

In the matter of the petition of the Pennsylvania and Northwestern Railroad Company to take off absolute confirmation of report of viewers laying out a public road in Reade Township: ~~\_\_\_\_\_~~

*On the* 14th day of June, 1893, a petition was presented asking for the appointment of Viewers to lay out a public road in Reade Township: viewers were appointed and their report was filed 4th September 1893, they reporting in favor of the road. On September 6th, 1893 a remonstrance was filed signed by upwards of sixty citizens of the township alleging that it would be too expensive for the Township to build the road. The report of viewers was confirmed nisi Nov. 2nd, 1893 and the records show that on January 15th, 1894 the remonstrance was withdrawn and the report of viewers confirmed absolutely. In March, 1894 the Supervisors obtained an order to open the road. They opened it at considerable expense to the Township and it has been in use ever since much to the convenience and accommodation of the citizens.-- On August 20th, 1894, the P. and N. W. R. R. Co., by its Superintendent presented its petition setting forth the proceedings as above, and that said road is laid out over a piece of land belonging to said Railroad Company adjoining its roadway and parallel to it a distance of 1295<sup>feet</sup>, and through its station grounds a distance of 225 feet. That the station grounds are used for railway purposes and the other tract of land referred to was purchased for railroad purposes and intended to be used for a coaling station; that said public road occupies 0.90 acres of petitioners land and that said Company ~~have~~ paid the sum of \$1490 for the said piece of land containing 9.13.--that said land is rendered valueless for the purpose for which it was purchased by the public road, *that* no notice was given to any officer or agent of the Company of the meeting of viewers *and* \_\_\_\_\_

that no officer or agent of petitioners had any notice or knowledge of the proceedings in Court, ~~The~~ meeting of the viewers, ~~or~~ the laying out of the road or the opening of the same until after it was actually opened, that the viewers did not endeavor to procure a release from petitioners for damages nor did they assess any damages; therefore the Court was asked to take off the absolute confirmation of said road and hear the petitioners as to the necessity or propriety of laying out said road through the land of said Company and also on the question of damages.-- A rule was granted and the parties afterward, fully heard.-- On part of the Railroad Company W.A. Ford the Superintendent and C. F. Moore, Engineer were examined and they testified that they had received no notice or knowledge of the proceedings in Court or the opening of the road until the road had been opened for public use; they also testified as to the effect the road had on the property of the Railroad Company and submitted in evidence a draft which showed that the road was laid out on a portion of ground appropriated for their roadway. A number of citizens were examined on part of the Township in resistance of the prayer of the Railroad Company who testified generally as to the necessity of the road and that the Railroad Company were not injured by it. Two of the viewers were also examined to show that the road was not viewed or laid out on any part of the road bed of the Railroad Company.

While the petition and testimony of the Railroad Company indicate that the public road was laid out "adjoining the <sup>rail-</sup> road and parallel to it" it would seem from the draft that the road was laid out on ground "intended to be used as a road bed." But we are not satisfied that it covers any part of the ground appropriated or intended to be appropriated for a road bed. The Surveyor who laid out the road was dead at the time the testimony was taken and was not present when the supervisors opened the road, and it so far un-

certain as to the exact points that it can ~~not~~<sup>not</sup> be determined with precision by feet and inches exactly where it was laid out, ~~and~~<sup>but</sup> we gather from the draft filed with the report and the testimony of the two viewers that it was not intended that any portion of the "right of way" of the Railroad Company should be occupied by the public road. The road then is constructed through a piece of land purchased since the Railroad was constructed and intended eventually to be used for a coaling station, and which the witnesses called by the Railroad Company say will be valueless for that purpose if the public road remains, *and also through the station lot.*-

The difficulty that lies in the path of the Railroad Company in appealing to this Court for a hearing as to the necessity or propriety of running this road through this land is found in the fact that these matters have all been adjudicated after the usual and regular manner required in road cases, and the road ~~having~~<sup>has</sup> been opened and used for a considerable period of time by virtue of the proceedings had in this Court, *there* is nothing in the law requiring personal notice to land owners; the law simply requires the posting of hand bills, and according to the report of the viewers and the testimony of the witnesses, this was done as required by the Act of Assembly; the proceedings laid over the required length of time for exceptions, remonstrances or petition for review and ~~these proceedings~~ were entirely regular, except possibly in the matter of assessing the damages to the land of the Railroad Company, or endeavoring to obtain releases from them for the same, and in this matter it is apparent that the viewers were misled by the assurances of an employe of the Railroad Company that no damages would be claimed, as testified to by the two who were examined; While of course the Railroad Company is not bound by this, the man clearly having no authority, yet it explains the conduct of the

viewers in not strictly following the law in either obtaining releases or assessing damages.

The failure of the viewers to either assess some damages to the Railroad Company or report that they sustained no damages, or to endeavor to procure a release from the same ~~Had~~ <sup>had</sup> the advantage been taken of it in time ~~it~~ might possibly have proven fatal to the proceedings, but after the lapse of time between the confirmation of the report and the issuing of the order to open <sup>and the presentation of petition in this case</sup> more especially since the township has gone to considerable expense in opening the road, we cannot conceive that we would be warranted in setting aside the proceedings on this ground alone, and more especially <sup>where</sup> the opportunities of notice to the petitioners existed as in this case. The road was in close proximity to their freight and passenger station at Glasgow; was laid out and opened parallel to their track for some distance where a number of trains are passing daily and where they doubtless have a number of employes in one capacity or another, so that aside from the fact that notice was given as required by law, <sup>it</sup> ~~is~~ is a source of wonder to us that attention was not attracted to this proceeding from outside sources. <sup>If</sup> the question of actual notice was a material one in this case it might become a delicate question to determine as to whether such notice could not be proven, notwithstanding the testimony of Mr. Ford and Mr. Moore that neither of them had ~~received~~ <sup>personal</sup> notice. <sup>We</sup> granted a rule in this case in order that all the facts might be fully placed before us and after hearing them and fully considering the case we are satisfied that we can grant <sup>such relief</sup> no release to the petitioners <sup>as would result in closing the road already opened.</sup> This is a proceeding between the petitioners and the citizens of the township interested in the road and the Township authorities and we do not determine whether the petitioners still have a remedy.

for assessment of damages; the viewers having failed to file any report in respect to damages, that would be a proceeding between the petitioners and the County and we make this decree without prejudice as to any such proceeding.

And now *Sept. 2, 1895*, the rule is discharged at the cost of petitioners, without prejudice to its right to move in the question of the assessment of damages.

*By the Court,*

*Same day promise for The Pennsylvania and North Western R.R. Company asks that a bill of exception be signed and sealed which is accordingly done*

*A. V. Parker Secy  
P. J.*

No. 8 Pine Avenue  
1893,  
Road Street

In re "Good Law"  
Reule & Kinnally's

Johnson.

Filed 22 Oct. 1895.

To the Honorable A.V. Barker, President Judge of the Court of Quarter Sessions of Cambria.

To the petition of the Pennsylvania and North Western Railroad Company for a rule to show cause why a decree of absolute confirmation should not be stricken off in the matter of the report of viewers in laying out a public road or high-way in the township of Reade, commencing at a point on the line between the lands of the Pennsylvania and North Western Railroad Company and the Mount Zion Evangelical Lutheran Church, in the public road leading from Allemansville to Fallen Timber, and extending thence to a point about twenty-five rods South of the United Brethren Church, in township of Reade, leading from Glasgow to Mountindale, George W. Cree, one of the petitioners for said road, makes answer thereto as follows:

1. That true it is a petition of divers inhabitants of Reade township was presented to the said Court for the appointment of viewers to view and lay out a public road from the points in said petition mentioned; that the said viewers filed their report on November 2nd, 1893 in said Court, and on January 15th, 1894, the same was confirmed absolutely, and the road ordered to be opened.

2. That in pursuance of said absolute confirmation the said road was duly opened by the Supervisors of that district, in pursuance of the report of the viewers and the confirmation of the same by the Court.

3. That due and legal notice of the time and place of the meeting of viewers was given by three partly printed and partly written notices, which were posted up convenient to the proposed road, as required by law; one of which notices is hereto attached and made part of this answer.

4. It is true that no notice was served upon any officer of the said Railroad Company, but as stated in the preceding paragraph, the

meeting of the viewers was advertised in the way and manner as in such cases made and provided; that David A. Hollenbaugh, an employee of the said Company, was present at the time the view was had.

5. That the report of the viewers ~~in the county order~~, as prepared and returned, would indicate that there were no damages to be awarded to the Pennsylvania and North Western Railroad Company by reason of the opening of such road through its land.

6. That in pursuance of the confirmation of the report of the viewers an opening order was issued and the road, as laid out by the viewers, was opened by the Supervisors of that district, and it would be a hardship upon the people residing in the neighborhood of such road to close the same at this time, and would interfere with the convenience of the travelling public should the confirmation be stricken off and the road, as now used and occupied, be in any manner interfered with; and therefore the rule to show cause should be dismissed at the costs of the petitioner.

Geo. W. Cree

Cambria County, SS:

*Proshy*

Before me, a Justice of the Peace in and for said County, personally came George W. Cree, who being duly sworn, according to law, says that the facts set forth in the foregoing answer are true to the best of his knowledge and belief.

Sworn and subscribed before me  
this 30 day of September, A.D. 1894.

Geo. W. Cree

J. C. Darby  
Jm

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# ROAD NOTICE.

NOTICE is hereby given that the viewers appointed by the Court of Quarter Sessions of Cambria County to view the ground for a road from point on line between Pennsylvania Northwestern Rail Road Co's survey and Mount Zion Ev Lutheran Church to public road leading from Allmons Mills to Hallen Timbers and extending thence to a point about twenty five (25) rods South of the United Brethren Church in Township of Hazel leading from Glasgow to Macintoshdale

will meet at the <sup>Store</sup> house of A. R. Melhise, in the township of Reade aforesaid, on the Monday 7<sup>th</sup> day of August 1893, at one o'clock P.M., for the purpose of viewing said ground.

July 24<sup>th</sup>

1893

John Matthews  
B. H. Gorshey  
Harry Seaman  
Viewers

[NEWS PRINT CARROLLTOWN, PA.]

No. 5 June Term 1895

In re petition of the  
Commonwealth and  
North Western Railroad  
Company for a rule  
to show cause etc.

Answer,

Filed 3 Sept 1894

By  
Cramer,

To A. V. Barker President Judge of  
Court of Quarter Sessions and for the Peace  
in and for the County of Cambria at  
Jersey Ab 1893

We the undersigned  
jurors appointed by said Court do Report  
that we gave due and timely notice of time and  
place of the meeting of the Jurors by three  
printed notices posted in three public places in  
Keele Township near said road. And we  
do further report that having met at time  
and place designated by said notices and after  
all first being affirmed and sworn according  
to law to perform our duties with Fidelity  
we did view and lay out the following  
for a Public Road or highway viz Beginning at  
a point on line of land of Pennsylvania North Western  
Rail Road Company and Mount Zion Ev Lutheran Church  
at a Point on public road leading from Allison Mill to  
Fallen Timber thence South twenty one and one half  
degrees East two perches to Post thence South fifty  
and one half degrees East two and five tenths perches  
Post thence South nineteen degrees East thirty one  
perches Post thence by line of land of heirs of John Cree  
and David A. Hallinbaugh South three degrees West  
one hundred and twenty five perches Post thence through  
land of John Matthews South twenty five degrees  
West sixty six perches to Post on public road  
leading from Glaze to Mountdale about

thirty perches Southward of United Brethren Church  
 all in Township of Keode which in our opinion is  
 necessary to accommodate the public travel and avoid-  
 ing a steep dangerous hill northwesterly of said U  
 Brethren Church And we do further report that  
 assize and police a damage of sixty dollars to John  
 Foxall also a damage to John Matthews of  
 one hundred and seventy two dollars as to the  
 other owners we return their release of damages  
 per draft herewith covered all of which is  
 respectfully submitted

Witness our hands this 7<sup>th</sup> day of April 1873  
 B J Foxall  
 Henry Seaulau  
 John Matthews

Since  
 B J Foxall 2 circulator 1 day Review  
 John Matthews 2 " 1 " "  
 Henry Seaulau 78 " 3<sup>1</sup>/<sub>2</sub> " Surveyor  
 Walker Matthews 1 Chairman  
 George Hiscox 1 "



Know all men by these presents that we  
 George W Love Sr & Hallenbyh  
 G W Love Agent for heirs of John Love  
 of Road Township in County of Cambria State of  
 Pennsylvania for divers good cause and consideration  
 and especially for the consideration of the advantages to  
 be derived by us from the road passing through our  
 land as located this day in pursuance of the aforesaid  
 Order of Court of Quarter Sessions of Cambria County  
 have remised released and quit claim and by these  
 presents do remise release and quit claim unto  
 John Kinby S M Lloyd and P E Billon

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

Witness our hands and seals

this 7th day of August 1893

Sealed and delivered

in presence of us

Henry Seabury

Geo. W. Love

Geo. W. Love per Heirs

...

(Seal)  
 (Seal)  
 (Seal)  
 (Seal)  
 (Seal)  
 (Seal)  
 (Seal)

Commonwealth of Pennsylvania,  
County of Cecilia } ss.

At a Court of Quarter Sessions of the Peace of the County of Cecilia  
held at Greensburg in the the said County, on the Tenth day of  
June A. D. 1890, before the Honorable the Judges of the same  
Court. Upon the petition of divers inhabitants of the township of Keok  
in the said County, setting forth that they labor under inconvenience for want of a

Public road or highway, to lead from  
a point on the line between the lands of the Pennsylvania  
& North Western Railroad Company and the Mount  
Zion Ev. Lutheran Church in a public road leading from  
Allemausville to Fallen Fideles and extending thence to  
a point about twenty-five (25) rods South of the United  
Brethren Church in Township road leading from Glasgow  
to Mountandale

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 Henry Scoullars SURVEYOR,

and Jos. Matthews & J. F. Farshay

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 desire of the  
petitioners, and that they make a report of their proceedings to the next Court  
of Quarter Sessions to be held for said County, stating particularly whether they  
judge the same necessary for a public or private road, together with a plot or draft  
thereof, and the courses and distances, and references to the improvements through  
which it may pass.

BY THE COURT.

Attest:

J. C. Parley

Clerk.

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

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

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

No. *J*  
*June Sess. 1893.*

*Order to view a road from  
 point on line between Park St.  
 R.R. Co. & Mt. Z. E. L. Church  
 on road from Mt. Z. E. L. Church  
 to Fall River to a point  
 on road from Georgetown to  
 Mountdale in River  
 Fork*

*Viewers  
 Henry Kimball  
 Geo. Matthews  
 A. S. Forester*

*Filed 4 Feb. 1893.*

*John Daily 190  
 Grant*

*Now Apr. 2 1893 Read and confirmed nisi and ordered  
 to be opened 30th inst  
 15 June 1894 Confirmed absolutely - (See Orig. Book)  
 By the Court*

TO THE HONORABLE, THE JUDGES OF THE COURT OF QUARTER SESSIONS IN AND  
FOR CAMBRIA COUNTY:

The petition of the Pennsylvania and Northwestern Railroad  
Company respectfully sheweth:

That your petitioner is a corporation organized under the  
General Railroad Law of the Commonwealth of Pennsylvania, owning and  
operating a railroad from Bellwood on the Main Line of the  
Pennsylvania Railroad to Fordham  
in Jefferson County.

That on June 14th 1893, a petition of divers inhabitants of  
Reade Township, in said County, was presented to the said Court for  
the appointment of viewers for public road or highway, to lead from  
a point on the line between the lands of the Pennsylvania and  
Northwestern Railroad and the Mount Zion Ev. Luthern Church in a  
public road leading from Allemansville to Fallen Timber, and extend-  
ing thence to a point about twenty-five rods south of the United  
Brethern Church in Township road leading from Glasgow to Mountain-  
dale; upon which petition viewers were appointed the same day, and  
on September 4th 1893, the Report of Viewers was filed laying out a  
public road between the points mentioned, and on November 2, 1893,  
was read and confirmed nisi and ordered to be opened thirty feet  
wide. On January 15th 1894, Report was confirmed absolutely, and on  
March 30th 1894, an order was issued to open the said road, and  
thereupon the said road was opened; that the said road is laid out  
over and upon a tract or piece of land of your petitioner adjoining  
your petitioner's roadway, said piece of land containing 9.13  
acres. The said road is laid out  
parallel to an adjoining the roadway of your petitioner and extend-

ing through your petitioner's land for a distance of 1295 feet, and said public road also extends through station grounds of your petitioner for a distance of 225 feet;

the said station grounds having been purchased for railroad purposes and ~~is~~ <sup>is an</sup> used for railroad purposes; that the tract or piece of land upon which said road is laid out, was purchased by your petitioner for railroad purposes, and is intended to be used for railroad purposes; that your petitioner intends to use it in future for a Coaling Station; that the said public road occupies an area of

0.90 acres of your petitioner's land;

that your petitioner purchased the said tract of land in <sup>a part</sup> fee, from Andrew Mülhollen and wife, by deed dated March 4th 1892, recorded in Deed Book Vol. 83, Page 66; your petitioner paying \$1075.00 for ~~of~~ 80/100 acres; your petitioner paying therefor at the rate of

187 and 82/100 dollars per acre for the land herein mentioned; that the tract or piece of land herein mentioned is

*and part from the highlands with a small piece of land from the same source - (see on top, p. 317, etc) - the action from the 1863.20 per acre - making the entire price paid for the 9.13 acres \$149,000*

rendered valueless for railroad purposes by the said public road and cannot be used for any <sup>future or additional</sup> of the railroad purposes contemplated by

your petitioner, and your petitioner has sustained heavy damages by reason of the laying out and opening of the said public road; that no notice was given to any officer or agent of your petitioner of the meeting of Viewers, and no officer or agent had any notice or knowledge either of the proceedings of Court or of the meeting of Viewers, or of the laying out of the said road, and no officer of the Company had any knowledge whatever of the laying out or opening of the said road until it was actually opened for public use; that it was opened for public use about the 1st of June 1894; that the said officers did not endeavor to procure a release from your petitioner from all claims for damages that might arise from the opening of said road, and said Viewers did not assess any damages to your petitioner.

Wherefore, your petitioner prays that the absolute confirmation of said road may be taken off, to the end that your petitioner may be heard as to the necessity or propriety of laying out said road over your petitioner's land, and that your petitioner may be heard also upon the question of damages.

BLAIR COUNTY, SS:

*W.A.F. MA - Superintendent*  
*S. M. K. V. of Pennsylvania & North Western R.R.*

Before me, *a Notary Public in and for*  
*Said County* personally appeared W. A. Ford, Esq.,

Superintendent of the Pennsylvania and Northwestern Railroad Company who being duly <sup>*affirmed*</sup> sworn according to law doth depose and say, that the facts set forth in the above and foregoing petition are true, to the best of his knowledge and belief.

*affirmed*  
sworn and subscribed before me :

this *18th* day of *August*

A. D. 1894.

*W.A.F.*

*W.B. Mackay*  
*Notary Public*

BLAIR COUNTY, SS:

Before me, *a Notary Public in and for said County*

personally appeared C. F. Moore, Esq., Engineer of Maintenance of Way of the Pennsylvania and Northwestern Railroad Company, who being <sup>*affirmed*</sup> duly sworn according to law doth depose and say, that deponent has read the above and foregoing petition and that the facts therein set forth and alleged are true to the best of his knowledge and belief.

*affirmed*  
sworn and subscribed before me

this *18th* day of *August*

A. D., 1894.

*C.F. Moore*  
*Engineer M. W.*

*W.B. Mackay*  
*Notary Public*

*Filed for record 1894*

IN THE MATTER OF THE REPORT  
OF WITNESSES LAYING OUT A  
PUBLIC ROAD OF 100 FEET WIDE  
THAT FROM A POINT ON THE  
EAST SIDE OF LANE OF ETT  
TOWN & E. W. R. R. CO., AND  
THENCE TO A POINT ABOUT 25  
FEET FROM THE INTERSECTION  
OF THE SAID LANE AND ROAD THAT  
THE SAID ROAD BEING 100 FEET  
WIDE FROM THE INTERSECTION TO  
THE POINT WHERE THE SAID ROAD  
CROSSES THE RAILROAD TRACKS  
THENCE TO A POINT ABOUT 25

ROADS SOUTH OF WINDY BROOK-  
FRI OFFICE IN TOWNSHIP ROAD  
LEADING FROM GLASCOCK TO

*Filed 20 Aug. 1894*

PETITION  
OF THE

PENNSYLVANIA & HOHENAUER  
RAILROAD COMPANY TO TAKE  
OFF ABSOLUTE CONTROL

*20th Aug. 1894 petition read  
and will be shown on the  
why de eve of about  
conformation should work  
State then of practice. 1st  
1st Monday of next month  
service provided by the  
as the owner*

NEFF, HICKS & AMBROSE,  
ATTORNEYS,  
ALTOONA, PA.  
PHOENIX BLOCK.

To the Honorable the Judge of the Court of Quarter Sessions of  
the Peace, in and for the county of Cambria.

The petition of the undersigned, inhabitants of the township  
of Reade, in the said county, respectfully showeth: That your pe-  
titioners labor under great inconveniences for want of a public  
road or highway, in said township of Reade, to begin at a point  
on the line between the lands of the Pennsylvania & North Western  
Railroad Company and the Mount Zion Ev. Lutheran Church in a  
public road leading from Allemansville to Fallen Timber, and ex-  
tending thence to a point <sup>about twenty-five (25.) rods</sup> south of the United Brethren Church in  
township road leading from Glasgow to Mountindale. Your pe-  
titioners therefore pray the Court to appoint proper persons to  
view and lay out the same, according to law; and they will ever  
pray, &c.

W. A. Wollenbaugh  
A. C. Lovell  
John S. Myers  
S. G. Evans  
L. N. Lovell  
F. H. Anderson  
J. E. Kilbuck  
J. D. McCartney  
George A. Miller  
Allen Quinn  
Jas. McEwan  
J. H. Lovell  
W. J. Miller

J. A. McCartney  
J. E. Mulhollen  
J. H. Anderson  
Geo. W. Hiscott  
John Swin  
J. Schmitte  
Geo. W. Cree  
W. C. Lovell  
C. D. Davison  
C. B. Swin  
W. Campbell  
J. J. Peterson

*1818 June 14 1893*  
*PA*

P E T I T I O N

F O R

Appointment of Viewers to locate Public Road in Reade Township, Cambria County, Pa.

*June 14<sup>th</sup> 1893*  
*Henry Sealeman*  
*Geo. McAllister*  
*D. H. Hensley*  
*appointed viewers*  
*by the Court.*

No. \_\_\_\_\_ Term, 1893.

*Filed*  
*June 14 June 1893*

\_\_\_\_\_ Viewers appointed

*21*



1. L. H. Hornum

2. S. D. Kijig

3. David M. M... ..

4. Giles M... ..

5. The W. Apple Co.

6. J. S. Baker

7. Peter Miller

8. Blair Miller

9. J. J. ... ..

10. E. Kuhn

11. Job Ross

12. Wm. Kuhn

13. John How

14. Samuel Kuhn

15. Perry Kuhn

16. William Long

17. George Bahr

18. Gust Eckstein

19. J. W. Vincent

20. Ludwig C. ... ..

21. David Wyand

22. John ... ..

23. Peter ... ..

24. John ... ..

25. Edm. Edmiston

26. Fred Bland

27. W. S. Beers

28. John Kelly

29. Daniel Mathews

30. Jerry Good

31  
32  
33  
34  
35

No. 8 June 1873 P.D.

Removes us & sends  
the Company off to  
a road beginning on  
the line of the R.R. near  
near Henry's line. The  
near Church near  
Chapman's & intersects  
with the road leading  
from Chapman to Mount  
Windsor in Rock Falls.

July 6th. 1873.

Removes us & sends

Shawnee

Depositions of witnesses produced, sworn, or affirmed, and examined by me, the 27th day of October A. D., 1894, at the Office of Neff, Hicks & Geesey, in Phoenix Block, Altoona, Pa., between the hours of nine a. m., and 6 P. M., by virtue of the annexed Rule of Court of Quarter Sessions of Cambria County, and notice hereto attached for the examination of witnesses in a certain cause depending in said Court in the matter of the Road from point on Road from Allmensville to Fallen Timber, to point South of U. B.; Church on Road from Glasgow to Mountaindale.

C. F. Moore Esq., affirmed on the part of the petitioner

I am Engineer of Maintenance of Way of the Pennsylvania and North Western Rail Road Company.

The Pennsylvania and North Western Rail Road Company is a Corporation organized under the General Railroad Law of Pennsylvania owning and operating a railroad from Bellwood on the Main Line of the Pennsylvania Railroad to Fordham, in Jefferson County, Pa.

My Office as Engineer is in Bellwood.

I am familiar as far as I can see it on the ground, with a Public Road or Highway laid out from a point on the line between the lands of the Pennsylvania & North Western Railroad, and the Mount Zion Evangelical Lutheran Church, in a Public Road leading from Allmansville to Fallen Timber, and extending thence to a point about 25 rods South of the United Brethern Church in ~~Township~~ Road

leading to Mountaindale.

I had no notice or knowledge of the proceedings in Court for the laying out of that Public Road.

I first learned that there was a Public Road laid out there about the latter part of May or the 1st of June 1894.

At that time I learned the fact by seeing the Road.

I never received any notice from the Viewers or any one else of the time and place of meeting of the Viewers, and had no knowledge whatever of the View.

MAP OR PLAN MARKED EXHIBIT "A" W. B. H.

SHOWN WITNESS.

The measurements were made on the ground by Mr. E. A. Howell an Engineer in employ of the Company in December last. Mr. Howell was engaged at that time in preparing the Right-of-Way Maps of the Pennsylvania & North Western Railroad Company. I made a copy of Mr. Howell's Map, and this is copy of his Map.

I made all of this Map myself.

I made this about sometime in June and marked the Public Road thereon. I made it from the measurements of the Road as it appears on the ground.

The Attorney for the Respondents objects to the Map as evidence in this case because neither the survey of the Public Road, nor the Line of the Railroad as described in such Map were surveyed or made by the witness, but such Map is simply a copy of the work of another, the accuracy of which is not fixed by the Map offered in evidence.

nor is the evidence the best evidence which can be produced to prove the facts the Petitioners desire to establish.

As it appears on the ground beginning at the Northerly end it enters the Company's property at the corner of the Glasgow Station lot marked "E," on Plan, hence it crosses the Station lot to a point about the middle of the Southerly side of the same, and at a distance of approximately 60 feet from the center line of the two Main Tracks, hence it follows the line of the tracks and parallel therewith and in a Southeasterly direction for a distance of approximately 1300 feet where it leaves the Company's property.

The triangle A. B. C., represents the land purchased by the Company from Andrew Mulhollen, by deed dated 4th day of March 1892, and recorded in Cambria County the 6th day of April 1892, in Vol. 83 Page 66.

The entire piece contains  $7 \frac{8}{10}$  acres.

The consideration paid for this land \$1075.00.

This was at the rate of \$137.82 per acre.

This land was purchased by the Company for Railroad purposes.

The immediate intention of the Company was to build two tracks it was however a part of the definite plan, and still is so, to make this point a receiving and storage point for cars, empty and loaded. It was also expected to establish here a coaling station. As the location is particularly well suited for such purpose.

The land was purchased with that view and for that purpose.

This Public Road is laid out directly across the Company's land.

The center line of the beaten roadway is approximately 60 feet from the center line between the two tracks of the railroad.

The acres included in the triangle A. H. K., of the Map, is  $4 \frac{6}{10}$  acres.

The total acres bought of Andrew Mulhollen is  $7 \frac{8}{10}$  acres, which the Company set aside a strip 120 feet wide and containing  $3 \frac{2}{10}$  acres as roadbed, the balance  $4 \frac{6}{10}$  acres was for coaling station and other railroad purposes.

The Public Road is laid out over a part of this strip of 120 feet wide.

Apparently about half the width of the Public Road is laid out on this strip.

The Public Road would interfere with the use of this strip for tracks and sidings to the extent of the amount it takes.

The Road is now operated on what is designated on the Map as the two Main tracks.

This Public Road renders the  $4 \frac{6}{10}$  acres perfectly useless to the Company for the purposes of a coaling station.

I cannot think of any good use that could be made of this land for any Railroad purposes.

I undoubtedly consider the Railroad Company very seriously damaged by this Public Road.

The large damage to the Company arises from the facts that the location under the consideration is probably the only one available for the intended use between Bellwood and Irvona, and the need of a coaling station between these two points will soon be a very pressing one in the operation of the road.

The Company purchased the Station ground ~~from~~ at Glasgow from Eliza Stephens and husband by deed dated the ~~29th day of~~ ~~September~~ ~~1891~~ 1st day of September 1891, and recorded in Cambria County the 29th day of September 1891 in Deed Book Vol. 79, Page 137.

It contains one and one-tenth acres.

The consideration paid for it was \$215.00.

The station lot is designated on the Map by the letters,  
D. E. F. G.

This Public Road runs across the Station lot.

The line of the Public Road is approximately 20 or 25 feet  
on the corner of the Station platform.

The Public Road is against the siding.

The siding is used for the receiving of freight to go to the  
station or the loading of freight to go away from the station.

This Public Road interferes very seriously with the use of  
the station grounds for railroad purposes. The patrons of the road  
cannot have convenient access to the siding except by occupying  
the Public Road.

The Railroad Company is very seriously injured by the laying  
out of this Public Road through the station grounds.

I go over the Road frequently.

I never saw any notice of the meeting of the Viewers posted  
up along the line of the road or anywhere else.

The Viewers never, to my knowledge, endeavored to procure a  
release from the Company from all claims for damages that might  
arise from the opening of the Public Road

Assuming the Road to be laid out of the width of 30 feet, the  
area of the ground actually occupied by the Road through the Company's  
land is about an acre and one-hundredth.

Cross Examined by A. S. Leisenting, Esq., Attorney for the Respondents

I have been in the employ of the Pennsylvania & North Western Railroad Company since 1887, and has been Engineer of Maintenance of Way about May of 1888.

This Map offered in evidence is the combination of two separate surveys made by two different parties.

I did not make the surveys or Map or (original Map) in person. All the work was done by my subordinates and under my supervision

The Map produced here to day is a copy of the Map made by my subordinates and under my supervision.

Q, Then the evidence which you give here to-day touching the length of the Public Road, its width, its distance from any given point about which you have testified, its course &c., is based upon a survey and measurements made by a subordinate?

A, Only so as to minute details in a general way I have a perfectly clear personal knowledge of the matters in which I have testified.

This personal knowledge was gained by walking over the ground as far as the Public Road is concerned.

As to this Public Road I, personally, made no measurements with a tape.

Q, Personally you made no measurements of this Public Road on the ground?

A, I did not.

The measurements and survey of the railroad as they appear on the Map offered in evidence were made by Mr. Howell, the date of which I am unable to give. Mr. Howell <sup>was</sup> ~~is~~ Assistant Engineer and Draftsman at that time in the employ of the Pennsylvania and North Western Railroad Company, whose employ he left about the last

of last year.

The measurements and survey of the CO. as appears on the Map was made by E. H. Collin in July of 1894. Those gentlemen are the subordinates of whom I spoke.

I am acquainted with one David A. Hollinbaugh.

He is in the employ of the Company now.

He has been in the employ of the Company as long as I have.

I never had any conversation with Mr. Hollinbaugh with reference to this particular road (before it was opened).

I have had several conversations with Mr. Hollinsbaugh concerning the desirability of a road beginning somewhere near where this road begins and ending somewhere near where this road ends. The conversations never got any farther than an expression of opinion by Mr. Hollinsbaugh, as to the desirability of a better connection between Galsgow and Mountaindale.

I never saw a petition for signatures to be presented to the Court of Cambria County for the opening of this Public Road, and had no knowledge of it, and had no knowledge neither of pending of such proceedings in Cambria County.

The road was opened fully before I had any knowledge of it.

I saw no printed notices in the neighborhood of Glasgow or the Public Road.

Q, Do you not know that this Public Road as now laid out is a very great advantage to the people along the route and particularly to the people in and about Glasgow so far as their convenient access to the railroad and railroad station at Glasgow is concerned. and MounAindale and its vicinity

A, The advantages to be gained by a Public Road are not dependent on its precise location, so far as being a convenience to the people at Glasgow, it has been vigorously opposed by a majority of them. As to the access of the public to the station the presence of the road in its present location is a serious interference with the conveniences of the station, and its value to the railroad as well as to the railroads patrons. A location giving all the advantages of the present one, and all the conveniences of the station lot, and avoiding the disadvantages of the present road is available.

I gather my knowledge of the objections on the part of people residing in the City of Glasgow from the remonstrance which was filed against the opening of the road, and from conversations I have had with persons residing in that vicinity.

I do not know that that remonstrance was withdrawn from the Court by the persons who signed it.

Among the parties who objected to the opening of the road in conversations that I have had with them are : A. R. Willhide, and D. A. Hollenbaugh. I do not recollect any other.

Q, Will you please explain what you mean when you say in your examination direct, that the patrons of the railroad could not have convenient access to the station and siding, except by occupying the Public Road, and whether you mean the station and siding at the Glasgow Station?

A, I do mean the Station and siding shown on the attached plan. The siding between the point of its junction with the Main track and the Station building is used for standing cars to be loaded or unloaded from or into wagons, and such wagons cannot stand along the side of the track for this purpose except, by occupying the Public Road; also the freight platform in the rear of the station is used for backing teams against for receiving freight out of the warehouse, and this cannot be done without occupying the Public

Road in part; also a part of the conveniences of the station lot consists in storage ground adjacent to the siding for materials to be shipped away, and such storage ground is almost entirely occupied by the Public Road.

Q, Do you know of a single instance where either patrons of your road or the occupants or the travellers on the Public Road have been inconvenienced by reason of the close proximity of the Public Road to your siding or the railroad line?

A, I do not know of any such instance. It is not in the line of my duties to become acquainted with such cases.

Re-Examined in Chief.

This Public Road could have been laid out upon another location which would have been just as good and convenient for the public as this road and without interfering with the Pennsylvania & North Western Railroad Company, or the uses of its property. The road could have been located along the easterly side of the Company's property connecting with the present highway about at point "F" following thence to points "C" and "B" from thence crossing the Railroad and connecting with the new Road at about point "H," or it could have been located beginning about point "E", thence to "D", "J" "K". and "A", and thence to its terminus at or near Mountindale

Attorney-for the rRespondants objects to this evidence for the reason that it is fully irrelevant to the questions that issue under this rule.

either of

I think the two routes I have suggested would be as good in point of grade and as convenient for the public as the road laid out.

There is a cut on the railroad almost the entire leggth of the Public Road where it extends through the Company's property

There is a Bank on each side of the track.

I would consider it a rather dangerous location.

Re CROSS EXAMINED

Up to the time that this road was opened nor has there been since, any positive steps taken by our Company for the erection or maintenance for a coaling station at Glasgow, to which reference was made in my examination in chief

Q, Have there been any plans prepared by yourself or by any one else for the Company, for the erection of such a structure as a coaling station at Glasgow, and referred to in your evidence in chief?

A, There have not been any drawings for such a station prepared as far as I know. As to general plan and arrangement of such a station at this point it was talked of between the Superintendent and myself at the time of the purchase of the property and several times since then.

Q, Then the location of the Public Road now laid out could only be objectionable in that direction in case such coaling station was erected?

A, Of course the road would only interfere with the coaling station in case of there being one there, it, however, hinders the use of the ground even for any other railroad purpose and its existence is sufficient to prevent any consideration of this location as a coaling station.

C. J. Moore  
m



W. A. FORD AFFIRMED

I am the Superintendent of the Pennsylvania and Northwestern Railroad Company.

My office is at Bellwood.

I am familiar in a general way with the location of the Public Road laid out over the Company's land near Glasgow.

I had no notice or knowledge of the proceedings in Court for the laying out of this Public Road

Mr. Moore and I were on our way to Punxsutawney one day were on the rear car of the train at the rear end of the car. Train stopped at Glasgow, we were both looking out at the track and notice the Public Road over our land, I called Mr. Moore's attention to it and asked him what it meant; found he did not know, it was new to him, that was the first knowledge I had of the location of the road. This was about the 1st of June.

MAP MARKED EXHIBIT "A" SHOWN WITNESS.

That Map shows the situation of the Public Road with respect to the Company's land.

The intention was of purchasing the land from Andrew Mulhollen yard purposes for laying tracks and for coaling station

That part purchased from Andrew Mulhollen was intended for coaling station and for laying of tracks, and

If coaling station is erected the public using the Public Road would be in constant danger by trains or engines shifting, and the moving of empty and loaded cars to and from the coaling station or overhead bridge.

The Public Road destroys the use of this ground for the purposes of a coaling station.

We would consider the land rendered useless for any railroad purposes by this Public Road

This location is very well adapted for the purposes of a coaling station, and the only location that I know of between Bellwood and Irvona.

I consider the road a very dangerous road for the travelling public on account of its nearness to our tracks, and the high embankments almost the entire distance of the Public Road which runs parallel to our tracks.

I consider the laying out of this Public Road over the Company's land a serious injury to the Company.

The road runs through the station ground at Glasgow.

The Public Road almost touches the siding at the South end of the siding.

I consider the Public Road in the way it is laid out an injury to the station ground and the business of the Company.

This siding is used for the loading and unloading of freight.

When we purchased this ground from Mulhollen we purchased the land for the purpose of storage tracks, that is, all in excess of our Main Line tracks, and for coaling station as I stated before.

That triangle which is cut off the station grounds by the Public Road cannot be used to advantage for any railroad purposes. Before the Public Road was laid over the station ground patrons of the road in hauling in bark, lumber &c., for shipping would pile their freight close to the siding ready for loading onto cars, now since the Public Road has been located they would be obliged to pile their freight on the other side of the Public Road and carry across the Public Road, as they would not be allowed to use the Public Road for storage or piling ground.

From my general knowledge of the location of the ground around there, I think this Public Road could have been laid out on ground equally as favorable and convenient to the public as the present location, without injury to the property of the Company.

It could have been laid out in my opinion on the land between the Penna & N. W. Company's land and land owned by John Troxell, on the line between "A," and "K" on the Map.

I think it could have been laid out so as to avoid the Company's land entirely by connecting with Public Road leading from Allemansville to Glasgow at or near Willhide's store.

CROSS EXAMINED BY J. S. LEISENRING, ESQ., ATTORNEY FOR RESPONDENTS.

It was about the 1st of June that Mr. Moore and myself went to Punxsutawney when we observed for the first time that this Public Road had been opened.

On an average I think I am over the road as far as Glasgow nearly every two weeks.

I did not know that the road was opened as early as the beginning of April.

I had no notice of the intended View given by hand-bills or notices.

I hold that the Public Road as opened renders the Railroad Company's ground about the Glasgow station, useless for railroad and station purposes. I mean that the ~~whole~~ whole plot of the station ground is damaged for railroad purposes and is injured more or less and is inconvenienced for railroad purposes.

station

Q, Are you not using this ground just as you did before the opening of the Public Road?

A, We are not using it the same as we did before. People are inconvenienced in shipping their freight, in loading and unloading. The inconvenience consists in that parties in loading freight into cars and preventing parties from piling bark &c., freight generally on that part of the Company's ground along the siding now occupied by the Public Road.

Q, Cannot parties now pile freight, bark &c., upon that triangular piece of ground described by the lines on the Map between the letters "E" "D" and "J" and the Public Road, as well as on that piece of ground between the siding and the Public Road?

A, As far as room for piling is concerned they could pile their bark, lumber &c., on that part of the lot, but is a question whether shippers could stand the expense of the rehandling of the bark, lumber &c., and feight in general across the Public Road into cars, in my opinion I think it would drive away shippers from our road to an opposition road where better facilities are provided for shipping and where <sup>they</sup> it would not require to rehandle their freight across a Public Road.

Q, Have you a competing road up there Mr. Ford?

A, Yes sir.

Cresson and Coalport ~~XXXXXXXXXX~~ only three miles from there.

Q, This road was opened between the 1st and the middle of April last, can you state a single instance since the opening of this road where either the public, the shippers upon your line, or your road itself has been inconvenienced in the direction of which you have just spoken?

A, I could not give you just the date where shippers were inconvenienced. I have had from other points from Agents at other points complaints from shippers on account of our Company not having sufficient station ground to accommodate shipments bark, lumber &c., on account of their not being able to pile their frieght near enough to laad into cars and have had shippers threaten to go to other roads to make their shipments on this account.

Q, That is as I understand you agents at some other points than Glasgow, have told you of complaints that some one has made to them about the want of shipping facilities at Glasgow?

A, No not at Glasgow, but at other stations, what I meant was this: That whiæthe agent at Glasgow has made no general complaints as yet I often find at stations where our piling ground is limited that shippers will put up with the inconvenience and additional expense in loading and unloading their freight at stations for some time before they will make a general complaint, but eventually the complaints reach my office, but as yet I have had no particular complaints from Glasgow.



I hereby certify that the above witnesses were duly qualified and examined at the time and place stated in the above caption, and subscribed their depositions in my presence.

*M. B. Hicks*  
Notary Public

Altoona, Pa., October 27th 1894.



P. & N:W. R. R. CO.

4 <sup>6</sup>/<sub>10</sub> Acres outside of 120-ft. Right-of-Way.

PROPOSED NEW TRACKS

Center Lines - Main Tracks

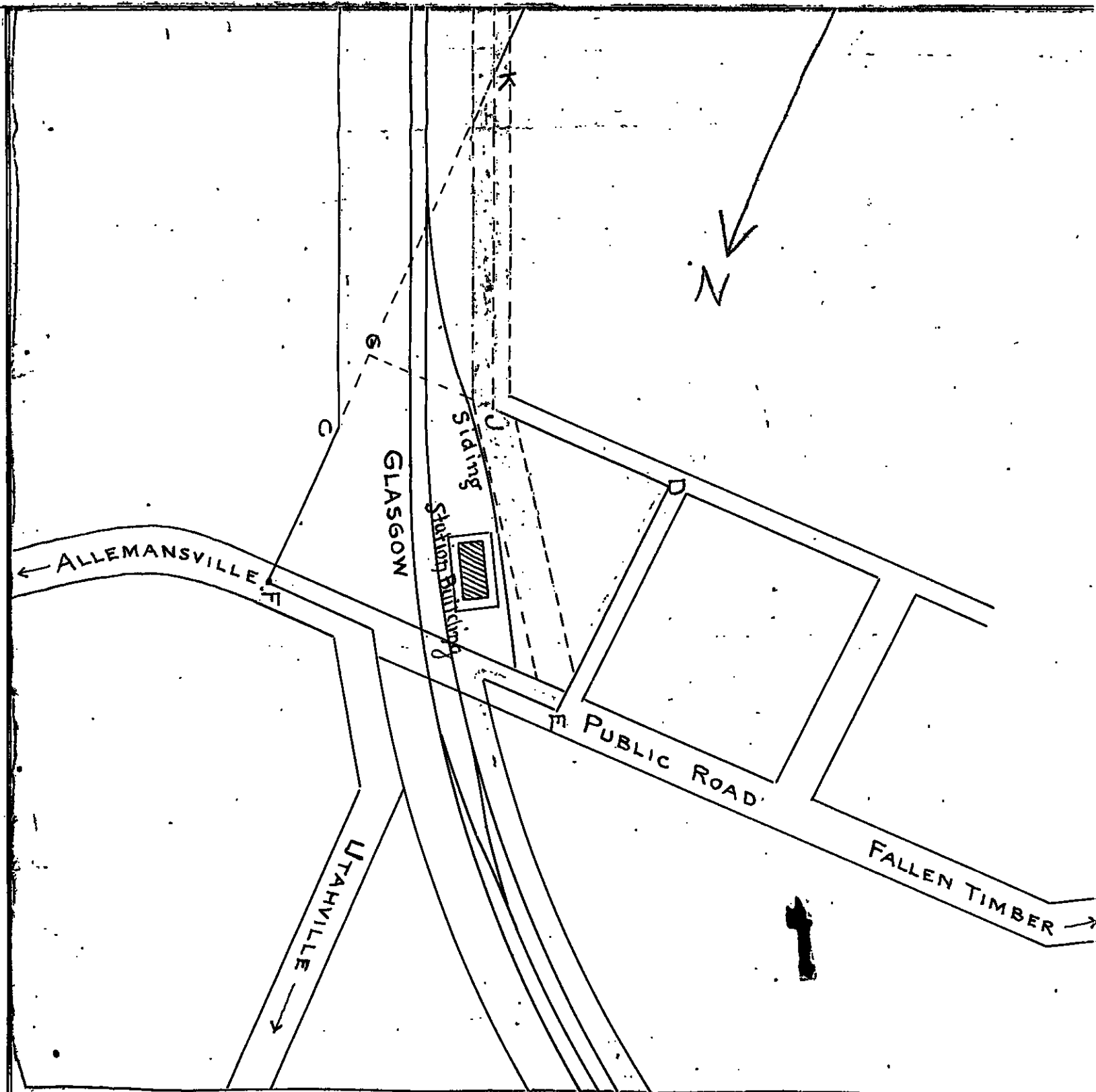
H  
B

HJGCB - 120-ft. wide strip of Ground bought and intended for use as Road Bed

AHK - 4 <sup>6</sup>/<sub>10</sub> Acres intended for Railroad purposes, Coalng Station, Storage Ground, etc.

DEFG - 1 <sup>1</sup>/<sub>10</sub> " Station Lot.

*Submit a  
copy*



24 Re

Road ~~from~~  
in Reach Township  
from front of  
road from  
Albion to  
Wellen Township to  
front of W.B. Bond  
in N. Road to  
Albion to  
Albion to  
front of  
(P. & M. R. R. Co.)

In re road in  
Route 1st from point on  
road fr. Allemausville to  
Fallen Timber to point south of  
of U.S. Church on road from  
Langford to Mountaintop

In the Court of <sup>Quarter Term</sup> Common Pleas  
of Cambria County, Pa.

Term, A. D. 1893, No. 8

Pet. to strike off absolute  
Confirmation

And now, to-wit, the 10th day of October, A. D. 1894 Rule  
on part of Plaintiffs for Rule to take depositions of witnesses  
to be read on the hearing of the above stated case.

CAMBRIA COUNTY, SS:

Extract from the Record of said Court. Certified the

9th of October 1894  
J. B. Dancy Prothonotary.  
Oct. 2, 1894

To Alvin Evans Esq.  
Attorney for Petitioners Respondents

TAKE NOTICE, That in pursuance of the above Rule the depositions of witnesses to be read in evi-  
dence on the Argument of the above stated Rule on part of

the Exemptants will be taken at the Office of Messrs Hick & Leese  
in Phillips Block, Altoona, Blair County, Pa on Saturday

the 27th day of October, A. D. 1894, between the hours

of 9 o'clock A. M., and 6 o'clock P. M., before W. B. Hick Esq.  
a Notary Public in and for said County

or by some other person of competent authority, at the time and place aforesaid, when and where you may  
attend if you think proper.

I accept service of above  
Rule Oct. 22<sup>nd</sup> 1894  
Alvin Evans  
Attorney for ~~Respondents~~

Messrs Hick & Leese Attys for  
Exemptants Respondents  
Oct. 20 1894

John S. Funcher 1893  
Roll

Blue road in  
Pineau Park.

Map of the  
Pineau Park

Ferry West 1893

RULE ON PART OF  
Roll & back of  
Information

(copy)

John S. Funcher