

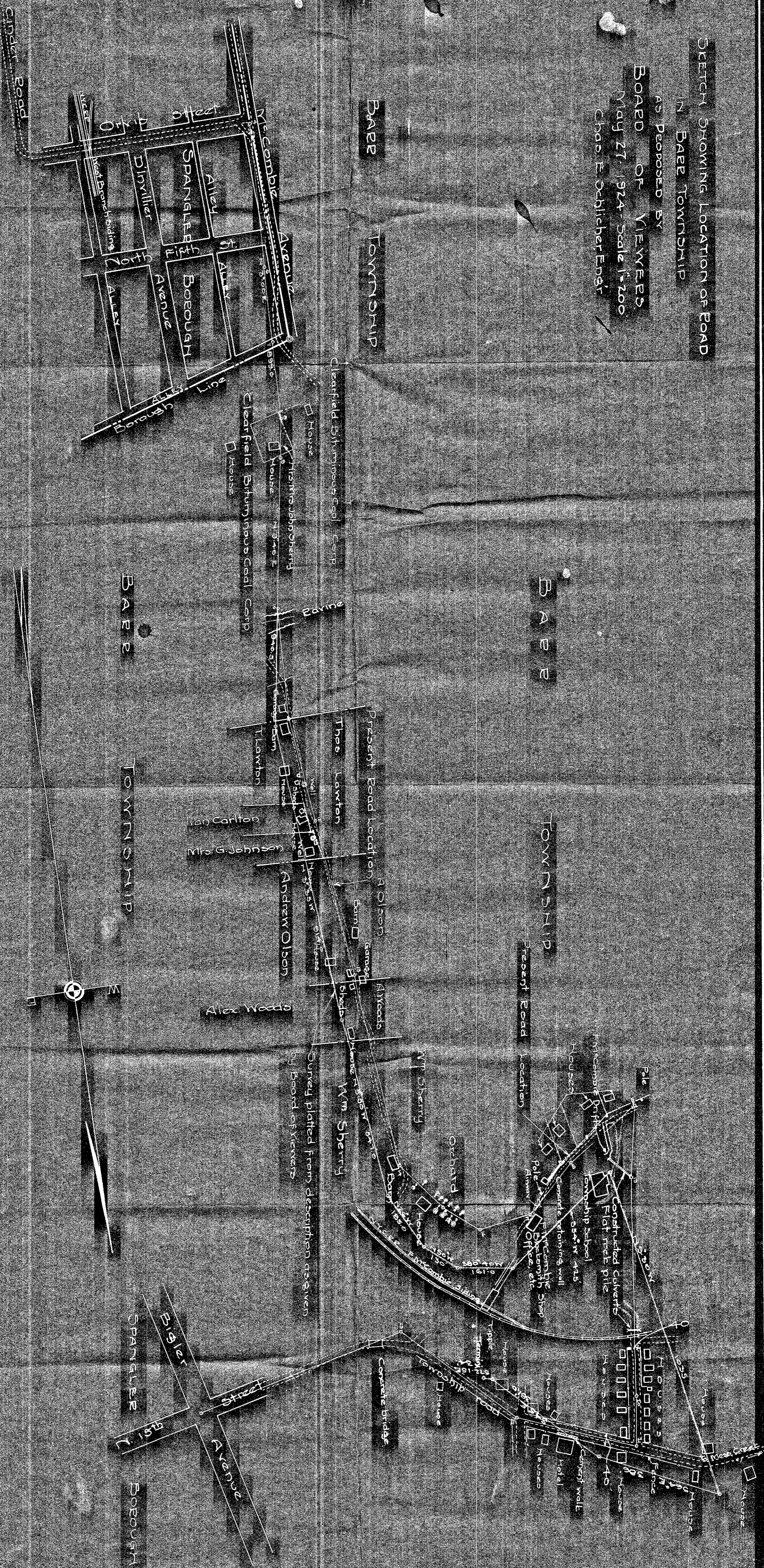
Rat Microfilm

RO#1
Sept. 1923

Revised
Exceptant's Ex. "A"

SKETCH SHOWING LOCATION OF ROAD
IN BAEE TOWNSHIP

AS PROPOSED BY
BOARD OF VIEWERS
May 27, 1924 - Scale 1" = 200'
Chas. E. Schlicher, Engr.



IN THE MATTER OF EXCEPTIONS : IN THE COURT OF QUARTER SESSIONS
 OF THE SUPERVISORS OF BARR : OF CAMBRIA COUNTY.
 TOWNSHIP, CAMBRIA COUNTY, :
 PENNSYLVANIA, TO THE REPORT :
 OF VIEWERS. : No. 1 September Sessions, 1923.

I N D E X

Stenographer's Certificate 53

<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>
Hogan, Fred J.	1	15	18 - 23	
Hogan, John J.	21	23		
Kirkpatrick, Edward	1	4	4 - 5	5
Lambour, M. F.	19	20		

<u>PETITIONERS'</u> <u>TESTIMONY:</u>				
Carlson, Iver	43	45		
Doran, Mike	48	51		
Lawton, Thomas	29	32	35	
McCombie, Frank	24	27		
Olson, Andy	46	48		
Wood, Alex	35	38	42	43

IN THE MATTER OF EXCEPTIONS OF
THE SUPERVISORS OF BARR TOWNSHIP,
CAMBRIA COUNTY, PENNSYLVANIA, TO
THE REPORT OF VIEWERS.

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

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: No. 1 September Sessions, 1923.

Spangler, Pa., June 27, 1924.

APPEARANCES:

For the Petitioners: P.
Howard McCarthy, Esq.
For the Exceptants: J. Harrison Westover, Esq.

It is agreed between J. Harrison Westover, attorney for the supervisors of Barr Township, and Howard P. McCarthy, attorney for the petitioners for the road, that the depositions of witnesses on both sides of this controversy be taken before Frank J. Myers, to have the same effect in law as if the testimony were being taken under rule of court.

EDWARD KIRKPATRICK, called, sworn.

DIRECT EXAMINATION BY MR. WESTOVER:

Q. Mr. Kirkpatrick, where do you live? A. Spangler.

Q. How long have you been a resident of this town? A.
Twenty-two years this year.

Q. What is your present employment? A. Street Commis-
sioner.

Q. Are you employed by the Borough of Spangler as Street
Commissioner? A. Yes.

Q. How long have you been employed as Street Commissioner by the Borough of Spangler, Mr. Kirkpatrick? A. Well, I rather think since 1910, except there was three years, I believe two different times, I wasn't in in that time. In 1914 and 1915, I guess, I quit and I was off for two years.

Q. Your first employment dates from 1910? A. From 1910.

Q. And from 1910 up until the present time how many years have you acted as Street Commissioner? A. Well, I rather think there was three years I was off.

Q. Then, since 1910 up to the present time, with the exception of three years, you have acted as Street Commissioner? A. Yes.

Q. Well, now, as Street Commissioner, what are your duties with respect to the streets of the borough that are opened? A. Why, as a rule, in old work, I go ahead and do that without asking council, but if I am in new work, I always go to the street committee first and ask them about that.

Q. Well, it is your duty to keep the streets that have been opened in repair, is that it? A. That's the idea.

Q. Have you ever done any work on what is known as McCombie Avenue in the Borough of Spangler? A. Not as I know of.

Q. Do you know where McCombie Avenue is? A. Well, now, I don't exactly. I worked on that street that runs across there as far as the tipple

We offer in evidence plaintiffs' exhibit "A".

(There being no objection, the offer is admitted in evidence).

Q. McCombie Avenue, on the blueprint just offered in evidence, is shown as an Avenue running along the western, the extreme west-

ern side of the Borough of Spangler, adjoining with what is called Orvis Street. Have you ever done any work over in here (indicating on blueprint)? This is the New York Central Railroad tracks running here (indicating). Have you ever done any work on Orvis Street west of the New York Central Railroad tracks, as shown on this blueprint? A. No.

Q. Have you ever done any work on Orvis Street? A. No; I worked right up to the railroad here, across from that bridge, that culbert; I helped to put that in.

Q. As Street Commissioner for the Borough of Spangler, you have built the road up to the New York Central railroad tracks? A. Yes.

Q. Across the New York Central railroad tracks, beyond them, you have never done any work, is that right? A. Yes.

Q. Have you ever done any work on what is designated as McCombie Avenue? A. No.

Q. Have you ever been ordered by the Borough of Spangler to ~~put in~~ do any work there? A. No.

Q. Does this street appear as an open street in the Borough of Spangler? A. Well, now, I never knew anything about that, only that I know that Mr. McCombie runs up to his place there.

Q. I mean an open street, worked by the Borough of Spangler? A. No; on this side of the railroad there is.

Q. That is on the east side of the railroad? A. That is on the east side of the railroad.

Q. But, there are no open streets ~~on the~~ west of the New York Central Railroad tracks? A. No.

Q. That is, so far as the Borough of Spangler is concerned? A. No.

CROSS-EXAMINATION BY MR. McCARTHY:

Q. Mr. Kirkpatrick, state whether or not you are familiar with all the streets and avenues in the Borough of Spangler?

A. Well, no, I ain't; that is, the ones that has never been opened, or never been ordered to be opened.

Q. State whether or not you know Orvis Street, in the Borough of Spangler, is being used at the present time by the people of Spangler as a highway?

A. That is over there where I worked? Yes, it is, over as far as that railroad.

Q. State whether or not you know that Orvis Street is being used as a public highway at the present time.

A. Well, it evidently is known by that; people travels through there, over there.

Q. And you, as Street Commissioner, have done work on Orvis Street up as far as the point where the New York Central Railroad tracks cross Orvis Street?

A. Yes.

Q. From whom do you receive your instructions as to the working on the streets, improving them and so forth?

A. Well, I really don't hardly ever bother very much about anybody as long as the streets have been opened, but if they have to be opened up, I get them from the borough council, from the street committee.

Q. This street is opened up?

A. I ain't too sure but what I opened that up to there.

RE-DIRECT EXAMINATION BY MR. WESTOVER:

Q. You opened up Orvis Street as far as the railroad and stopped, is that right?

A. I believe I did. I know I put that culbert in there. I worked on it up as far as the bridge.

RE-CROSS-EXAMINATION BY MR. McCARTHY:

Q. Mr. Kirkpatrick, do you know whether or not McCombie Avenue, in the Borough of Spangler, is being used as a highway at the present time? A. I don't; no, I don't.

Q. Do you know where McCombie Avenue is in the Borough of Spangler? A. No, I wouldn't, only by that map now.

Q. Then, you aren't familiar with all the streets and avenues in the Borough of Spangler? A. No, I said that before, that I wasn't.

RE-DIRECT EXAMINATION BY MR. WESTOVER:

Q. Mr. Kirkpatrick, are you familiar with all the streets that have been opened for traffic in the Borough of Spangler? A. Yes.

Q. And is McCombie Avenue opened for traffice, so far as the authorities of the Borough of Spangler are concerned? A. No, it isn't.

RE-CROSS-EXAMINATION BY MR. McCARTHY:

Q. Why did you improve Orvis Street up as far as the New York Central Railroad tracks? A. Well, my knowledge, as near as I can remember back that far, it was because the council told me to, and that is as far as there was a street.

Q. Well, would there be any occasion for opening, or improving, Orvis Street as far as the New York Central Railroad tracks if there were no other streets or highways beyond that?

A. Well, I wouldn't be able to say that.

Q. As Street Commissioner, is it the custom, in the Borough of Spangler, to open streets as far as the railroad tracks, or as far as a blind alley? A. Well, no, not as I know of.

Q. Is it customary, in the Borough of Spangler, to have streets opened and improved, where they wouldn't lead into some road or highway? A. Well, there has been; take several streets that has been opened up for a road on up, that is, where people have been living on both ends of the street.

Q. Then, as Street Commissioner, you don't know why Orvis Street was opened and improved, by the Borough of Spangler, as far as the New York Central Railroad tracks? A. Well, no, I couldn't say, any more than I was ordered by the street committee to open it up, to work there.

FRED J. HOGAN, called, sworn.

DIRECT EXAMINATION BY MR. WESTOVER:

Q. Mr. Hogan, where do you live? A. Spangler.

Q. What is your business? A. Civil and mining engineer.

Q. By whom are you employed? A. Charles E. Schlicher.

Q. In what capacity? A. As engineer.

Q. Are you engineer in chief for Charles E. Schlicher?

A. Engineer in chief. I have had charge of all the work in his office since 1920.

Q. Are you familiar with McCombie Avenue in the Borough of Spangler? A. Yes, sir.

Q. That is what is designated as McCombie Avenue on the Spangler Improvement Company map? A. Yes, sir.

Q. What direction does that avenue run? A. Almost due north, a little bit to the west.

Q. What is the width of McCombie Avenue, as shown on the plan?
~~hundred feet~~ A. Fifty feet.

Q. What is the width of McCombie Avenue, in the Borough of Spangler, as shown on the plan? A. Twenty-five feet.

Q. Where is the other land located that is supposed to make up McCombie Avenue? You say there is twenty-five feet in Spangler.
A. The other twenty-five feet is in Barr Township.

Q. As engineer for the supervisors of Barr Township, have you platted the courses and distances of the proposed road leading from McCombie Avenue, in the Borough of Spangler, north to a point on the road leading from Bigler Avenue to Moss Creek? A. Yes, sir.

Q. The witness is shown plaintiffs' exhibit "A" and he is asked to state what it is. A. This is a map showing the location of the survey line, as surveyed by the viewers appointed by the court to view this road, showing the buildings located along the roadway and all other improvements between a point on McCombie Avenue and a point on the township road leading from Bigler Avenue to Moss Creek.

Q. Are you familiar with the northern end of McCombie Avenue in the Borough of Spangler? A. Yes, sir.

Q. What is the present condition of McCombie ^{Avenue} running from the northern side of Spangler Borough going south on McCombie Avenue? A. The condition along that point is soft and muddy there. There are a number of springs, or small swamps there and there is a lot of seepage out of the hillside which keeps that soft and muddy at all times.

Q. Would you say that McCombie Avenue at this point is passable for present day vehicles? A. No, it wouldn't be passable for an automobile; you might get a team over it. I wouldn't want to put an automobile over it.

Q. At the northern end of McCombie Avenue, is there any evidence on the ground of there being a highway there? A. No, sir.

Q. What is its appearance? A. It has all the appearance of just a muddy and ordinary field.

Q. The witness is shown the plan of the viewers of the proposed road. On this plan the witness is asked to state the direction of McCombie Avenue, as reported by the viewers. A. As shown on the viewers' map, the direction of McCombie Avenue is almost east and west. They have designated McCombie Avenue coming down this way, and the actual direction of McCombie Avenue, as laid out on the borough map, is almost north and south.

Q. What appearance on the map of the viewers has McCombie Avenue? It actually is what? A. An alley.

Q. We will ask the witness to state, according to the draft of the viewers and following out the proposed road as shown by the draft, on which side of the ~~xxxx~~ proposed road are the houses of Mrs. John Sherry, as shown by this draft? On which side of the road would the house of Mrs. John Sherry be? A. Sherry's house is on the eastern side.

Q. And also the house of Thomas Lawton? A. On the eastern side.

Q. And Mr. Carlson? A. On the eastern side.

Q. And the house of Mrs. G. Johnson? A. On the eastern side.

Q. And the house of Andrew Olson? A. On the eastern side.

Q. And the house of Alex Wood? A. On the eastern side.

Q. And the barn of William Sherry? A. On the eastern side.

Q. And the house of William Sherry? A. On the eastern side.

Q. And, following the course north nine degrees thirty minutes west ten hundred and thirty-five feet, where does that course take you on the draft as reported by the viewers? A. It takes you over past the school property of Barr Township between the buildings, or houses, owned by Carlinsky, to the Spangler-Moss Creek road.

Q. First, following the northern terminus of the proposed road, what road would you follow? A. You would follow the Spangler-Moss Creek road eastward towards Spangler Borough to the Susquehanna River, to the bridge.

Q. Now, in platting the courses and distances, as returned by the viewers in their report, would you just state where this road would take you? A. Well, as plotted from their own notes, the road passing Mrs. Sherry's would be-- the house would be on the eastern side, as shown by that sketch, by the viewers' sketch; passing the ~~the~~ house of Thomas Lawton, their line would pass directly through the house; and the house of Iver Carlson, the line would pass east of the house, in other words, the house is west of the line; and the same is true of that Mrs. Johnson's house; Andy Olson, the line would pass through the house of Andy Olson; and the line would pass just east of the house of Alex Woods; it would pass east of the house and barn of William Sherry, crossing

the tipple of the McCombie Coal Company and north of the McCombie Coal Company's blacksmith shop through the township school house and west of the house of Carlinsky, passing through a house on the Spangler-Moss Creek road, turning again at a point about seventy-five feet north of the Spangler-Moss Creek Road, going in an eastward direction and north of two houses along the Spangler-Moss Creek road; then, crossing the Spangler-Moss Creek road, still traveling in a southeasterly direction, it passes another house on the Spangler-Moss Creek road, and at the terminus is about three hundred and fifty feet from the point as designated on the map of the viewers.

Q. Then, in following the courses and distances, as reported by the viewers, would it be possible to reach the northern terminal point of this proposed road, as shown in the petition for the road and as reported by the viewers? A. No, sir.

Q. Following the survey as reported by the viewers, does the road begin at McCombie Avenue at all? A. No, sir.

Q. Where would the point of beginning of this road be, according to the courses and distances reported by the viewers?

A. It would be at the intersection of Orvis Street and McCombie Avenue, thence, after it passes out of Spangler Borough, it would be east of the center line of McCombie Avenue where it passes the township ~~road~~ line.

Q. Where it begins in Barr Township, how far would it be from McCombie Avenue? A. About thirty feet.

Q. Does this proposed road, as reported by the viewers on their draft, cross a railroad? A. Yes, sir.

Q. What railroad does it cross? A. A branch of the New York Central, constructed formerly for the use of the ~~Ex~~ ~~W~~

West Branch mine, and now of Frank McCombie's mine.

Q. About where does this railroad cross, as near as you can show on the map reported by the viewers? A. It would cross about forty feet from the end of ^{those houses.} ~~this ~~xxxxxx~~~~ In other words, it would pass right in there (indicating on map).

Q. About forty feet ~~±~~ south of the house shown on this course? A. Yes.

Q. That is, about forty feet south of the houses shown on the course designated north nine degrees thirty minutes west ten hundred and thirty-five feet? A. Yes.

Q. Would it be possible to open this road forty feet as ordered by the court from a point north of the William Sherry property without taking certain properties to the north and south of the proposed road? A. No, it wouldn't be.

Q. Is there a road-- From what is designated on the draft of the viewers as the old road, what would you say is the width of that on the ground? A. I would say a driveway of not to exceed thirteen feet.

Q. And in widening this road to a width of forty feet, would it be necessary to take some of the private property to the south and north of what is designated as the old road? A. Yes, sir.

Q. On the course marked north nine degrees thirty minutes west ten hundred and thirty-five feet, where the proposed road runs through the building line of certain lots, would it be possible to open a street there forty feet in width? A. No, sir.

Q. Why do you say no, sir? A. Because the building lines are only forty feet apart there and telephone poles and light poles are all out on the sidewalk line and to take out room

for the sidewalks on each side wouldn't leave forty feet for the street.

Q. That is, without encroaching upon the property of the adjoining property holders? A. Yes.

Q. Now, where the proposed road travels the road leading from Spangler to Moss Creek to the northern terminus, would it be possible to open that road to a width of forty feet without encroaching upon the property of adjoining property owners? A. No, sir.

Q. Have you made an estimate of the cost of the road, if opened as reported by the viewers? A. Yes, sir.

Q. What has been your experience in estimating work of this kind? A. Well, we have had through our office, I have had charge of seventy-five miles of borough streets and highways and have estimated the cost in almost every case.

Q. Township highways and borough streets? A. Yes, sir, township highways and borough streets.

Q. How does your estimates in these cases compare with the contract price for the building of these roads that you mention? A. Very close.

Q. What would you say the proposed road, if built according to the report of the viewers, what would you say the proposed road would cost the Township of Barr? A. If that means that the road would be built up along here, where this report shows it according to the draft of the viewers, I would say, without assessing any damages to property holders, about seventy-one hundred dollars.

Q. How do you arrive at those figures? A. Well, that is taking into consideration that along the side hill the road

will have to be widened, which will necessitate a steep haul, together with a lot of excavation, which will have to be hauled to both ends of the road to make the necessary fills to widen the road, both the north and the south ends; and it will take considerable drainage pipe, cast iron or concrete; and along the side banks-- there is a steep bank along the northern side of the road, I mean right by the road, and it will require, for the protection of the people and the township, a guard rail; and after that has been constructed, then, to make the road passable for modern traffic, it will require a grading of the road and cindering, which, in all, will cost seventy-one hundred dollars.

Q. What is the condition of the land over which this road would travel for the most part? A. Well, the southern end of it, out from Spangler Borough, for fully a hundred feet it is swampy and mostly soft fire clay, which will have to be filled and cindered in order to make it passable. Out along the center part of the road, it is just an ordinary clay road, a little bit sandy and shaley, and you have a little better condition there. On the other end of the road it passes over the old rock dump of the West Branch mine, which will require some grading to put it in condition. Out further, through or between the houses of Carlinsky, it is in fairly good condition now, but in some places it would need grading and a few cinders should be put on there.

Q. Would you say that from a point at, or near, the southern terminus of this present road, of this proposed road, there is a road leading by way of Orvis Street and other streets in the Borough of Spangler by way of North Second Street, Bigler Avenue and North Fifteenth Street to the northern terminus of this present proposed road. From a point near the southern terminus of the

proposed road over certain streets in the Borough of Spangler by way of North Second Street, Bigler Avenue and North Fifteenth Street to the northern terminus of the proposed road, is there at present a road along the route I have told you? A. Yes.

Q. What is the condition of that road? A. That is in good condition.

Q. Tell us the construction of it. A. Beginning at the southern terminus of the road in question, or the road designated by the viewers, beginning at a point on Orvis Street, or McCombie Avenue, rather along Orvis Street, over to North First Street, or Second Street, then, that is cindered and in good condition. From there out you pick up the brick road leading from Spangler to Nicktown, and from there out you have Bigler Avenue to Second Street which is all brick paving over to the Spangler-Moss Creek road, which is a dirt road, but in good condition.

Q. Would this proposed road duplicate, or parallel, this road that is in existence now? A. Yes, sir.

Q. What is the distance between the present, or ordinary, road and the proposed road, approximately? A. About eight hundred and fifty feet.

Q. Do persons traveling from a point on Orvis Street to a point, to any point, along North Fifteenth Street get the road leading to Moss Creek, or have they a better road, or have they a practical and permanent highway? A. Yes, sir.

Q. I was going to ask you, if the road is laid out and built according to the courses and distances as reported by the viewers, what would you say as to the cost of that, or did you make an estimate of that? A. I didn't make an estimate of it.

Q. Would it be greater or less than the estimate you have

already given? A. A great deal greater.

Q. Why do you say that? A. Because it would require the moving or purchase of two or three of those houses, in fact, the moving of most of the houses off of the right-of-way. In two or three cases the line passes through the houses and in other cases the line passes so close to the houses that the road couldn't be constructed without moving the houses.

CROSS-EXAMINATION BY MR. McCARTHY:

Q. Mr. Hogan, are you engineer for Spangler borough? A. Yes, sir.

Q. Have you ever made a map of the Borough of Spangler? A. Yes, sir.

Q. State whether or not you have been on McCombie Avenue recently. A. Well, how recently? I have been on it within the last two weeks, or three weeks.

Q. State whether or not there is a road from McCombie Avenue actually being used by the traveling public. A. Part of McCombie Avenue south of Orvis Street is being used by residents of Barr Township, but north of Orvis Street it is not being used, to my knowledge-- very little, if any.

Q. You have stated that McCombie^{Avenue} appears as a street on the map of the Borough of Spangler? A. Yes, sir.

Q. State whether or not Orvis street, in the Borough of Spangler, is being used as a public highway. A. Yes, sir; that is, not all of Orvis Street, but just over as far as Alma Avenue.

Q. That is all the longer Orvis Street is? A. Yes, up

to this point here (indicating on map).

Q. State whether or not the residents of Barr Township and the residents of Spangler Borough have an outlet over McCombie Avenue to the intersection of Orvis Street and McCombie Avenue, thence by Orvis Street across the tracks of the New York Central Railroad Company to the intersection of Alma Avenue, and thence by Alma Avenue to the improved highway leading from Spangler Borough to Nicktown. A. Yes, sir.

Q. As engineer, you have stated that you made a survey of the ground over the courses and distances as laid out by the board of viewers appointed by the court. State whether or not Thomas Lawton has a passable road by which he can get on McCombie Avenue, in the Borough of Spangler, or by which he can get on the highway leading from Bigler Avenue to Moss Creek. A. He has to reach the highway leading from Bigler Avenue to Moss Creek a passable road in a southern direction. As I said before, it is passable, but rather rough for modern traffic.

Q. State whether or not there actually is a road there. A. Well, there is a part there that has been used as a driveway. In other words, people have driven through there.

Q. Is it passable during all seasons of the year? A. Well, I wouldn't know about that.

Q. State whether or not the other residents along the course of the proposed road as laid out by the board of viewers have access to the one beginning on McCombie Avenue and a point leading from Bigler Avenue on to Moss Creek. A. They have the same passage of a road that Mr. Lawton has.

Q. State whether or not you know if a road has ever been laid out there. A. Well, now, I don't quite get the meaning of that.

Q. From McCombie Avenue passing the residences of Thomas Lawton, Iver Carlson, Mrs. Johnson, Andy Olson, Alex Wood, William Sherry and the township school house on to the road leading from Bigler Avenue to Moss Creek? A. Well, the only road that I have ever known about there as laid out is this road laid out by the viewers appointed by the court.

Q. How many lineal feet are there between the point of beginning of the proposed highway, or proposed road, as laid out by the board of viewers, and the point of ending? A. I can give it to you very close. Do you mean from this terminus down here? Well, now, I can come very close to that.

BY MR. WESTOVER:

Q. You can figure it exactly by taking it right off the draft. A. Six thousand forty-seven and one-half feet.

BY MR. McCARTHY:

Q. How much excavating would have to be done in order to make a road as laid out by the board of viewers between the point of beginning and the point of ending? A. At least twenty-five hundred cubic yards.

Q. How much would it cost to excavate this ground per cubic yard? A. Not less than seventy-five cents.

Q. Does that seventy-five cents include the moving of the ground? A. Yes, sir.

Q. And to make whatever fills is necessary? A. You mean by hauling the ground, hauling it some place to dispose of it?

Q. Yes. A. Yes, that would include that.

Q. Now, according to those figures, as given by you, how much do you estimate the cost of making this road, as laid out by the board of viewers, between the point of beginning and the point

of ending, as shown on the viewers' map? A. Seventy-one hundred dollars.

Q. How much would the drainage of this road cost? A. About six hundred and thirty dollars.

Q. What is the distance between the houses along the course nine degrees thirty minutes west ten hundred and thirty-five feet? What is the width of that alley or road? A. I can give it to you between the fence lines, but I don't know what it would be between the houses.

Q. Well, what would it be between the fence lines? A. Not more than forty feet at any place, and at some points thirty-eight feet.

Q. Is that the distance between the fence lines as they actually appear, or is it the distance between the fence lines according to the property lines of these several owners? A. Well, it is the actual distance between the fence lines as they appear on the ground and checked up by the several property owners. In other words, it is the actual distance as it appears and as it should appear.

RE-DIRECT EXAMINATION BY MR. WESTOVER:

Q. I would like to get into the record your itemized statement of the cost of this road, as you prepared it. A. Estimate of cost of construction of road from the northern point of McCombie Avenue, in Spangler Borough, to a point on the road leading from Spangler to Moss Creek, as laid out by the board of viewers appointed by the court: Twenty-five hundred cubic yards of excavation, at seventy-five cents per cubic yard, eighteen hundred and

seventy-five dollars; seven thousand square yards of cinders, at about fifty cents per square yard in place, thirty-five hundred dollars; sixty lineal feet of twenty-four inch pipe, at four dollars per foot in place, two hundred and forty dollars; one hundred and thirty ^{lineal} feet of three inch pipe, at three dollars per foot in place, three hundred and ninety dollars; fifteen hundred lineal feet of quarter inch pipe at seventy-five cents per foot in place, eleven hundred and twenty-five dollars; total, seventy-one hundred and thirty dollars.

Q. Now, on this map as prepared by your office, Mr. Hogan, you have certain dotted lines appearing on what is termed McCombie Avenue and off of McCombie Avenue on to certain other lines. Will you just state what they represent? A. The dotted lines represent the outside edges of the roadway, that is, constructed and feasible on the ground.

Q. There is no other feasible driveway at the northern end of McCombie Avenue in the Borough of Spangler for quite some distance? A. No, there is not.

Q. What would you say that distance is? A. That is about one hundred and seventy-five feet..

M. F. LAMBOUR, called, sworn.

DIRECT EXAMINATION BY MR. WESTOVER:

Q. Mr. Lambour, what is your official capacity with the Township of Barr? A. Secretary and treasurer.

Q. Would you state the present millage of the township? A. Ten.

Q. That is the amount laid for the year 1922? A. Yes, sir.

Q. Is that the limit that you are permitted to allow the supervisors by their own authority? A. Yes, sir.

Q. What was this ten mills laid for? A. To cover the cost of preparing and maintaining roads of Barr Township.

Q. Your present roads? A. Yes, sir.

Q. Do you have any funds that might be used at this time for the building of a new road? A. No, sir.

Q. Does it require all your funds that are raised by the ten mills to take care of present existing township roads and the interest on your debt? A. Yes, sir.

Q. What is your present indebtedness, including all bonds that have been issued and the twenty-seven thousand dollars that have been authorized and to be used on July 1, 1924? A. One hundred and thirty thousand dollars.

Q. Do you know the amount of the mileage of the present township roads you are required to keep up approximately? A. Including the permanent roads?

Q. Yes, including the permanent roads. A. Sixty-three miles.

Q. Would it be burdensome on the tax payers of the Township of Barr to take on the building and keeping in condition of any further roads? A. We couldn't do it on the present millage.

CROSS-EXAMINATION BY MR. McCARTHY:

Q. What is the assessed valuation of Barr Township? A. It isn't quite three million dollars.

Q. What is the occupation of the majority of the property holders in Barr Township? A. Farming, I would say.

Q. Anything else? A. Well, Farmers and miners, is all I can say.

Q. Are there large coal deposits in Barr Township? A. I presume so.

Q. By whom are they principally owned? A. The Pennsylvania Coal & Coke Company, Riley Coal Company, Blubaker Coal Company and the Semet-Solvay Company.

Q. State whether or not the Township of Barr has ever petitioned the court to increase its millage. A. Not to my knowledge.

JOHN J. HOGAN, called, sworn.

DIRECT EXAMINATION BY MR. WESTOVER:

Q. Mr. Hogan, where do you live? A. Spangler.

Q. How long have you been a resident of Spangler Borough?
A. On or about twenty-five years.

Q. Did you act as street commissioner in the Borough of Spangler for some time? A. Yes, sir, I did.

Q. What years? A. I couldn't tell you just what years; it would be fourteen or sixteen years ago.

Q. Well, is there any way that you can fix the time that you first became street commissioner? A. I was street commissioner one year.

Q. Is there any ~~kind~~ way you can fix that time definitely, Mr. Hogan? A. Well, I would have to go home to do that, but

it is away back in those years that I said, fourteen or sixteen years back.

Q. Are you familiar with what is termed McCombie Avenue on the plan of the Borough of Spangler? A. I have some idea of it, of the location, where it is, back from the present West Branch mine, towards where Mr. Lawton lives.

Q. While you were street commissioner, did you do any work on what is termed McCombie Avenue? A. No, sir, I did not; I didn't have any work done on it, either.

Q. Do you know whether McCombie Avenue was ever opened up as a public street in the Borough of Spangler? A. To my knowledge I would say it wasn't permanently opened.

Q. When were you councilman of the Borough of Spangler? A. Before that.

Q. Do you know how long before that? A. Well, I couldn't recall that.

Q. Well, Mr. Hogan, this borough began business along about 1894. Were you one of the first councilmen? A. No, another council had existed before I was on there.

Q. Well, do you remember about what time you were councilman? Was it before 1900? A. No, it was after 1900; 1899 was when I first came to the town.

Q. How long were you in the borough before you became a member of council? A. Well, I couldn't say. I wasn't very long here, and I never gave it any attention since then. At a rough guess I would suppose it would be probably twenty years since I was first on. I was a long time on council.

Q. During the time that you were on council did the council ever authorize any work on McCombie Avenue? A. There was no work done up in that section to my knowledge as long as I was a

councilman, nor did I hear of any afterwards.

Q. As a member of council, you would know if any work had been done there? A. Well, I suppose I would. There was no work done there by the authority of council.

CROSS-EXAMINATION BY MR. McCARTHY:

Q. Mr. Hogan, during the time that you held the office of street commissioner, and also during the time that you held the office of councilman in the Borough of Spangler, were there not a lot of streets that are now opened and being used by the public that were merely streets in name only at that time? A. Not to my knowledge. I can't recall streets, that is, streets that were streets by name only, that is, streets on the map, and which are now opened for public use.

Q. What is your occupation, Mr. Hogan? A. I am trying very hard to operate a store up there. It is very hard work now. It is harder than the street commissioner business.

Q. Does your present occupation require you to travel about the Borough of Spangler, upon all the different streets and avenues? A. No.

FRED J. HOGAN, recalled for further

RE-DIRECT EXAMINATION BY MR. WESTOVER:

Q. Will you state on what width of the road your estimate was made up on? A. Sixteen feet.

PETITIONERS REST.

PETITIONERS'
~~XXXXXXXXXXXX~~ TESTIMONY.

FRANK McCOMBIE, called, sworn.

DIRECT EXAMINATION BY MR. McCARTHY:

Q. Where do you live, Mr. McCombie? A. Barr Township.

Q. Where do you live with respect to McCombie Avenue in the Borough of Spangler? A. Right on the edge of it; my lot adjoins McCombie Avenue.

Q. State whether or not McCombie Avenue is being used at the present time as a public highway. A. That portion of it is.

Q. State whether or not the residents of Barr Township and McCombie Avenue have an outlet by way of McCombie Avenue thence by Orvis Street thence by Alma Avenue to the main highway leading from Spangler to Nicktown. A. That is, you mean up in that section?

Q. Yes. A. No, sir.

Q. State the present condition of those streets. A. They are fairly good.

Q. What is the nature of the surface of the roads and streets as just named? A. Well, what we was using sometimes was swampy, but it was filled in with rocks and it is pretty good.

Q. At the present time? A. Yes.

Q. What is your occupation, Mr. McCombie? A. I am in the coal business.

Q. Where is your coal business located? A. At West Branch.

Q. State whether or not there is a road leading from McCombie Avenue in the Borough of Spangler past the residences of Thomas Lawton, Iver Carlson, Mrs. Johnson, Andy Olson, William Sherry, the

West Branch schoolhouse in Barr Township and thence to the road leading from Bigler Avenue to Moss Creek? A. I wouldn't call that a road. There is no road over to Lawtons; they have a road, or a path, that they improved for their own use. There is no road over to Lawtons; you have to drive through a field.

Q. You just drive any place at all in order to get in and out? A. Yes, and you don't always get in and out.

Q. Are there certain times of the year that it is impossible to get in and out of those places? A. Yes, the big end of the year.

Q. State whether or not you think it is necessary to have a road leading from McCombie Avenue over lands of the Clearfield Bituminous Coal Corporation past the residences just named, past the school house, and on to the road leading from Bigler Avenue in the Borough of Spangler to Moss Creek. A. They surely need a road there.

Q. State whether or not the children of residents in the village of West Branch and the residents along the course as just stated, all of whom live in Barr Township, have any road by which they can get to school. A. They don't have any permanent road; they have a path.

Q. Would it be possible for the children to get to this school under present conditions during all periods of the school year? A. They can if they paddle mud.

Q. Mr. McCombie, are you familiar with road construction? A. To a certain extent.

Q. Have you built any roads? A. I built the road that is in there now, in around there to my place.

Q. And you built the road from the point where the New York Central Railroad crosses Orvis Street, along Orvis Street and

McCombie Avenue? A. Yes, I built it and made the other pass-
able out to Alma Avenue.

Q. State whether or not you know that Alma Avenue, Orvis
Street and McCombie Avenue are streets in the Borough of Spangler.

A. They are.

Q. In your estimation what would be the cost of constructing
a road leading from McCombie Avenue, over lands of the Clearfield
Bituminous Coal Corporation, past the residences of Thomas Lawton,
Iver Carlson, Mrs. Johnson, Andy Olson, Alex Woods, William Sherry,
thence past the township school house, thence on to the road lead-
ing from Bigler Avenue to Moss Creek? A. Well, I think it

could be built for a figure a whole lot less than the figures the
engineer gave, for the reason that the residents only ask for an
outlet for their children to get to school, and they only need a
road twenty feet wide. I think that would make a whole lot of dif-
ference. It is reasonable to suppose that a road twenty feet wide
could be built for a lot less than a road forty feet wide.

Q. In your opinion, what would that road cost? A. Well,
I am not familiar enough with that business to state that.

Q. Would it be possible to get rock and other materials from
the mines near the terminal points of this proposed road without
cost? A. It is possible, without the cost of the material; it

is right at the lower end of the road, mountains of it.

Q. Do you have any difficulty getting to your mine? A.
Well, I have a whole lot further around to go. It^{is} a whole lot
nearer down that way, if that road was there, for Lawton and the
men living down there that works there.

Q. Do men living in West Branch and at points along this pro-
posed road suffer any inconvenience in getting to and from their
work? A. Well, just the same as I do. They have to go around,

or up and down the railroad track; they don't have any road.

Q. Do they have any permission to use the railroad track?

A. Not as I can say.

CROSS-EXAMINATION BY MR. WESTOVER:

Q. Mr. McCombie, you reside in Barr Township at a point south of what is termed Orvis Street? A. Yes.

Q. Do you know about how far south of the intersection of what is termed McCombie Avenue and Orvis Street? A. About two hundred feet-- more than that, about four hundred feet.

Q. You say that you have kept Orvis Street in repair from the western side of the New York Central Railroad up to your residence?

A. I have. I built it in with rock and put ashes on it. The only thing the borough done was they helped to unload the ashes.

Q. Did they ever do any work on Orvis Street west of the New York Central Railroad? A. They helped to put the ashes on.

Q. Now, what is termed McCombie Avenue? You are familiar with that avenue, are you? A. I am supposed to be.

Q. What is the width of McCombie Avenue? A. Twenty-five feet.

Q. Has there ever been any work done on McCombie Avenue in the portion of Spangler Borough between the intersection of Orvis Street and McCombie Avenue, between the intersection of what is termed Orvis Street and what is termed McCombie Avenue, and the northern end of McCombie Avenue? Has there ever been any work done ~~in that~~ by the Borough of Spangler from the intersection of Orvis Street and McCombie Avenue north? A. No.

Q. There has never been any work done there by the Borough of

Spangler? A. No.

Q. What is the present condition there? Is there any way of telling on the ground where McCombie Avenue is? A. Well, there is a tie road, the ties is there yet that we put in there, out there for about a quarter of a mile.

Q. Do you know whether or not that is on McCombie Avenue? A. Well, it is the line. Our line is on McCombie Avenue. The half of McCombie Avenue belonged to us until such a time as it would be used as a road, so the center line of our property is there.

Q. You don't know whether or not that old tie road is actually on McCombie Avenue? A. Well, it is within three feet of it, where the engineers run it, and the ties is right along the edge of it.

Q. What is the condition of what you say McCombie Avenue would be? What is the condition of the ground? A. Well, it is swampy.

Q. Is it passable? A. No.

Q. When it is impassable, you go over the ties, do you? A. Well, you couldn't go over them very good just now. The ties are right out there, though.

Q. Well, now, Frank, you have a road from your residence down to what would be the northern terminus of this road? A. I have, but the borough does nothing on it.

Q. But, you do have a road there? A. Yes.

Q. And the road you now want would shorten the distance between your home and your place of employment? A. Well, the other way it would make an outlet and they would keep up the road.

Q. But, you have a road to travel on there? A. Absolutely I have.

Q. And, for the greater part of the distance, you have a permanent road? A. Well, when I keep it up I have.

Q. How do you travel from your home down to the northern terminus of this proposed highway now? A. In an automobile.

Q. By what streets? A. Well, I go over McCombie Avenue, down Orvis Street, down Alma Avenue to Ninth Street, and from there on in.

Q. And, you have a good road all the way? A. That's a fairly good road.

Q. And, how many residents are there right in your immediate vicinity there, Frank? A. Seven.

Q. They also would have the same outlet to the northern terminus of this road that you have, which would be by way of Brown Avenue and Bigler Avenue to the northern terminus of the road? A. Yes, sir; but you understand if that road was connected through there it would be worked on in there and it would be kept up. We have a good road, but there is no use of boasting about something you have to do yourself.

Q. How long have you lived in Barr Township? A. Thirty-six years.

Q. And, you have been familiar with McCombie Avenue during all that time? A. Yes; I was there before McCombie Avenue was there.

THOMAS LAWTON, called, sworn.

DIRECT EXAMINATION BY MR. McCARTHY:

Q. Where do you live, Mr. Lawton? A. Barr Township.

Q. Are you one of the petitioners for a road leading from

McCombie Avenue in the Borough of Spangler, across the lands of the Clearfield Bituminous Coal Corporation, past your residence, and past the residences of Iver Carlson, Mrs. Johnson, Andy Olson, Alex Wood, William Sherry, thence past the township school house, thence on to the road leading from Bigler Avenue to Moss Creek?

A. Yes, I am one of the petitioners.

Q. State whether or not, at the present time, you have a road in that neighborhood. A. We have a road, but it is an old log road. I guess when they cleared that timber up in there they made an old log road, and that is what we have been using.

Q. State whether or not you have a road there that is passable during all seasons of the year. A. It is not; it is about one-third of the year; and there is no two rigs can pass on that road at any point, at any place.

Q. State whether or not merchants will bring merchandise and food stuffs into your residence from either the Borough of Spangler or the Borough of Barnesboro. A. Well, there is times they couldn't come in there with their trucks, or even a team, for mud and snow, and we have to wait until such time as they can come in and haul our stuff in.

Q. How do you have to carry your stuff in? What means do you use to get in and out? What route do you take? A. Oh, we generally had to trespass and go over the railroad; the road wasn't passable.

Q. Isn't it passable on foot? A. No.

Q. Nor, by vehicles? A. No.

Q. Are there any other reasons that you know of why there should be a road in that neighborhood? A. Yes, sir. I have been in there for ten years and I have had a good bit of sickness and I couldn't get a doctor in there because the road was in such

bad condition. We have had automobiles stick there when we had a funeral; they would stick right in the road and would have to be hauled out.

Q. Do you know anything else about this? A. Well, I remember of one winter there we had to carry coal from the coal bank over there; the road wasn't passable.

Q. State whether or not you have a road leading from the main highway between Spangler and Nicktown to McCombie Avenue in the Borough of Spangler. A. We have nothing there but a--

(Question read to witness at request of Mr. McCarthy).

A. Yes, we have a road in there, leading from the Nicktown road into Spangler, but we have no road to get to that road, and that is what we want.

Q. Do you have any means to getting from your place to the road leading from Bigler Avenue to Moss Creek? A. Which do you call Bigler Avenue?

Q. That is the street running past our place? A. We have no road only this old log road. Of course, the citizens improve it some, so it would be passable any time. Every spring we have to fix it up.

Q. But, for a large part of the year, you can't get in by foot or by vehicles? A. No.

Q. State whether or not the people who live in West Branch and who work at McCombie's mine, or at the mine of the Pennsylvania Coal & Coke Corporation, have any way of getting to and from their work.

A. They travel that road in the summer seasons when it is dry, but when it is wet they have to travel the railroad. They have to trespass, too; they have no road.

Q. Where is the school house located for the residents of Barr Township in this section? A. Where do you mean, from

where I live? X.

Q. Yes. A. Oh, I judge it isn't a quarter of a mile, or just about a quarter of a mile from our house.

Q. State whether or not there is any road by which the children can go to school. A. There is no road there, only the road that I mentioned before. You have to go down past McCombie's tipples. It is dangerous for them, because if there is a lump of coal falls on them it might cripple them, or hurt them. That is the only road they have to go to school.

Q. Are you familiar with construction work, Mr. Lawton?

A. Well, I am some; I done some excavating.

Q. Have you done any contracting work? A. Yes, sir, I have.

Q. Are you familiar with the course of the road as laid out by the board of viewers appointed by the court? A. Yes. I wasn't there when they laid it out, but, of course, I have an idea where they run the line there when they did lay it out.

Q. State what it would cost to construct that road from the point of beginning to the point of ending, as laid out by the board of viewers. A. Well, of course, I would have to agree with Mr. Hogan on that.

Q. How about his figures as to drainage and so forth? A. Well, now, I don't know the cost of pipe and material for drainage.

CROSS-EXAMINATION BY MR. WESTOVER:

Q. Mr. Lawton, showing you the draft of the viewers, is your property designated there, as designated there, properly located with respect to the other properties on there? Is this the proper

location? A. Yes, my house and barn is just about on a line together there.

Q. Your property, as located, on the map, of the viewers, is properly located? A. Yes.

Q. You say you have a road from your property leading north to the proposed terminus of this road? A. Yes.

Q. But, that road at certain seasons of the year is not in very good condition? A. No.

Q. Do you have an automobile? A. No.

Q. The road is in fairly good condition now, isn't it?

A. No.

Q. But, it is passable, is it not? A. No, it ain't; it is full of ruts.

Q. From your property, leading north, to the northern terminus of this road, there is a well outlined road? A. Well, it is in bad condition.

Q. You people all travel it? A. Well, we have to; we have no better road.

Q. Well, now, Mr. Lawton, you said that the children from West Branch had no means of getting into the school property?

A. I said from where we lived. The West Branch children don't have to go past these tipples. From where I live they have to go down under the tipples.

Q. Will you give me the names of the parties living along this proposed highway, from what is termed the northern end of McCombie Avenue down to and including William Sherry? A. Of course there is a couple of families in here on the C. B. & C. property; William Reed is one, any myself.

Q. Is that the property designated on the map as belonging to Mrs. John Sherry? A. No, there is another one living in

there that is affected. There is a new house there that the C. B. & C. has.

Q. Is that the property just opposite the Mrs. John Sherry place? A. Yes.

Q. You say there are how many families living in there?
A. Two families; then there is Iver Carlson, and Mrs. Johnson, Alex Wood, Andy Olson, and William Sherry and five or six other families up to the left of that.

Q. Where is that? A. It is to the left of McCombie's ~~Krumm~~ shop that would depend on this road.

Q. They did have a road there? A. No, they haven't now. They had a road that belonged to some other party.

Q. Do you mean to say there is no road up there leading from the tipple? A. There is a kind of a road there; it is a private road.

Q. They traveled that road, didn't they? A. Yes.

Q. Is that designated here as the old road on the map of the viewers? A. Yes, I guess it is.

Q. Has there been any new construction within the past ten years between what is termed the northern end of McCombie Avenue and the William Sherry property? A. There has been.

Q. Any new residences built there? A. Yes.

Q. By whom? A. Mr. Wood.

Q. Are there any others? A. Yes, the West Branch built some houses up there. It belongs to the Mike Sherry, and the C. B. C. all at that time.

Q. Then, within the last ten years, two houses have been built along the course of this proposed road? A. Yes, but there would be more people build there if we would get a road.

Q. Well, now, traveling south from your property to the

borough line of the Borough of Spangler you say that is simply a commons? A. They have a commons belonging to the C. B. & C., and we are trespassers when we go over it.

Q. Is it also a commons to Orvis Avenue? Is that a commons from here over to Orvis Avenue? A. Yes, that is what it is, nothing but a commons. It is an open field; it isn't laid out in streets and alleys.

Q. If it is laid out in streets and alleys, is it visible on the ground? A. No.

RE-DIRECT EXAMINATION BY MR. McCARTHY:

Q. State whether or not you have an outlet at the present time from your residence on to the road leading from Bigler Avenue in the Borough of Spangler to Moss Creek? Is it possible to get past that road? A. Well, I don't call that a road.

Q. Is it possible to get in and out that way? A. You can get in and out there to-day, but it is full of ruts; an automobile would go down to the running board.

Q. You can't get in and out there with an automobile? A. No.

ALEX WOOD, called, sworn.

DIRECT EXAMINATION BY MR. McCARTHY:

Q. Where do you live, Mr. Wood? A. Barr Township.

Q. Are you one of the petitioners for a road leading from

McCombie Avenue in the Borough of Spangler, through the Township of Barr, over to the road leading from Bigler Avenue to Moss Creek?

A. Yes, sir.

Q. State what you know as to why a road is necessary as petitioned for.

A. Well, we have no ways of getting anything to eat, or coal to keep ourselves warm up there at all times; there is about three or four months of the year that you can't ask your men to come up there with a wagon. There is hardly any time that a man that isn't familiar with all the alleys that can go up there with a car. I was stuck there last night. Thomas Lawton had a lot of sickness there and the doctors couldn't get up to his place. He was even afraid to walk back and forth and he couldn't drive up. There was a funeral there lately and I had to haul a couple of big chains up to pull the hearse out. I have five children and three of them are going to school and when they leave in the morning I am not sure whether they are going to get back alive or not. There is railroad tracks there with engines going up and down. The road isn't fit in the spring for them to travel on, and they have to pass under that tipple down there. I have two cars and I can't get in and out with them and I have to pay storage to keep them, although I have a good garage that I ~~had~~ built up there.

Q. State whether or not at the present time you can get into your residence from the northern terminus of the proposed road as laid out by the board of viewers.

A. No. There is alleys there that if I would be permitted to fix them up I would do so, and I could possibly get in and out, but William Sherry-- as soon as I go there to do any work they claim I have no rights, so I can't fix those alleys up so I can get in and out. If I try to go in there with my cars I get hung up on the differential.

Q. Then, you mean to state that you have no road by which

you have actual permission to go in and out there? A. No, sir.

Q. Even though there is a road there? A. Yes; and I haven't refused to do anything reasonable on the road so I could get in and out.

Q. That is because the road has never been opened in a legal manner? A. Yes. Every time I go out that way I trespass on somebody's property.

Q. State whether or not it is possible to get from your residence to the southern terminus of this proposed road as laid out by the board of viewers. A. It isn't possible right now after this rain we had last night, not with an automobile; you can get in with a team, if the team is pretty good and if you have no load on.

Q. Then, would you say for a large part of the year you are unable to get in and out of your residence with an automobile, or any other vehicle, to either the northern or southern terminus of this proposed road? A. Yes, sir; I can't get out only when it is dry.

Q. What is your occupation, Mr. Wood? A. Mason contractor.

Q. Are you familiar with the cost of excavation and work of that kind? A. A good bit.

Q. Could you give an estimate from your experience as a contractor as to what the cost of constructing a road between the termini as laid out by the board of viewers would be? A. I would estimate that a road in a sensible manner could be put there and omit this fence, or guard rail, because a guard rail there isn't needed for the protection of the township, or the travelers, or any one else. It isn't on the hillside steep enough, even

after filling, to make it necessary for a guard rail, and that added a thousand and some dollars to that expense. I am sure this road could be built complete with the drainage at the present cost of labor and teams for four thousand dollars. I figured it over here some the other night.

CROSS-EXAMINATION BY MR. WESTOVER:

Q. How do you make up your estimate of four thousand dollars? A. Why, figuring the humps and bumps on the road, whatever I saw fit to take off, looking at other common highways that is laid out where we have to travel on and that we think is all right. They don't need to make the road level for us, just do whatever work is necessary on the road. Figure the yardage necessary to scrape off, for the ground isn't hard and there is no rock to be shot; the road isn't hard; and figuring the rough work and all I figured I would be safe in taking the job for myself at that price.

Q. Would you say that seventy-five cents a cubic yard for excavating would be too high, as figured by Mr. Hogan? A. It is too high in some places. In some places you can scrape it off with a shovel.

Q. And haul it away? A. No.

Q. His estimate included that. A. Very little of it would have to be hauled away, only in this strip over there at McCombie Avenue, about two hundred feet north.

Q. Where would the excavating have to be done? A. In widening the road.

Q. Wouldn't there have to be an excavation made at William

Sherry's? A. Very little, hardly any, only grading, ditching and scraping it up.

Q. How many cubic yards of dirt would there have to be moved in your estimation? A. Well, possibly about--

Q. To reduce this road to a five per cent grade? A. Well, there isn't very much of a grade there now. Why, there wouldn't be over five hundred yards of dirt to be moved any place.

Q. Where would you get the dirt to make the fill around that narrow road that Mr. Lawton speaks about, from William Sherry's out to the school house? A. Why, there is no road there now.

Just plow it up from the edge of the bank and scrape it up over.

Q. Isn't the present old road right up against the fence of the present property owners? On the south side of that old road, between the William Sherry property and what would be the school property, along the school property, isn't the old road right up against the fence? A. The old ~~road~~ road is, yes.

Q. It would be necessary to make a pretty large fill there, wouldn't it? A. Do you mean to build the road there?

Q. Don't you know where this road is at all? A. I know where the viewers had it.

Q. Where? A. That was up above William Sherry's.

Q. After you leave there where do you go? A. Right following the road off of the hill right up against Chernosky's house.

Q. That is what I am speaking about. Where would you get the dirt to make that fill? A. That is all level.

Q. Where would you get the dirt to make the fill between Thomas Lawton's and the Borough of Spangler? A. You can get that old rock dump from the Pennsylvania Coal & Coke Company.

Q. How much of a fill would there be there? A. Well, if you get that old rock dump in there it will be pretty well filled up.

Q. What is your estimate of how far it would have to be hauled out to the Thomas Lawton property? A. Why, that rock dump lays there in the center, when it would have to be hauled five hundred feet each way.

Q. What is the distance from the Borough of Spangler to Thomas Lawton's barn? A. Oh, I didn't measure that distance.

Q. Well, in your estimation? You have estimated the cost of this road? A. Yes, rough.

Q. Your estimate is just a guess, is it? A. No, I have figured it, but I don't have the survey of the road.

Q. You ought to know the distance between the borough line and the Lawton property if you estimated this road. A. Well, we will call it about, I guess, five or six hundred feet, maybe a thousand feet.

Q. Well, now, what is it? A. Well, now, I ain't measured that.

Q. Is it fifteen hundred feet? A. I don't think so.

Q. Is it seventeen hundred feet? A. I told you I haven't measured it; on a distance that far a man can't tell without he measures it.

Q. Don't you know, as a matter of fact, that it is over eighteen hundred feet, and that whole distance would have to be filled in? A. No, sir.

Q. Well, how much of it would have to be filled in? A. About two hundred and fifty feet of it.

Q. And if you say two hundred and fifty feet, where would that be? A. From McCombie Avenue north.

Q. And what would become of the balance of the road? A. Why, it is laying up there on a side hill, all of it, where it will practically drain itself, with a few culverts and ditches.

Q. Why do you say this road is not passable from Thomas Lawton's out? A. Well, we have no road there. We aren't permitted to travel through there.

Q. After it is all said and done, your estimate of four thousand dollars is just a guess on your part, isn't it? A. No, it ain't a guess.

Q. Your property lays between the property of Andy Olson and William Sherry? A. Yes.

Q. Where do you park your car? You say you can't get in to your residence with your car. A. At Nolan's garage.

Q. When was the last time you drove in to your property? A. Last night.

Q. Then, you can drive in and out to your property in an automobile at the present time? A. Some times you can.

Q. Don't you have a right to drive over the property of William Sherry? A. No.

Q. Doesn't your deed give you that right? A. I don't know.

Q. You have a road over the William Sherry property, if you want to use it for road purposes? A. Yes.

Q. But, instead of having a road east of William Sherry's property, you want to have it west of William Sherry's property, don't you? A. No, I don't care where I have the road located.

Q. Well, there is a road there now? A. There is a road there now, but he don't call that a road.

Q. Where is that located, east or west of his building? A. It is east of his house and west of his barn, the road that is there now.

Q. Well, then, it runs between his house and his barn? A. Yes, sir.

Q. And, where does he want the road? A. He wants it down below the barn, that is, east of the barn.

Q. That is, entirely east of his buildings? A. Yes.

Q. Then, this road, this proposed road, would be an accommodation merely for the property owners living between McCombie Avenue and William Sherry's property? A. It would be an accommodation for five or six houses up there that are in the same shape that we are.

Q. They already have a road there, don't they? A. Like we have.

Q. Well, they are using it? A. They are using it.

Q. And it is a fairly good road? A. No; I was up there with a car a year ago, and the roads then weren't any worse than the one we have.

Q. When dirt roads are good, this road is good, isn't it? A. No; dirt roads are good now.

Q. Well, isn't this road good now? A. Well, I haven't been up there this spring.

Q. Have you looked it up at all? A. Well, not this summer; this was last year that I saw that.

RE-DIRECT EXAMINATION BY MR. McCARTHY:

Q. Mr. Wood, as a matter of fact, wouldn't this proposed road be a benefit to all the people of West Branch, as well as the general traveling public that might be going from Moss Creek and going towards Nicktown, or any point in Spangler Borough? A. It would be. There is another thing that I ~~xxx~~ would like to say on this matter; that might bring back some of the money to the

township in the future. Mr. Lawton has talked about building three or four houses up there to rent out or sell if we had a road. I have some lots up there that I could build on, and I would build if we had a road where people could come up in there. There's William Sherry's place, I am sure people would build on that. I am sure that road would pay for itself if they would get a road up there for us.

RE-CROSS-EXAMINATION BY MR. WESTOVER:

Q. You were speaking of the residents of West Branch and Moss Creek. If this proposed road were built it would simply be a duplication of another road they now have? A. Yes.

Q. This would be parallel with that road? A. It would cut off a lot of time.

Q. They would have a much better highway, the general public, to travel by way of Bigler Avenue? A. Yes, it is better.

Q. It is a permanent highway for the most part, is it not? A. Yes.

IVER CARLSON, called, sworn.

DIRECT EXAMINATION BY MR. MCCARTHY:

Q. Where do you live, Mr. Carlson? A. Barr Township.

Q. Are you one of the petitioners for a road in Barr Township leading from McCombie Avenue in the Borough of Spangler to the road that leads from Bigler Avenue to Moss Creek? A. Yes.

Q. State why you think a road is necessary between those points. A. Because I think we are entitled to a piece of road. We pay our taxes and we should be treated like the other citizens. We should have a road to get out and in.

Q. What are the ^{accommodations} ~~arrangements~~ there now that you have to get in and out? A. Well, some days we get in, and some days we don't. We have to get a road some time.

Q. State whether or not you can get from your property by means of an automobile, or other vehicle, to the northern terminus of this proposed road as laid out by the board of viewers. A. No, we can't.

Q. State the condition of the road that you have from your place to the southern terminus of this proposed road. A. We don't have no road; we just travel in under the trees and every place. Sometimes we go down in the alley.

Q. Do you have a good road from Spangler Borough over to McCombie Avenue and over to the line between the township, dividing the Township of Barr and Spangler Borough? A. Yes, we have a pretty fair road there.

Q. Do you have any trouble getting your necessities and so forth from the merchants? A. We do in the fall and the spring. They won't come in with them. We have to carry them up by walking on the railroad.

Q. Do you have any children, Mr. Carlson? A. Yes, one girl.

Q. Does she go to school? A. Not now, she is through school.

Q. Did she attend the Barr Township school for this neighborhood? A. Yes.

Q. State what, if any, difficulty she had in getting to and

from school. A. She walked on the New York Central Railroad.

Q. Did she ever get any permission to travel on that railroad, to walk on the tracks? A. No.

CROSS-EXAMINATION BY MR. WESTOVER:

Q. Your property, Mr. Carlson, is between the properties of Thomas Lawton and Mrs. Johnson? A. Yes, sir.

Q. This road, if built, would benefit primarily the residents living between the William Sherry property and the line of the Borough of Spangler? A. Yes.

Q. It wouldn't be of any particular advantage to the general public, would it? The general public don't travel in there, do they? A. Well, the store keepers will come in there.

Q. That is, when they are delivering stuff to you people up there? A. When they can't come in they won't come in. Sometimes they can't get in. It will be a benefit to all when we get a road in there.

Q. Did you drive out this road to-day? A. Yes.

Q. Then, you can get in and out at this time? A. Well, you can get out some days. There are other days you can't get out.

Q. Well, it is just like every other dirt road in that respect? A. Well, this road is no good at all.

Q. Is it a road, or isn't it? A. It is no road.

Q. Between your property and the William Sherry property there is no road you say? A. There is a road over that way; you can go over that with an automobile to-day.

Q. What direction did you come to-day? A. I came this other way, towards Spangler. The other way, I didn't try it. I

don't think you can get out the other way at all.

Q. Why? A. The holes are too big.

Q. Where are the holes? A. Right in the road.

Q. Mr. Carlson, would you say that there isn't a road between your property, traveling north, and on past the properties of Mrs. G. Johnson, Alex. Woods, William Sherry and on down underneath the tipple of Frank McCombie? A. There is a road, but you can't travel it with an automobile.

Q. Is there a road from your property traveling south? How far does that road extend from your property toward the borough line of the Borough of Spangler? Is there a road there at all?

A. There is no road there.

Q. It is designated as a road? A. It is no road.

Q. But, there is a designated road the other way, north?

A. Well, there is a big field there, and you can drive in it every place.

ANDY OLSON, called, sworn.

DIRECT EXAMINATION BY MR. McCARTHY:

Q. Where do you live, Mr. Olson? A. Barr Township.

Q. Were you one of the petitioners for a road in Barr Township leading from McCombie Avenue in the Borough of Spangler to the road leading from Bigler Avenue to Moss Creek? A. Yes.

Q. Why did you petition the court for a road in there?

A. We have no road.

Q. You have no road? A. No, we have no road.

Q. State whether or not you can get from your place to the

northern terminus of this proposed road as laid out by the board of viewers. A. Yes.

Q. State whether or not you can get out that way now with an automobile, or a wagon, or any other kind of a vehicle. A. Oh, it is pretty hard to get out now. They can get out if it is dry and nice weather.

Q. Has any of the property owners along there stopped you from trying to get out? A. No, I don't think there is.

Q. You mean they never stopped you? A. No, they never stopped me.

Q. What kind of a way do you have to get out to the southern terminus of this proposed road? A. Oh, we go out through Tom Lawton's and out through that field over to McCombie Avenue.

Q. Do you have any well defined course by which you can get through there? A. No, I don't think we have.

Q. Well, do you actually know whether or not you have? A. No, I don't know.

Q. You can go any way, you mean? A. Any place we can go up and down; we can move it any up and down.

Q. Do you have any children? A. Yes, one.

Q. Do you have any children going to school? A. Yes, one boy.

Q. State whether or not he has any safe and definite way by which he can get to the school house. A. The only way he can get to the school house is to go down around. In the winter time it isn't possible for anybody to walk these roads.

Q. State whether or not you have any trouble in getting groceries and the necessities of life in there without carrying them in. A. That is what they do. They haul it up to the bridge and then you have to carry it.

Q. Vehicles can't get up there? A. No, they can't turn up there; they turn up at Lawton's.

Q. That is, when they can get in? A. Well, they can get in there from Spangler now.

CROSS-EXAMINATION BY MR. WESTOVER:

Q. Andy, your property is between Mrs. G. Johnson's and Alex Wood's? A. Yes, sir.

Q. You have a road from your property north, haven't you? A. Yes, there is a kind of a road there.

Q. You can see it on the ground? A. Sure.

Q. Do you have an automobile? A. No, sir; I have an old horse and a wagon, and I have a hell of a time getting in and out of that place.

Q. You drive in over this road, don't you? A. Yes.

Q. Then, you just want this road so you get a better road in there, is that it? A. That's my idea.

MIKE DORAN, called, sworn.

DIRECT EXAMINATION BY MR. McCARTHY:

Q. Where do you live, Mr. Doran? A. Barr Township.

Q. In what part of Barr Township do you live? A. North-east Barr.

Q. State where you live in Barr Township with respect to McCombie Avenue in the Borough of Spangler. A. I live along

McCombie Avenue, what I understood was McCombie Avenue, until the borough vacated it about ten years ago. I suppose it is three hundred feet from the corner of this proposed road where McCombie Avenue turns there; that is where I live.

Q. State whether or not the traveling public is using McCombie Avenue, Orvis Street and Alma Avenue in the Borough of Spangler at the present time. A. You will have to show me what Alma and Orvis are.

Q. Orvis Street is that street that runs down from the railroad track. This is Alma Avenue. A. The traveling public uses that all the way out to Spangler, yes.

Q. Were you one of the petitioners for a proposed road between McCombie Avenue in the Borough of Spangler and the road leading from Bigler Avenue to Moss Creek? A. Yes, I signed that petition.

Q. Do you hold any office in the Township of Barr, Mr. Doran? A. I am secretary of the school board.

Q. State whether or not you think this proposed road, as laid out by the board of viewers, is necessary for the traveling public. A. Yes, it is necessary for the traveling public.

Q. Just state why it is necessary. A. Well, there is about fourteen school children living up there, and fortunately they are going to the parochial school. If they weren't, Barr Township would have to pay their tuition, because there is no roads through there for the children to travel over.

Q. Is the West Branch school the one that is designated by the school board of the Township of Bar as being the school for the children that live in that vicinity? A. Yes, it has been for fourteen years.

Q. And, because there is no road through there, the children

would be unable to go to this school as designated? A. It is more than a mile and a half out of the legal distance. You have to go up around West Branch and, therefore, they don't have to send them there, that is, because they go to the parochial school. They could send them in to the borough school, the public school, and the township would have to pay the tuition.

Q. However, they would be required to go to that school if you had this proposed road up there? A. Yes. There is fourteen children going to the Spangler school now.

Q. Are there any other persons who would be benefited by this proposed road, if it were built? A. Well, some years ago I was stopped by the Railroad Company's policeman and he threatened me with arrest because I was walking on the railroad track going down to West Branch. I told him then that we had a petition up for a road. That was in 1915, and that was the reason he left me off, because we had no road and I told him we were trying to get a road through there.

Q. Do the men at West Branch have any means of going to the mines without trespassing on the railroad? A. No. The men at No. 61 walk the railroad tracks to and from their work, and they have done that since 1906.

Q. Would this proposed road benefit any other citizens in Barr Township? Would it benefit the citizens of the village of West Branch? A. It certainly would.

Q. Do you think the cost of constructing this proposed road would be so high in proportion to the benefits the traveling public would derive from it as to warrant the supervisors in opposing the opening of this road? A. Well, I don't think the cost of construction would be such as would justify the supervisors in opposing the construction of the road.

Q. Are there any other reasons you know of as to why this proposed road should be opened or constructed? A. I don't know of any other reasons outside of the convenience to the public and the people living along the road. This petition was got up at my suggestion after the other petition failed. The petition was turned down in 1915 which asked for a road leading from Spangler to Moss Creek. One of the township supervisors told me at that time that if they started at that corner of McCombie Avenue that he wouldn't oppose it. He is no longer a supervisor now.

Q. You mean that a supervisor told you at that time that if the road had begun at the point where this proposed road begins that he wouldn't oppose it? A. That's it.

CROSS-EXAMINATION BY MR. WESTOVER:

Q. The supervisor that told you this is no longer in office?
A. No, of course not.

Q. Mr. Doran, you don't live along this proposed highway, do you? A. I live within possibly three hundred feet of it.

Q. I mean the present proposed highway, you don't live along it? A. Certainly not.

Q. You live south of what is termed Orvis Street in the Borough of Spangler? A. If Orvis Street is that street from McCombie Avenue over, I live south of it, yes, sir.

Q. In traveling to your residence from the northern terminus of this proposed highway, how do you travel at the present time?
A. We go out a street that we made ourselves part of the way without the help of the borough, out as far as the street or road leading from Spangler towards Barnesboro and up into West Branch.

Q. So you already have a highway to travel to the northern terminus of this proposed highway, have you not? A. Yes.

Q. And this proposed highway, if opened, would be simply a duplication of your present road, but shorter? A. It wouldn't be a duplication.

Q. Why? A. It would open up new territory.

Q. So far as you are concerned, going to the northern end of the proposed highway, it would be a duplication of the road you already have, would it not? A. No, not in that way. I have to go down that way, and the children that go to west Branch have to go down that way. We have to go down the best way we have.

Q. But, it will make two roads for you leading to the same point, isn't that true? A. It would certainly make two roads, just the same as you have two roads from here to Carrolltown.

Q. The proposed highway will make a parallel highway with the present one leading to Bigler Avenue? A. It does not.

Q. Well, practically they would be parallel? A. Yes, on the other side of the Susquehanna River and the two railroads.

Q. There they are practically parallel? A. Yes.

Q. How long have you lived over in your present residence?

A. Twenty-four years.

Q. Your property adjoins the property of Mr. Frank McCombie?

A. There is a road between.

Q. You are familiar with McCombie Avenue, are you not? A. I have heard tell of it often.

Q. That is, McCombie Avenue as designated on the borough map? A. I never seen the borough map.

Q. Has the Borough of Spangler ever improved McCombie Avenue?

A. No.

Q. It has never been opened by the Borough of Spangler?

A. Not that part of it.

Q. Beginning at Orvis Street and traveling north on McCombie Avenue, the Borough of Spangler has never done anything on that street, has it?

A. To the best of my knowledge the borough never improved the street any further than the point you say.

Q. McCombie Avenue, then, is an unopened street between Orvis Street and the borough line, traveling north?

A. Yes, but we are outside the borough line.

Q. McCombie Avenue, between these points here, is an unopened street? From this point to this point, it is an unopened street?

A. As far as the borough is concerned, yes.

Q. It is simply a commons in there?

A. No, it isn't; there is twenty-five feet of that was given over to be used as a road; there was twenty-five feet of it opened by the borough, at least on the map, and shown as a street.

Q. It appears on the map as McCombie Avenue, but it has never been opened.

A. How much of it is in the borough?

Q. Twenty-five feet.

A. Yes, there is twenty-five feet of it in the borough. Doesn't that require the borough to spend money on it?

Q. But, there has never been any improvements made by the borough on McCombie Avenue?

A. The borough never spent a cent on it.

Q. What is the condition of the northern end of McCombie Avenue at the present time, with respect to the condition of the ground?

A. It is in good condition, there is plenty of cinders on it, but there is no improvements on it at all. I might add to that question that some years ago the borough permitted McCombie to use that street up there and he graded it up to that coal bank that is almost at the end of McCombie Avenue and it was used for a

road.

TESTIMONY CLOSED.

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.


Official Stenographer.

In the Court of Quarter Sessions of Cambria County.
No. 1 Sept. Sessions, 1923.

IN THE MATTER OF EXCEPTIONS
OF THE SUPERVISORS OF BARR
TOWNSHIP, CAMBRIA COUNTY,
PENNSYLVANIA, TO THE REPORT
OF VIEWERS.

TRANSCRIPT OF TESTIMONY.

7 October 1924 lodged.

FRANK J. MYERS
Official Stenographer
Forty-Seventh Judicial District
Pennsylvania

EBENSBURG, PA.

October 6, 1924.

M

TO FRANK J. MYERS, DR.

OFFICIAL STENOGRAPHER
FOR THE
FORTY-SEVENTH JUDICIAL DISTRICT
PENNSYLVANIA

To Taking testimony, expenses, and transcript of testimony - - - - -	\$36.39
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IN THE MATTER OF EXCEPTIONS OF THE SUPERVISORS OF BARR TOWNSHIP, CAMBRIA COUNTY, PENNSYLVANIA, TO THE REPORT OF VIEWERS.

PETITIONER'S BOND.

KNOW ALL MEN BY THESE PRESENTS, THAT WE, the undersigned, are held and firmly bound unto the County of Cambria in the sum of One Hundred Dollars (\$100), to be paid to said County, its certain Attorney or assigns; to which payment, well and truly to be made, we and each of us, do bind ourselves and each of us, our and each of our heirs, executors and administrators, by these presents. Sealed with our seals and dated the nineteenth day of September, A.D. 1923.

WHEREAS, WE with others, have petitioned the Court of Quarter Sessions of Cambria County for the appointment of viewers, to view and lay out a public road in the Township of Barr, in said County of Cambria, as follows:

"That they labor under great inconvenience for want of a public road to begin at a point in the Township of Barr where McCombe Avenue as shown on the Plan of the Borough of Spangler terminates at the line of the said Township of Barr, which said point is distant measured along the center line of McCombe Avenue aforesaid six hundred and ninety feet from the intersection of Orvis Street and McCombe as shown on the Plan of the Borough of Spangler, and extending thence, by a convenient route, to another point of ending, which said point of ending is in the Township of Barr on the Township Road produced from North Fifteenth Street in the Borough of Spangler and passing through the Village of West Branch and is six hundred and ten feet from the intersection of Bigler Avenue and North Fifteenth Street, in the Borough of Spangler aforesaid.

Your petitioners therefore pray the court to appoint proper persons to view and lay out the same according to law; and they will ever pray, etc. "

NOW THE CONDITION OF THIS OBLIGATION IS SUCH THAT if the said petitioners asking for the appointment of Viewers to view and lay out the said Township road, shall or cause to be paid the fees and expenses of the Viewers appointed by the Court, if the Court shall so require, then this Obligation to be void, otherwise to be and remain in full force and virtue.

AND FURTHER, WE do by these presents, empower for the County Commissioners any attorney or any other attorney of any Court of Record of the Commonwealth of Pennsylvania, to appear for us therein and confess judgment against us for said sum of One Hundred Dollars (\$100), with costs of suit and release of all errors; and we do hereby waive the right to inquisition on real estate, and all laws exempting real or personal property from levy, and sale on execution.

Sealed and delivered in :
the presence of :

H. P. McCarthy :

Alex. Woods (SEAL)

Ivan Carlsson (SEAL)

No. 1 Sept. Sess. 1923

In the Court of Quarter
Sessions of Cambria County.

Bond of Petitioners for
the appointment of Viewers
to View and Lay out a
Public Road in Barr
Township, Cambria County,
Pa.

Now, Sept. 20th,
1923, within bond approved.

By the Court

Filed 20 Sept 1923

HOWARD P. McCARTHY
ATTORNEY AT LAW
WHITED BUILDING
BARNESBORO, PENNA.

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

TO THE HONORABLE THE JUDGES OF SAID COURT:

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

That they labor under great inconvenience for want of a public road to begin at point in the Township of Barr where McCombe Avenue as shown on the Plan of the Borough of Spangler terminates at the line of the said Township of Barr, which said point is distant measured along the center line of McCombe Avenue aforesaid six hundred and ninety feet from the intersection of Orvis Street and McCombe Avenue as shown of the Plan of the Borough of Spangler, and extending thence, by a convenient route, to another point of ending, which said point of ending is in the Township of Barr on the Township Road produced from North Fifteenth Street in the Borough of Spangler and passing through the Village of West Branch and is six hundred and ten feet from the intersection of Bigler Avenue ~~XXXXXX~~ Street and North Fifteenth[^] in the Borough of Spangler aforesaid.

Your petitioners therefore ^{pray} the court to appoint proper persons to view and lay out the same according to law; and they will ever pray, etc.

Alex Woods _____
Lucas Carlsson _____
Andy A. Brown _____
Jonathan R. Nicholas _____
M. F. Doran _____
T. J. Lawton _____
Mrs. Gander _____
Frank McComline _____

State of Pennsylvania :
County of Cambria. : ss:

Alex Woods, one of the above named petitioners,
being duly sworn according to law, deposes and says,
that the matters set forth in the foregoing petition
are true and correct.

Alex Woods

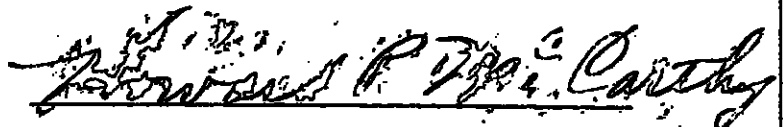
Sworn to and subscribed before me this 19th
day of September, A.D. 1923.

David P. McCarley

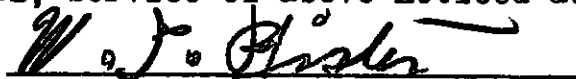
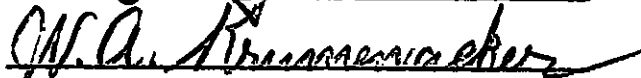
NOTARY PUBLIC
BARNESBORO, PA.
My Commission Expires April 15, 1927

TO THE SUPERVISORS OF THE TOWNSHIP OF BARR, IN THE
COUNTY OF CAMBRIA AND STATE OF PENNSYLVANIA:

You are hereby notified that application will be made to the Court of Wuarter Sessions of said County of Cambria, Sept. 20, 1923, at 10:30 o'clock A.M., for the appointment of viewers to view the premises and to report to the Court the expediency of laying out a road in said Township of Barr for public use to beginaat a point in the Township of Barr where McCombe Avenue as shown on the plan of the Borough of Spangler terminates at the line of the said Township of Barr, which said point is distant measured along the center line of McCombe Avenue aforesaid six hundred and ninty feet from the intersection of Orvis Street and McCombe Avenue as shown on the Plan of the Borough of Spangler, and extending thence, by a convenient route, to another point of ending, which said point of ending is in the Township of Barr on the Township Road produced from North Fifteenth Street in the Borough of Spangler and passing through the Village of West Branch and is six hundred and ten feet from the intersection of Bigler Avenue and North Fifteenth Street, in the Borough of Spangler aforesaid.


Attorney for Petitioner.

Now September 19th, 1923, service of above noticed accepted/

Supervisors of Barr Township,
Cambria County, Pa.

TO THE COUNTY COMMISSIONERS OF CAMBRIA COUNTY? PA.

You are hereby notified that application will be made to the Court of Quarter Sessions of said County of Cambria, Sept 20, 1923, at 10:30 A.M, for the appointment of viewers to view the premises and to report to the Court the expediency of laying out a road in said Township of Barr for public sue to begin at a point in the Township of Barr where McCombe Avenue as shown on the Plan of the Borough of Spangler terminates at the line of the said Township of Barr, which said point is distant measured along the center line of McCombe Avenue aforesaid six hundred and ninty feet from the intersection of Orvis Street and McCombe Avenue as shown on the Plan of the Borough of Spangler, and extending thence, by a convenient route, to another point of ending, which said pointing is in the Township of Barr on the Township Road produced from North Fifteenth Street in the Borough of Spangler and passing through the Village of West Branch and is six hundred and ten feet from the intersection of Bigler Avenue and North Fifteenth Street, in the Borough of Spangler aforesaid.

Howard P. M. Cuthy.
Atty for Petitioners.

Now September 20th, 1923, service of above notice accepted.

T. Stanton Davis, Dwight Roberts,
and W.J. Cavanaugh? Commissioners
of Cambria County.

Per

Jas McLaughlin
Chief Clerk.

No. 1 Sept. Sess. 1923

In the Court of Quarter
Sessions of Cambria County

Petition for the Appoint-
ment of Viewers to lay Out
a Public in Barr Township,
Cambria County, Pa.

Now, Sept. 20
1923, within petition read
and considered, and

A. M. Shewater

J. D. Ritter

Philip Carpenter

are appointed Viewers as
prayed for.

Howard P. McCarthy
M

HOWARD P. MCCARTHY
ATTORNEY AT LAW
WHITED BUILDING
BARNESBORO, PENNA.

Filed 20 Sept. 1923

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

In re proceeding to
lay out a public
Road in

No 1. Sept Term 1923

Bar Township, Cambria
County Pa. beginning
at a point on McCoubie
avenue, Bur of Spangler

Exceptions to
Report of Viewers.

Heard before Court of, M. C. Camp, J. W. Reed, J. W. M.
Officers of the Court.

The petition in this proceeding asks
that a public road be laid out begin-
ning "at point in the Township of Bar
where McCoubie Avenue as shown on the
Plan of the Borough of Spangler terminates
at the line of the said Township of Bar.

It appears from the testimony taken
in support of the exceptions that there is
an error on the map or sketch attached
to the report of viewers in that what
is marked as McCoubie Avenue is only
an alley and that the street which is
marked McCoubie Avenue on the plan
of the Borough of Spangler is the one which
passes in front of the House of Frank McCoubie
as shown on the plan or sketch of the
viewers report.

It also appears that one half of

The street marked on McCoubie Avenue as laid out on the plan of the Borough of Spanglin is in the Township of Barr. It further appears that the Borough of Spanglin has never adopted said McCoubie Avenue as one of the Highways of the Borough, so that it has never become a public highway.

The mere dedication of a street to the public by the owner will not make it a public highway unless it is accepted by the public and actually opened on the ground. Com. v. Flecklynd & Sons Oct. 1941. Washington Female Seminary v. Washington D.C. 18 Sep. Ct. 555.

The only purpose of laying out and opening this proposed road was to have it enter the public highways in the Borough of Spanglin. The views assumed, of course, that McCoubie Avenue was a public highway and therefore opened in favor of the road.

The second exception which was set forth in the petition and reported by the viewers was in McCoubie Avenue in the Borough of Spanglin, which said Avenue has never been opened by the authorities of the Borough of Spanglin and appears on an Avenue in name only upon the plan of said Borough as prepared by the

Hayden Improvement Company " is
therefore sustained.

Done,

And now left, 12th 1924, after due con-
sideration the second exception is
sustained and the proceeding dismissed

By the Court
Evan. P.

Count of Permits Class
No. 1 September 1923
1923 Road District.

In a Road in
Bar Township.

Open and clear

Filed 1 Sept. 1924.

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

IN RE Report of Viewers :
Approving a Public Road : NO. 1. Road Docket.
In Barr Township, Cambria : September Sessions, 1923.
County, Pennsylvania. :


Exceptions to the Report of Viewers.

W.J.Pfister, W.A.Krumenacher and Frank Stiles, as Supervisors of Barr Township and taxpayers thereof, by their Attorney J.Harrison Westover, file the following exceptions to the report of viewers in the above stated matter and to the opening of the public road approved by them in said report and in support thereof aver:

1. That the termini of said proposed public road are not fixed in accordance with the Act of Assembly in such case made and provided.
2. That the southern terminus set forth in the petition and reported by the Viewers ends in McCombie Avenue in the Borough of Spangler, which said Avenue has never been opened by the authorities of the Borough of Spangler and appears as an avenue in name only upon the plan of said Borough as prepared by the Spangler Improvement Company.
3. That the northern terminus of said proposed public highway reaches another public highway already in existence approximately eight hundred and eleven feet from the terminus mentioned in the petition and the proposed public road must therefore traverse a part of an already existing public highway for the distance of eight hundred and eleven feet in order to arrive at the terminus as set forth in the petition.
4. The proposed public highway has not been laid out by the viewers over the shortest accessible route between the termini mentioned in the petition.
5. That the proposed public highway as laid out by the viewers contains many sharp curves which would be dangerous to the traveling public.
6. That the ground traversed by said proposed public highway is for a large part of the distance very wet, almost a swamp, at certain seasons of the year.
7. That the expense of opening said proposed public road and maintaining the same will be more than the taxpayers of Barr Township can afford.
8. That said proposed public road is not necessary for the traveling public for the reason that a public road already exists which is accessible from the terminal points mentioned in the petition and the said public road now in existence has been permanently improved almost throughout its whole length at great cost and in order to supply all the needs of this particular locality. From the northern terminus of said proposed road to Bigler Avenue in the Borough of Spangler, a good dirt road now exists, and thence by Bigler Avenue, North First Street and North Second Street which brings you to a point near the Southern Terminus

of the proposed public highway, a permanently improved highway already exists.

9. That no general public demand exists demanding the opening of the proposed public highway and the same would only be traveled by a few residents along its route who already have a private road sufficient for their needs.
10. That the only demand for said public highway arises upon the part of seven of the petitioners living along the proposed route who already have a private road which is accessible to all and sufficient for their needs.
11. That upon a view the proceedings of which are entered to number one September Sessions, 1915, wherein the termini were substantially the same as in this case and wherein the course of the road then proposed was substantially the same as the public road now proposed, A.M. Shoemaker, Philip E. Cauffield, and Adam Shumen acting as viewers reported to Court as follows: We met at the time and place appointed and having carefully viewed the premises are of the opinion that a public road between the terminal points given on the attached order is unnecessary and impracticable. The viewers realized that there is occasion for an outlet to the public highway for some ten or twelve families, yet they believe a public thoroughfare between the points of beginning and ending noted on the attached order is not necessary and that if constructed over the best and most practicable route obtainable the convenience and benefit will not be commensurate with the necessary expenditure required to construct and maintain a public road between the points referred to and owing to the abrupt turns necessary the road would still be more or less dangerous for public use! The above report of viewers was made by a board, two of whom, A.M. Shoemaker and Philip E. Cauffield, constitute the majority of the present board of viewers, and at a time when there was more necessity than now exists for the reason that since said time the present existing road by way of Bigler Avenue in Spangler, above referred to, has been constructed with brick and concrete at great expense. And furthermore, since said view which is entered to number one September Sessions, 1915, the parties residing along the proposed public road have not increased in number up until this time.
12. That the proposed public highway is not laid out according to law; is unnecessary for the traveling public; will be burdensome for the taxpayers of Barr Township who are hard pressed for funds to maintain present existing public roads and that a safer, permanent highway already exists for the traveling public and the opening and maintaining of the proposed public highway would be a useless duplication which would not be traveled by the public generally, and would be impassable during the wet seasons of the year.


Attorney for the Supervisors of
Barr Township.

State of Pennsylvania

County of Cambria :ss.

W.J. Pfister being duly sworn according to law, deposes and says that he is one of the Supervisors of Barr Township, Cambria County, Pennsylvania, and that the facts set forth in the foregoing exceptions are true and correct to the best of his knowledge and belief.

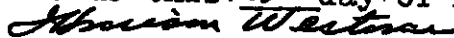
NOTARY PUBLIC

My Commission Expires March 6, 1927

My Commission Expires March 6, 1927

NOTARY PUBLIC

Sworn and subscribed to before me this 28 day of February, 1924.



In the Court of Quarter Sessions
of Cambria County, Pennsylvania.
No. 1. Septmeber Sessions, 1923.
Road Docket.

In Re Report of Viewers,
approving a public road in
Barr Township, Cambria County,
Pennsylvania.

Exceptions of the Supervisors
of Barr Township to The report
of Viewers.

Filed 29 February 1924.

LAW OFFICES OF
J. HARRISON WESTOVER
FIRST NATIONAL BANK BUILDING
SPANGLER, PENNSYLVANIA

R E P O R T O F V I E W E R S .

To the Honorable, the Judges of the Court of Quarter Sessions of
Cambria County, Pennsylvania.

We, the undersigned viewers, appointed by your honorable Court upon the attached order and therein directed to view and determine as to the necessity for a public road in Barr Township, said county and state, between the termini specified in said order respectfully report:-

That having given due notice of the view and of the time and place of meeting of the viewers to the Commissioners of Cambria County and the Supervisors of the Township of Barr and having had them accept service of notices hereto attached, and to the traveling public by printed hand bills posted in public and conspicuous places near the termini and along the route of the proposed new road; and having been first duly sworn according to law to perform the duties of our appointment faithfully, impartially and to the best of our judgment and ability: All of us met at the time and place appointed and having gone over the route and carefully viewed same we are all of the opinion that a public road between the termini indicated, as aforesaid, is necessary for the accomodation and convenience of the public.

Having determined that a public road between the points of beginning and ending as indicated on said attached order of the Court we proceeded to lay out a road between said points as indicated on the plot or draft hereto attached and made a part of this report, and taking the following courses and distances, viz: Beginning at the line dividing the Borough of Spangler from Barr Township, where said line crosses McCombie Avenue and running thence North 3° East 899 feet, thence North 9° 40' East 940.5 feet, thence North 3° 35' West 914 feet, thence North 5° 50' West 547 feet, thence North 26° West 185 feet, thence North 50° West 130 feet, South 80° 40' West 161 feet, thence South 54° West 425 feet, thence North 9° 30' West 1035 feet, thence South 64° East 386 feet, thence South 45° East 391 feet and South 72° 15' East 34 feet to the point of ending 610 feet from the intersection of

Bigler Avenue and North Fifteenth Street, in the Borough of Span-
gler.

Said road as laid out passes over lands of the Clearfield Bi-
tuminous Coal Corporation, heirs of Mrs. John Sherry, Thomas Lotton,
Andy Olsen, Alex. Wood and William Sherry; and the viewers having
failed to obtain releases of damages have assessed the damages of
William Sherry at Four Hundred Dollars and being of the opinion
of the opinion that the other parties have not been injured we have
assessed them No damages.

Witness our hands this third day of November, A. D., 1923.

0 U. W. Hammer

J. Ritter
Chas E. Canfield

Viewers.

ROAD NOTICE

Notice is hereby given that the Viewers appointed by the Court of ...Quarter.....
... Sessions..... of Cambria County, Pa., to view and determine as to
the necessity for a public road in Barr Twp., said county and state:
Beginning at the division line between Spangler Borough and Barr
Twp., where same crosses at the North End of McCombie Ave., and end-
ing on the township road in Barr Twp. at a point 610 feet Northward
along North 15th. street and the township road; from the intersection
of said street with Bigler Ave., in Spangler Borough:

will meet ...at the Township line, at the end of McCombie Ave., in the
Township..... of Barr..... aforesaid;
on the ... 30th. day ofOctober..... 1923, at 11:30 o'clock a. m.,
for the purpose of performing the duties of their appointment.

..... A. M. Shoemaker,.....

..... J. D. Ritter and.....

..... Philip E. Caufield,...

Viewers.

Ebensburg, Pa. 10/19/1923.

Now, October 22nd, 1923, service of the within notice is hereby accepted for the Commissioners of Cambria County, Pennsylvania.

James M. Chinn, Clerk
Per EME,

ROAD NOTICE

Notice is hereby given that the Viewers appointed by the Court of ... Quarter
Sessions of Cambria County, Pa., to view and determine as to
the necessity for a public road in Barr Twp., said county and
state; Beginning at the division line between Spangler Borough
and Barr Twp., where same crosses at the North end of McCombie Ave.,
and ending on the township road in Barr Twp. at a point 610 feet
Northward along North 15th. street and the township road, from the
intersection of said street with Bigler Ave., in Spangler Borough:

will meet at the Township line, at the end of McCombie Ave., in the
Township of Barr aforesaid,
on the 30th. day of October, 1923, at 11:30 o'clock a. m.,
for the purpose of performing the duties of their appointment.

A. M. Shoemaker,
J. D. Ritter and
Philip E. Caufield,
Viewers.

Ebensburg, Pa., 10/19/1923.

Now, October 27, 1923, service of the within notice is hereby
accepted for the Supervisors of the Township of Barr, Cambria County,
Pennsylvania.

Johnston

Costs of View

A. M. Shoemaker

Lifting Order \$.90

3 Days \$ 7.50

Livery hire (three trips) 12.00

Engineering work \$ 0.00
(not including prints)

Helper 5.00

\$135.40

J. D. Ritter

2 Days \$15.00

14 miles .70

\$15.70

Philip E. Caufield

1 Day \$7.50

90 miles 4.50

12.00

NOV 19 1923 CERTIFIED

NOV 19 1923 CERTIFIED

NOV 19 1923 CERTIFIED

AS APPROVED FOR PAYMENT
[Signature]
CERTIFIED

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 20th day of September A. D. 1923, before the Honorable Judge of the said Court: Upon the petition of divers inhabitants of the Township of Barr, in the said County, setting forth that they labor under inconvenience for want of a public road or highway, to lead from

a point in the township of Barr where McCombe Avenue as shown on the plan of the Borough of Spangler terminates at the line of the said Township of Barr, which said point is distant measured along the center line of McCombe Avenue aforesaid six hundred and ninety feet from the intersection of Orvis Street and McCombe Avenue as shown on the Plan of the Borough of Spangler, and extending thence, by a convenient route, to another point of ending, which said point of ending is in the Township of Barr on the Township Road produced from North Fifteenth Street in the Borough of Spangler and passing through the Village of West Branch and is six hundred and ten feet from the intersection of Bigler Avenue and North Fifteenth Street in the Borough of Spangler aforesaid.

Your petitioners therefore pray the Court to appoint proper persons to view and lay out the same according to law; and they will ever pray, etc.

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

A. M. Shoemaker surveyor, and J. D. Ritter

Philip Caulfield

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

By the Court.

Attest:

Frank C. Roth, Clerk.

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

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

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

NO. 1, September SESSIONS, 1923.

Order to view public road in Barry Township at a point on McCombie Ave. in Spangler Boro, ending at a point 610 ft. from the intersection of Bigler Ave. and North Fifteenth St. in Spangler Boro.

Order to View

Report of Viewers

Viewers
 A. M. Shoemaker
 J. D. Bitter
 Philip Caulfield

Clerk Robb 90 cts.

Filed 9 Nov. 1923

10 December 1923 approved and breadth fixed at 40ft.

By the Court

8 Dec. 1924 confirmed absolutely
 Frank B. Robb Clerk

