four hundred and fifty-three feet, on the place of intersection of the Lovett Road, the road leading from Lovett to Beaverdale, on Route No. 869, what would you say as to that terminus? A. It was inaccessible. It wasn't practical for a road to be laid out at that point for the reason that immediately adjacent to the State Highway Route No. 869 is a high precipice, nearly one hundred feet high, which you would have to put an incline plane on to get down. It was the consensus of opinion of the persons present that that was an impracticable termini and it was further stated by other persons present that the original intersection there where the termini was to be was impracticable and that it ought to be at the place it was described in the amended petition, for the reason that there is an existing road at that point, and that is where they thought it was to start, and the other distance must have been in error, in the original petition.

BY MR. SWOPE:

That is objected to as being incompetent, irrelevant and immaterial and, further, as being a voluntary statement by the witness.

BY MR. BAUMGARDNER:

Q. Mr. Dickey, when you posted the notices in the first instance, did you post the notices near the precipice, as you have testified to? A. I did not. I posted them at the intersection of the road, or approximately twelve hundred feet from the Portage-Wilmore brick road, because I was accompanied by several residents of the district, who stated that the twenty-four hundred and fifty-three feet must be in error, because this, pointing to the road intersection, was the place where they expected the road to come out on to the concrete road.

BY MR. SWOPE:

That is objected to as being incompetent, irrelevant and immaterial and hearsay testimony and not in response to the question asked.

BY MR. BAUMGARDNER:

Q. Mr. Dickey, did you substantially post your ten or twelve notices along the line which you later laid out a public highway and so reported to the court? A. I did, at the termini and along the route of the proposed road.

Q. And that was the proposed road, as the report showed, and filed in the clerk of courts' office? A. As the report here shows, yes.

Q. And you say this road, as it intersects with Route No. 869, follows, more or less, a road that had been used for road purposes?

BY MR. SWOPE:

We object to that, because the testimony of the witness did not give that.

BY THE WITNESS:

A. The route we laid follows very close, or practically all the way, on an old road which had been used for a long number of years.

BY MR. SWOPE:

That is objected to as being incompetent, irrelevant and immaterial.

BY MR. BAUMGARDNER:

Q. And what would you say with reference to the grade of the road laid out by you? A. Well, it was the most direct

route and the best grade obtainable between the two points.

CROSS-EXAMINATION BY MR. SWOPE:

Q. Mr. Dickey, when you designated these roads, you took the names from the petitions, did you not? A. Yes.

Q. And when you called that the Portage-Wilmore brick road, that is the name you found on the petition? A. That is correct.

Q. And when you took the ending of the road as twenty-four hundred and fifty-three feet from where said Beaverdale road, known as Route No. 869, intersects that Portage-Wilmore brick road, you took that from the petition, did you not? A. I did.

Q. And Mr. Maus was not agreeing to anything during the whole of the view, was he? A. Well, he objected to the road on general principles, I believe, but particularly, at the beginning, he didn't want it to go through his woods, or some other part of the property.

Q. Well, he was the general objector the whole way through, was he not? A. Yes, but he had no, he didn't make any particular objections to the ending of the road. As a matter of fact, Mr. Maus went along with us and suggested that we continue on out along his line until we came to the top of this precipice, near an old road, and that we make a right-angle turn and follow this old road back to the same place all along. Certainly, we all know this was Mr. Maus' suggestion.

Q. Now, when you went over there to post the land, you didn't post in accordance with your notice, did you? A. Not as to the termini on the concrete road, because I discovered then,

and the persons who were with me, who were some of the petitioners, said that that was not what was intended.

Q. I am asking you whether you did, or whether you did not, post the road in accordance with the petition? A.

I am answering you, and made an explanation.

Q. And the notice of view attached to your report is the same as the notice of view identified as exceptants' Exhibit No. 1, is that right? A. That is correct.

Q. And the notice of view calls for the place of beginning as seven hundred and ninety-two feet from where the said Portage-Wilmore brick road intersects with an amasite road, is that right? A. That is right.

Q. And the place of ending being on the road leading from Lovett to Beaverdale, known as Route No. 869, distant twenty-four hundred and fifty-three feet from where said Beaverdale road, known as Route No. 869, intersects with the Portage-Wilmore brick road, that is right? A. That is right. That is in the notice. The report of the viewers also states that the original petition was amended ten days prior to the making of the view, correcting the location of the ending of the proposed road on Route No. 869, a copy of which is hereto attached; that the road was laid out in accordance with the said amendment. The viewers were served with the notice, being a decree: "And now, to-wit, the 27th day of June, A. D. 1938, the within petition having been read and considered, the court do permit amendment of same as prayed for in said petition and that the viewers appointed in the former petition proceed to perform their respective duties and that the clerk of courts of said County of Cambria notify the chairman of the board of viewers of the presenting of the within petition and of this decree. By the Court:

McCann, P. J." "Extract from the Record. Certified this 27th day of June, A. D. 1938. James M. Jones, Clerk of Courts." This for the purpose of showing that the decree was received a number of days after the notices had been posted.

BY MR. SWOPE:

That is objected to as being incompetent, irrelevant and immaterial.

RECESS UNTIL 1:15 O'CLOCK P. M., TUESDAY, FEBRUARY 28, 1939.

AFTERNOON SESSION, TUESDAY, FEBRUARY 28, 1939.

S. H. JENCKS, called, sworn.

DIRECT EXAMINATION BY MR. BAUMGARDNER:

Q. Mr. Jencks, are you a member of the permanent board of viewers of Cambria County? A. Yes, sir.

Q. Were you a viewer on the road to be laid out starting on the land of Mrs. Fred Maus, in the Township of Croyle, Cambria County, entered to No. 7 March Sessions, 1938? A. I was.

Q. Was Mr. Maus present at the view? A. Yes, sir.

Q. Was this gentleman here, Mr. Maus present? A. Yes, sir.

BY MR. SWOPE:

Objected to as being incompetent, irrelevant and immaterial.

BY MR. BAUMGARDNER:

Q. Were all the viewers present? A. Yes, sir.

Q. Were there any persons in attendance at the view other than we have named? A. There were a number of persons there, most of them living around on the property in the region there.

Q. Did you traverse, or travel, over the portion of the road with the other viewers and the others who were with you from the place of beginning, on the Maus farm, to the place of ending, on the road leading from Lovett to Beaverdale? A. Yes, sir.

Q. Do you recall whether or not Mr. Dickey made an announcement at the beginning of the hearing, at the place of beginning, with reference to an amended order of court? Do you recall of him having made that? A. Well, he might have. We were scattered around there.

Q. You don't recall that he did? A. No.

Q. Was the road that you traversed, from the place of beginning to the point of ending, laid out by the board of viewers and reported so in your report filed in the office of the clerk of courts? A. Yes, sir.

Q. Was the road as you had laid it out substantially on an old abandoned roadbed? A. Very close to it, yes, sir.

BY MR. SWOPE:

Objected to as being incompetent, irrelevant and immaterial.

BY MR. BAUMGARDNER:

Q. Was the portion of the road at the point of beginning a road that was used by someone? A. Oh, yes, considerably used.

BY MR. SWOPE:

Objected to as being incompetent, irrelevant and immaterial.

BY THE WITNESS:

It appeared to be an old road.

BY MR. BAUMGARDNER:

Q. Was the portion of the road that you are testifying to now the road that crosses the land of Mrs. Fred Maus, at the place of beginning? A. Yes.

Q. Do you recall whether or not Mr. Maus made any statement as to the road ending at the point of ending? A. I didn't hear him say anything.

BY MR. SWOPE:

Objected to as being incompetent, irrelevant and immaterial.

NO CROSS-EXAMINATION.

SAMUEL LAW, called, sworn.

DIRECT EXAMINATION BY MR. BAUMGARDNER:

Q. Where do you live, Mr. Law? A. Heilwood, Indiana County, Pennsylvania.

Q. How long have you lived down there? A. Four years.

Q. Did you formerly reside in Beaverdale? A. I did.

Q. How long ago? A. I left there on January the 1st, 1927.

Q. By whom were you employed at that time? A. The Logan Coal Company at that time had the entire use of my services.

Q. And how long had you been employed by the Logan Coal Company prior to January 1, 1927? A. From about May the 1st, 1921.

Q. What, among other things, did you do? A. I was mining engineer, a resident mining engineer for the Logan Coal Company.

Q. Mr. Law, do you recall of having made a survey over the land of Mrs. Ella Maus some years ago? A. I do.

BY MR. SWOPE:

This is objected to as being incompetent, irrelevant and immaterial. We would like to have an offer as to what you propose to prove by this witness.

BY MR. BAUMGARDNER:

We propose to prove by the witness on the stand that he made a survey of a portion of the road laid out, as it crosses the land of Mrs. Ella Maus, up to the line of the Logan Coal Company.

BY MR. SWOPE:

For what purpose?

BY MR. BAUMGARDNER:

For the purpose of showing that the road, as laid out, traverses the same portion of the road as surveyed by Mr. Law, and was used by the Yaniches for a number of years.

BY MR. SWOPE:

This is objected to as being incompetent, irrelevant and immaterial and not within the matter at issue and the exceptions filed thereto.

(The last question is read to the witness).

BY THE WITNESS:

A. I do.

BY MR. BAUMGARDNER:

Q. Do you recall how long ago? A. Not the exact years, but I would say before 1925.

Q. And where did that survey begin, if you recall?

A. On the land of Frank Humbert and ran to a brick road leading from Lovett and ending either at Wilmore or Portage.

Q. You don't recall what the length of that was in feet? A. No, I don't.

Q. But it started at the land of Andrew Yanich and ended on the brick road leading from Lovett to Wilmore or Portage? A. It started on Frank Humbert's land and ended on this brick road leading from Lovett towards Portage and Wilmore.

Q. Did you make a blueprint of it? A. I don't recall.

BY MR. SWOPE:

We now move that all of the testimony of the witness be stricken out for the reason that the same is incompetent, irrelevant and immaterial.

NO CROSS-EXAMINATION.

FRANK HUMBERT, called, sworn.

DIRECT EXAMINATION BY MR. BAUMGARDNER:

Q. Where do you live, Mr. Humbert? A. Lovett, on

top of the hill there, what you call Sidman.

Q. Your post office is Sidman? A. Yes.

Q. And where is your home? A. Well, up above,
in Croyle Township.

Q. Does your land adjoin the land of Mrs. Fred Maus?

A. Yes, sir.

Q. And who lives next to you? A. Mr. Yanich.

Q. From whom did you buy? A. From the Logan
Coal Company.

Q. How long ago did you buy from the Logan Coal Com-
pany? A. 1918.

Q. 1918? A. Yes, sir. 1919, I mean.

Q. Do you have the deed here? A. Yes, sir.
(Deed produced by witness).

Q. When did you buy? A. On the 28th day of
November, 1919.

Q. Do you know whether the Logan Coal Company has a
number of lots up in the neighborhood where you live?

BY MR. SWOPE:

This is objected to as being incompetent, irrelevant
and immaterial.

BY MR. BAUMGARDNER:

Q. The question is, Do you know whether or not the
Logan Coal Company has made a survey for a number of lots to
sell up where you live? A. Sure, because I buy there.

BY MR. SWOPE:

Objected to as being incompetent, irrelevant and im-
material.

BY MR. BAUMGARDNER:

Q. How do you get into and out of your home that you bought from the Logan Coal Company, ^{to} ~~from~~ the road leading from Lovett to Wilmore or Portage?

BY MR. SWOPE:

This is objected to as being incompetent, irrelevant and immaterial and not having anything to do with the matter at issue at this time.

BY THE WITNESS:

A. Well, I used to walk to Beaverdale. I have got no horse now and I have just to walk to the road, over to the brick road there. For nineteen years I walk there.

BY MR. BAUMGARDNER:

Q. Did you use a road intersecting with the brick road leading from Lovett to Portage or Wilmore? Did you use that road?

BY MR. SWOPE:

Objected to as being incompetent, irrelevant and immaterial.

BY MR. BAUMGARDNER:

Q. Mr. Humbert, how long have you used a road leading off the brick road going from Lovett to Wilmore or Portage, past your property? A. To go by horse, fifteen or sixteen years, anyhow.

BY MR. SWOPE:

That is objected to as being incompetent, irrelevant and immaterial.

BY MR. BAUMGARDNER:

Q. And when was the last time you used this road?

A. When they put notice up, no trespassing.

Q. When was that notice, no trespassing, put up?

A. About two months.

BY MR. SWOPE:

Is it agreed that all the testimony will be taken under the objection of counsel for the exceptants so that we can save some time here? We object to all of this testimony as being incompetent, irrelevant and immaterial.

BY MR. BAUMGARDNER:

Q. And when you got a notice not to use this road, you quit using it? A. Yes.

Q. Did this man Law, that just testified, make a survey of that road? A. Yes, sir, he did.

Q. About how long ago? A. Oh, about twelve or fourteen years ago, I guess, fifteen. I don't know how long any more.

BY MR. SWOPE:

We now move that all of the testimony of this witness be stricken from the record as being incompetent, irrelevant and immaterial.

CROSS-EXAMINATION BY MR. SWOPE:

Q. How many ways do you have to get out from your place? A. One way, to fly out.

Q. You have that way they testified about and you have another way, haven't you? A. I walk out. I have no car. I

go to Beaverdale on the road.

FRANK HUMBERT, JR., called, sworn.

DIRECT EXAMINATION BY MR. BAUMGARDNER:

Q. Where do you live, Frank? A. I live in Croyle Township.

Q. Do you live near your father? A. Yes, sir, adjoining to my father.

Q. Are you married? A. Yes, sir.

Q. Do you have a home there? A. Yes, sir.

Q. How long have you used the road from your home down past Maus' place, down to where that road intersects the road leading from Lovett to Wilmore or Portage?

BY MR. SWOPE:

This is objected to as being incompetent, irrelevant and immaterial. We object to all testimony along this line and it is agreed that all testimony along the line of this questioning shall be taken under objection of counsel for the exceptants and exception.

BY MR. BAUMGARDNER:

Q. All right, you may answer the question? A. Well, I have been using that road,--Well, I would say for nineteen years we have been traveling over that road by walking on it, until Mr. Maus gave us permission to build a road there, and that is what we have travelled since Mr. Maus gave us that permission, and Mrs. Maus.

Q. Was that right given you before Mr. Law made the

survey? A. It was about a year or two before that.

Q. Were you there when Mr. Law made the survey?

A. Yes, sir, I was there.

Q. Do you know how long it took Mr. Law to make the survey? A. No, I have no idea.

Q. Do you know whether or not Mr. Maus was there when Mr. Law made the survey? A. Well, I couldn't tell you that.

Q. But Mr. Maus didn't stop him? A. No; and on different occasions when we were filling the road Mr. Maus said we would have a nice road at the time.

Q. And how long have you been using this road? A. Well, with horse and wagon, I would say fourteen or fifteen years, and before that by path.

Q. And when did you quit using the road? A. When Mr. Maus put the sign up he would have us arrested.

Q. When was that? A. Well, in December, the first time, and in January, the next time.

Q. December of 1938 and January of 1939? A. That is right.

Q. Are you using the road now? A. We are not using the road. I can't drive out. My car is in the garage.

Q. How many people live back in this immediate neighborhood? A. There are eight people up there that can use the road.

BY MR. SWOPE:

We move to strike out the testimony of this witness as being incompetent, irrelevant and immaterial.

CROSS-EXAMINATION BY MR. SWOPE:

Q. How old are you Frank? A. Just thirty on the 21st of this month.

ANDREW YANICH, called, sworn.

DIRECT EXAMINATION BY MR. BAUMGARDNER:

Q. Where do you live, Andy? A. I live next to Mr. Humbert's.

Q. Are you married? A. No, sir.

Q. Do you stay with your father? A. Yes, sir.

Q. How long have you used a road past the home of Mrs. Fred Maus, leading from your property? A. Since the time we fixed that road. It is going on fifteen years we are up there.

Q. Does your father own the property that you live in? A. Yes, sir.

Q. From whom did he buy? A. From Lizzott.

BY MR. SWOPE:

It is agreed between counsel for the exceptants and counsel for the petitioners that all of the testimony relative to the use of the road shall be taken under a general objection by counsel for the exceptants, the same being incompetent, irrelevant and immaterial.

BY MR. BAUMGARDNER:

Q. But the land that you and your father live on now was originally a part of the Logan Coal Company tract of land? A. Yes, sir, it was.

Q. Did the Logan Coal Company tract of land provide for streets and highways? A. Yes, it did.

Q. Were you present when Mr. Law made a survey for a road leading from your tract of land down to where the road intersects with the Lovett road? A. No.

Q. You weren't present when that survey was made? A. No.

Q. Do you know whether or not Mr. Law made a survey of the road? A. Yes, I know it.

Q. What, if anything, did you do with reference to the road he surveyed?

BY MR. SWOPE:

Q. You received that information from other people? A. No, the survey was cut out there. That is how we begun to work on that road. Humbert showed me the way Law cut out the road.

This is objected to as being hearsay.

BY MR. BAUMGARDNER:

Q. How do you know Mr. Law made the survey? A. Well, Humberts had the receipts from Law for surveying that.

BY MR. SWOPE:

This is objected to as being hearsay.

BY MR. BAUMGARDNER:

Q. Did anyone tell you of that who was present when the survey was made? A. No.

Q. All you know about the survey is what you heard other people say about it? A. Yes, and they had receipts for it.

Q. Did you have a receipt? A. Yes, I had a receipt.

Q. What kind of a receipt did you have? A. For the survey.

Q. Whose receipt? A. Sam Law's receipt.

Q. The man who testified? A. Yes, sir.

BY MR. SWOPE:

This is hearsay and we still object to it.

BY MR. BAUMGARDNER:

Q. Did the people who lived back in this section of Croyle Township on this Logan Coal Company layout do anything by way of making improvements on the road as it was used, on the road leading from your place and intersecting with the Lovett road? A. Yes, we did.

Q. What did you do? A. Well, we hauled rock and made it so we could use it and we kept on fixing it up until this last time, when we had this trouble with Maus there. He told us to go ahead and fix it up at first.

Q. When did you quit using that road? A. Some time in December, 1938.

Q. That was after the viewers had their view? A. Yes, sir, after the viewers was there.

Q. Why did you quit using it? A. We was arrested for trespassing.

Q. How often were you arrested? A. Twice.

Q. Who arrested you? A. The first time Paul Maus arrested us, a son of Fred and Mrs. Maus.

Q. And who arrested you the second time? A. The same person.

Q. You had a hearing in both cases? A. Yes, sir.

Q. And you finally took an appeal in the last case?

A. Yes, sir.

BY MR. SWOPE:

We want an objection on the record relative to all testimony in regard to the arrests made for trespassing on this land for the reason that the same is incompetent, irrelevant and immaterial and has nothing whatsoever to do with this case.

BY MR. BAUMGARDNER:

Q. Have you used the road since the last arrest?

A. No, sir.

BY MR. SWOPE:

We now move to strike out the testimony of the witness as being incompetent, irrelevant and immaterial.

NO CROSS-EXAMINATION.

BY MR. BAUMGARDNER:

In addition to the papers which have been offered in evidence by both counsel for the exceptants and the petitioners, all other papers not heretofore offered, and particularly the report of the viewers, showing that they filed they filed their report pursuant to an order to view on July 11, 1958, are now offered in evidence.

BY MR. SWOPE:

We object to this report, especially in view of the fact that there was a petition for a review, and the review was made, and the report of the same was made to the court.

BY MR. BAUMGARDNER:

We also offer in evidence the answer of the petitioners to the exceptions filed by the exceptants.

BY MR. SWOPE:

The offer is objected to for the reason that the same is incompetent, irrelevant and immaterial and not evidence in this case.

PETITIONERS REST.

TESTIMONY CLOSED.

FRANK J. MYERS, OFFICIAL STENOGRAPHER, FORTY-SEVENTH JUDICIAL DISTRICT, EBENSBURG, PA.

STENOGRAPHER'S CERTIFICATE.

I hereby certify that the proceedings and evidence are fully contained and accurately in the notes taken by me on the hearing of the above cause, and that this copy is a true and correct transcript of the same.

Frank J. Myers
Official Stenographer.

FRANK J. MYERS, OFFICIAL STENOGRAPHER, FORTY-SEVENTH JUDICIAL DISTRICT, EBENSBERG, PA.

Not Recd. Filed

In Re: Laying Out a proposed
Road in Croyle Township,
Cambria County, Penna.

In the Court of Quarter Sessions
of Cambria County, Penna.
No. 7, March Sessions, 1938

S. E. Dickey
S. H. Jencks
Louis E. Kaylor
Viewers

PLAN OF PROPOSED PUBLIC ROAD

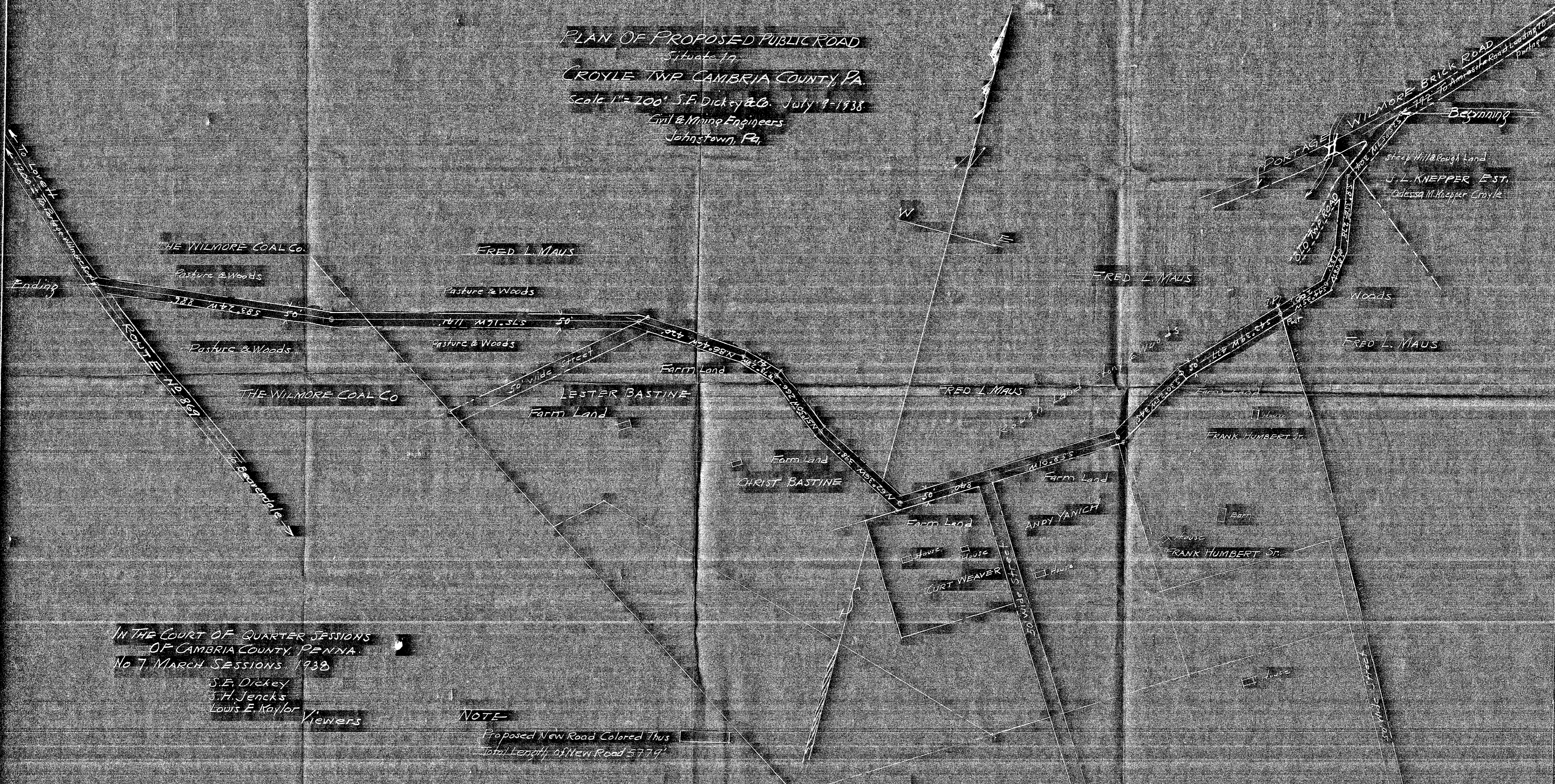
Situate in

CROYLE TWP CAMBRIA COUNTY, PA.

Scale 1"=200' S.F. Dickey & Co. July 9-1938

Civil & Mining Engineers

Johnstown, Pa.



IN THE COURT OF QUARTER SESSIONS
OF CAMBRIA COUNTY, PENNA.
No 7 MARCH SESSIONS 1938

S.F. Dickey
J.H. Jencks
Louis E. Kaylor
Viewers

NOTE

Proposed New Road Colored Thus
Total Length of New Road 5779'

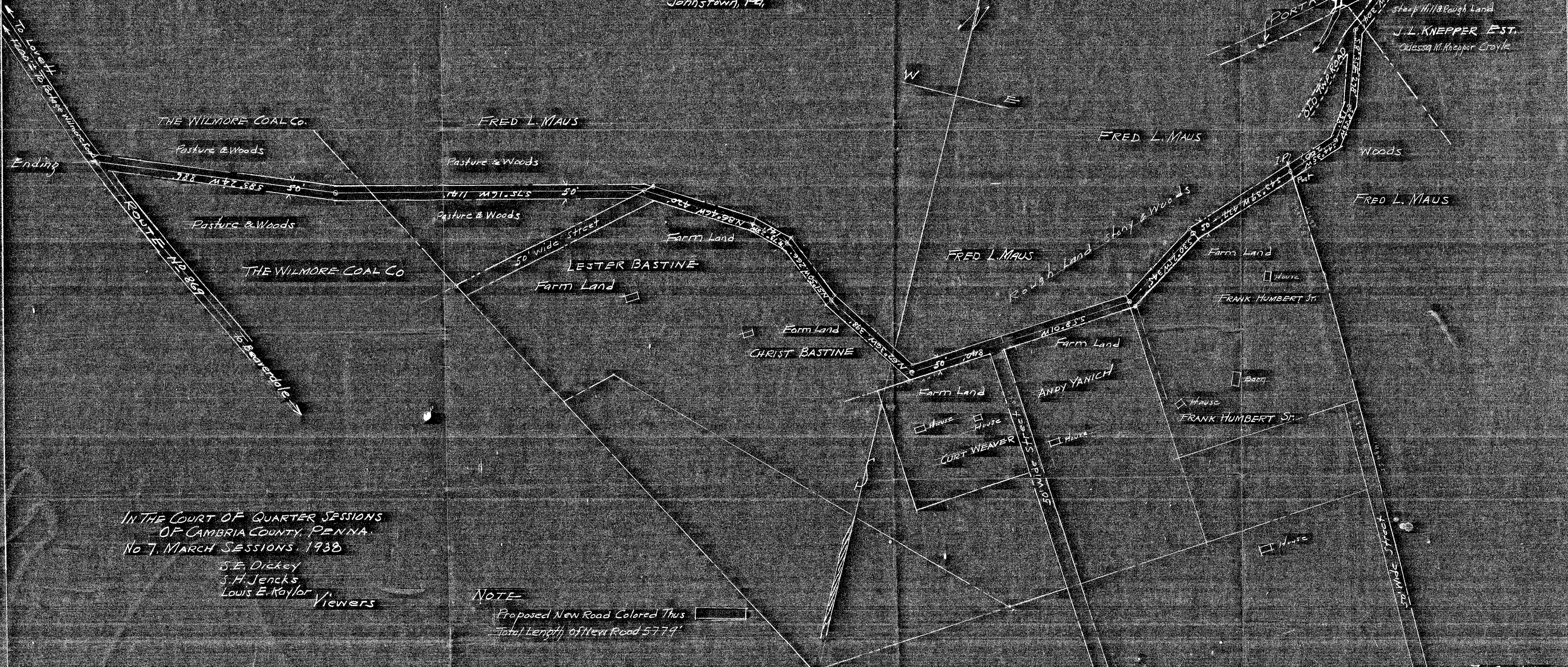
Rat Microfilmed

RD# 7

Mar. 1938

map #2

PLAN OF PROPOSED PUBLIC ROAD
 Situate in
 CROYLE TWP CAMBRIA COUNTY, PA.
 Scale 1" = 200' S.E. Dickey & Co. July 9-1938
 Civil & Mining Engineers
 Johnstown, Pa.



IN THE COURT OF QUARTER SESSIONS
 OF CAMBRIA COUNTY, PENNA.
 No 7, MARCH SESSIONS, 1938
 S.E. Dickey
 S.H. Jencks
 Louis E. Kaylor Viewers

NOTE
 Proposed New Road Colored Thus [red line]
 Total Length of New Road 5779'