



Minnesota District Court (Carver County)
Civil and criminal case files

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No. 1339

DISTRICT COURT,
CARVER COUNTY, MINN.

Diedrich Leuzer
Plaintiff.

vs.

Hestings & Sakota
Defendant.

L. L. Baxter
Plaintiff's Attorney.

Defendant's Attorney

Date of Entry June 24 1888
Court
Register of Actions a Page 762

Term Tried 19

Judgement for

Amount of Judgement \$

Date of Judgement 19

Judgement Book Page

Default Judgement Book Page

Date of Docketing 19

Herald Publishing Co., Chaska, Minn.

Appeal

\$120.⁰⁰ =

Charles Carroll Mann
May 3^d A.D. 1884.

Received of Gustave Kragenbuhl, Clerk District
Court, the sum of One hundred and twenty dollars
being the amount of money in full for right of way
across the South West Quarter of the South East Quarter of
Section Nine (9) Township One hundred and fifteen
Range Twenty four (24), Totten by the Hastings and
Dakota Railway Company for its road, and in consideration
of said sum thereby Grant and Convey to Said Railway
Company the Strip of Land hereinbefore described and
all my right, title and interest in and to the Same.

Dated Charles, May 3^d A.D. 1884.

Diedrich Lenz
- Elisabeth Lenz

The above named Diedrich Lenz has Signed the
Within receipt for right of way, with the Reservation that
the above named Hastings and Dakota Railway Company
can construct a Crossing, with proper cattle guards, as agreed
upon, at the place designated and called Beaver dam,

Attest,

G. Kragenbuhl
Clerk Dist Court.

⁴⁰
Diedrich Hensen
Receipt \$ 120. 00
per night of May,

Filed May 3^d 1884,
G. H. Krayenbuhl
Clerk

- 162 -

State of Minnesota,
COUNTY OF *Carr* } ss.

DISTRICT COURT,

Eighth Judicial District.

In the matter of the petition and application of the . . . *Hastings and Dakota*
Railway Company, to condemn certain
real property in the County of . . . *Carr* . . . and State of Minnesota, filed in said court
on the . . . *24th* . . . day of . . . *May* . . . A. D. 188*0*

Dietrich Lutzgen

Edamiant and Respondent.

versus

The Hastings and Dakota
Railway Company
Petitioner and Appellant.

STATE OF MINNESOTA, } ss.
County of *Hennepin*.

Fredrick E. DuToit

being duly sworn, says that at . . . *Chaska* . . . in the County of . . . *Carr* . . .
in the State of Minnesota, on the . . . *26th* . . . day of . . . *June* . . . A. D. 1880,
he personally served a true copy of the notice of the appeal in the above entitled matter upon . . .

Dietrich Lutzgen

the above named respondent, by then and there delivering in hand to and leaving with . . .

said respondent such copy of the said notice of appeal, and that he then and there personally knew . . .
the person so served to be the respondent
therein named.

F. E. DuToit

Subscribed and sworn to before me, this . . . *27th* . . . day of . . . *July* . . .

A. D. 1880,

Francis B. Bailey

Notary Public

Hennepin Co

Minim

40

DISTRICT COURT.

Carver

County

in the matter of the application of the

Hastings and
Dakota

Railroad Company, filed

A. D. 1880.

Dietrich Lentzen

versus.

The Hastings and Dakota
Railway Company

Affidavit of Service of Notice of Appeal.

Filed July 11th 1880
H. Krausnick
Attorney,

Attorneys for Petitioners.

962

State of Minnesota, }
COUNTY OF Carver }

DISTRICT COURT,
Eighth JUDICIAL DISTRICT.

In the matter of the petition and application of the Hastings and Dakota
Railway
Company to condemn certain real property in the County of Carver
and State of Minnesota, filed in the said court on the 24 day of May A. D. 1880.

Diedrich Lenz
Claimant and Respondent,

The Hastings and Dakota
Railway Company
Petitioner and Appellant.

To Diedrich Lenz

You and each of you are hereby notified that the above named petitioner, the Hastings
and Dakota Railway
Company appeals to the District Court in and for the County of Carver
Eighth Judicial District, State of Minnesota, from that part or portion of the award of the
Commissioners, made and filed in the above entitled matter, on the 24 day of June
A. D. 1880, which awards to

Diedrich Lenz as owner, subject
to the liens of
~~as incumbrances~~ the sum of One hundred and twenty Dollars, as
compensation for damages and injury to the South West-quarter of the
North East-quarter of Section nine in Township
one hundred and fifteen Range twenty four

by reason of the taking of land necessary and required to be taken for the use and tracks of said Railway
Company for the following reasons, and upon the following grounds, viz:

- 1st, That the said Company deem the said
award unjust and excessive and the
amount of compensation to be paid
the above named claimant more than
the damage or injury to said property.
- 2nd, That said Commissioners did not
allow in reduction of the damage sustained
by the above named claimant, the benefit
accruing to said claimant by the con-
struction of said road.

Dated this 24 day of June A. D., 1880.

L. L. Boyles
Attorneys for Appellant.

40.

Upon reading the award in the within entitled matter and the within notice of appeal and accompanying affidavit, ordered that the appellant deposit in this Court the sum of *One hundred and twenty* Dollars, the amount awarded to the within named respondent, to abide the result of the appeal and the further order of the Court thereon; also that appellant give bond on appeal, as provided by statute, the penalty of which is hereby fixed at *two hundred and fifty* Dollars, and that upon such deposit and the giving of such bond, all proceedings by the respondent upon the award, except to appeal therefrom, be stayed for twenty days.

Dated June *24* 1880.

J. L. Macdonald
Judge.

DISTRICT COURT,

Carver County.

In the matter of the petition of the

Hastings and Dakota

Railway Company, filed in said Court on the

24

day of *May* - A. D. 1880

Friedrich Leuzgen

VERSUS

*The Hastings and
Dakota Railway
Company.*

NOTICE OF APPEAL.

Filed June 1st 1880,

Edw. J. Macdonald
Att'y

State of Minnesota,
COUNTY OF *Carnes* }

DISTRICT COURT,
8th Judicial District.

In the matter of the petition and application of the

Railway Company
real property in the County of *Carnes*

Hastings and Dakota
Railway Company, to condemn certain
and State of Minnesota, filed in said court

on the *24th* day of *June* A. D. 188*0*.

Lietrick Lenz

Plaintiff and Respondent.
VERSUS

The Hastings and Dakota
Railway Company

Petitioner and Appellant.

Know all Men by these Presents, That we

Shuburne T. Merrill
in *Chalf* of said appellant.

as principal and

Charles H. Prior and Hugh S. Harrison

as sureties, are held and firmly bound unto

Lietrick Lenz

above named in the sum of

Two hundred and fifty Dollars,
to be paid to the said *Lietrick Lenz*

for the payment whereof, well and truly to be made, we jointly and severally bind ourselves, our heirs, executors
and administrators firmly by these presents.

Sealed with our seals, and dated this

22nd day of *June* A. D. 188*0*.

The condition of this bond is such that whereas, the said

Hastings and Dakota
Railway Company
appeals to the District Court of said County of *Carnes* from that part or portion of the
and report
award of the Commissioners appointed in the above entitled matter; made therein, and filed in said court on

the *24* day of *June* A. D. 188*0*, awarding to said respondent the sum
of *One hundred and twenty* Dollars damages as compensation
for the taking or injuriously affecting the land of said Respondent by the said Appellant, for railroad purposes.

Now Therefore, if the said appellant *The Hastings and Dakota Railway Company* shall prosecute its said appeal without delay, and abide the order the said court may make on such appeal, and pay the costs of said appeal if it should fail therein, then this obligation to be null and void, otherwise of force and effect.

In Testimony Whereof, we have hereto set our hands and seals, the day and year aforesaid.

IN PRESENCE OF

BB Gillman
FB Bailey

BB Munn
W G Harrison
W H Prior



STATE OF MINNESOTA, }
COUNTY OF HENNEPIN. } ss.

Be it known that on this *22nd* day of *June* A. D. 188*8*, personally appeared before me *Shurburne G. Merrill* *Charles H. Prior* and *Hugh G. Harrison* to me well known to be the same persons who executed the foregoing bond, and they severally acknowledged the same to be their free act and deed, and that they executed the same for the uses and purposes therein expressed.

Francis B Bailey

Notary Public,
Hennepin County, Minn.

STATE OF MINNESOTA, }
COUNTY OF HENNEPIN. } ss.

Charles H. Prior and *Hugh G. Harrison*

being each duly sworn, doth each for himself depose and say:

That he is a freeholder and a resident of the State of Minnesota, and that he is worth the sum of *Two hundred and fifty* Dollars, named in the foregoing bond, over and above his just debts and liabilities, and exclusive of property exempt from execution.

Subscribed and sworn to before me this *22nd* day of *June* A. D. 188*8*.
Francis B Bailey
Notary Public, Hennepin Co. Minn.

W H Prior
W G Harrison



107
DISTRICT COURT,

County

In the matter of the application of the

Hastings and

Dakota

Railroad Company, filed

May 24

A. D. 1880.

Diedrich Leugem

versus

The Hastings and Dakota
Railway Company

BOND ON APPEAL.

I hereby approve the

within 24

days of June A.D. 1880

day of June A.D. 1880

J. L. Woodruff

Judge

Attorneys for Petitioners.

Filed, June 24th 1880.

W. H. Harrison

W. H. Harrison

No. 1340

DISTRICT COURT,
CARVER COUNTY, MINN.

Jacky Matting et al.
Heinrich Lenz
Plaintiff.

vs.

Hastings & Dakota Ry Co.
Defendant.

L. L. Baxter
Plaintiff's Attorney.

Defendant's Attorney

Date of Entry *June 24 1880*
Court *A* Page *743*
Register of Actions

Term Tried.....19.....

Judgement for.....

Amount of Judgement \$.....

Date of Judgement.....19.....

Judgement Book.....Page.....

Default Judgement Book.....Page.....

Date of Docketing.....19.....

Herald Publishing Co., Chaska, Minn.

Appeal

\$ 285.00 =
285.00 =

Charla, October 25th and 1880,
Clerk's Office.

Received of G. Krayenbuhl, Clerk Dist Court, the
sum of Two Hundred and eighty five dollars, being
the amount paid to Heinrich Herben for the
errors made by the Commissioners as per their
Report filed June 25th 1880.

L. L. Baxter
Atty. Hastings & Duluth
Railway Company

41.

L. H. Baxter
Atty for the Hastings Ind. & Water
Railway Company.

\$ 285.⁰⁰ receipt
H. Hewson.

Filed, October 20th A.D. 1880,
G. Krugenthal
Clerk

263.

State of Minnesota
County of Carver.

District Court
Eighth Judicial District.

The Hastings and Dakota Railway Company - Appellant.

against

Henry Senzen - Respondent.

It is hereby stipulated by and between the parties to the above entitled action that the above named Appellant withdraws from the Clerk of the above named Court the sum awarded to above named Respondent in the above entitled matter, which award was filed with said Clerk in his Office on the 2nd day of June A.D. 1888; said matter having been settled and compromised; and also that the appeal herein be dismissed without costs to either party.

Dated Oct. 1888.

L. L. Dwyer

Atty. Hastings & Dakota
Railway Company
Appellant

Heinrich Senzen

Respondent

District Court.
County of Carver.

44.

The Hastings and Dakota Railroad Company

vs.

Henry Senzen

— — — — —

Stipulation for Dismissal

Filed, October 20th 1886
G. W. Grayson Clerk R.

— 463. —

State of Minnesota.

District Court
Eight Judicial District

County of Carver.

In the matter of the Petition and
application of the Hastings and
Dakota Railway Company to
condemn certain Real Property in
the County of Carver and State of
Minnesota. filed in said Court on
the 24th day of May A.D. 1880.

Henry Lenz.

Claimant & Appellant
vs

The Hastings and Dakota Railway Company.
Petitioner & Respondent.

Know all men by these Presents that
we Heinrich Lenz as Principal
and Charles Aug Junr and Henry
Poulton as Sureties. are held and
firmly bound unto the Hastings and
Dakota Railway Company above named
in the sum of Eight Hundred Dollars
to be paid to the said The Hastings and
Dakota Railway Company, for the payment
whereof well and truly to be made we bind
ourselves, our heirs executors and adminis-
trators, jointly and severally, firmly
by these presents.

Sealed with our Seals and
Dated this 30th day of August 1880

1 The condition of this obligation is such
2 that whereas the said Henry Leuzen
3 appeals to the District Court in and
4 for said County of Carver Eighth Judicial
5 District State of Minnesota from that
6 part or portion of the award and report
7 of the Commissioners appointed in the
8 above entitled matter made therein and
9 filed in said Court on the 24th day of
10 June AD 1880. awarding to said appellant
11 the sum of Two Hundred and Eighty five
12 Dollars. as compensation for damages
13 and injury to certain premises owned
14 by said appellant. described as follows
15 viz: The South East quarter of the North
16 West quarter and the North East quarter of
17 the South West quarter (except seven rods on
18 the west side) of Section Nine (9) Township
19 One hundred and fifteen Range Twenty
20 four in the County of Carver and
21 State of Minnesota. by reason of the
22 taking of land for the use and track of
23 said Railway Company and the construction
24 thereof over and across said premises.
25 Now therefore if the said appellant Henry
26 Leuzen shall prosecute his said appeal
27 without delay, and abide the order
28 the said Court may make on such
29 appeal and pay the costs of said
30 appeal, if ~~they~~ shall fail therein
31 then this obligation to be null and
32 void otherwise of force and effect.

In testimony whereof we have hereunto
set our hands and seals the day and
year aforesaid.

In presence of { Heinrich Luxen
W.C. Odell { Charles Aug. Jr.
H. Paulson

Eds.
[S]
[S]

State of Minnesota, } ss.
County of Carver, }

It is shown that on this
1st day of September A.D. 1880. personally
appeared before me, Henry Luxen,
Charles Aug. Jr. and Henry Paulson

to me well known to be the same persons
who executed the foregoing bond, and
they severally acknowledged the same
to be their free act and deed, and that
they executed the same for the uses
and purposes therein expressed.

J. Freyenhuth

John W. Witrit Court

Carver County

State of Minnesota, } ss.
County of Carver, }

Charles Aug. Jr. and Henry Paulson
being each duly sworn say and
each for himself says that he is a
resident and freeholder of the State
of Minnesota, and that he is worth
the sum of Eight Hundred Dollars,
over and above his just debts and

exclusion of property except from
Execution

Subscribed and sworn to } Charles Aug. Jr.
Before me this 1st day of } H Paulson
September AD 1880.

G. Prayenbuhl
Clerk District Court
Harvard Minn.

District Court
8th Judicial Dist
County of Carver

Henry Saenger

v.

The H & D Ry Co

I hereby give the penalty
of the within bond at
the sum of Eight hundred
dollars
Dated Sept 2nd 1880

J. V. Macdonald
Judge District

I hereby approve the
within bond and the
penalty therein the 2nd
day of September 1880

J. V. Macdonald
Judge District

W. E. Odell

Atty for appen
= 963 =

Filed, September 6th 1880
G. Prayenbuhl
Clerk

State of Minnesota, }
COUNTY OF Carver } ss. DISTRICT COURT,
In the matter of the petition and application of the Hastings and Eighth Judicial District.
Dakota Railway Company, to condemn certain
real property in the County of and State of Minnesota, filed in said court
on the 24th day of May A. D. 1880

Heinrich Lentzen
Claimant and Respondent.
versus

The Hastings and Dakota
Railway Company
Petitioner and Appellant.

STATE OF MINNESOTA, }
County of Hennepin. } ss. Frederick E Du Loit
being duly sworn, says that at Dahlgren . . . in the County of Carver
in the State of Minnesota, on the 26th day of June A. D. 1880,
he personally served a true copy of the notice of the appeal in the above entitled matter upon . . .
Heinrich Lentzen

the above named respondent, by then and there delivering in hand to and leaving with . . .
said respondent such copy of the said notice of appeal, and that he then and there personally knew . . .
the person so served to be the respondent
therein named.

Subscribed and sworn to before me, this 8th day of July
A. D. 1880.

F. E. DuLoit,
Francis B. Bailey
Notary Public
Hennepin Co
Minn

41.

DISTRICT COURT.

Carver

County

in the matter of the application of the

Hastings and
Dakota

Railroad Company, filed May 24
A. D. 1880.

Heinrich Lentzen

versus.

Hastings and
Dakota Railway
Company

Affidavit of Service of Notice of Appeal.

Filed July 10th A.D. 1880
Wm. Krausmuhl
Attorneys for Petitioners.

763

State of Minnesota, } ss.

DISTRICT COURT,

COUNTY OF *Carver*

270

JUDICIAL DISTRICT.

In the matter of the petition and application of the

Hastings & Dakota Railway
Company to condemn certain real property in the County of *Carver*
and State of Minnesota, filed in the said court on the *24th* day of *May* A. D. 1880.

Heinrich Lutzen

Claimant and Respondent,

vs.

The Hastings & Dakota
Railway Company
Attorney and Appellant.

To

Heinrich Lutzen

You and each of you are hereby notified that the above named petitioner, the

Hastings & Dakota

Railway

Company, appeals to the District Court in and for the County of

Carver

Eighth

Judicial District, State of Minnesota, from that part or portion of the award of the

Commissioners, made and filed in the above entitled matter, on the *24* day of

and report June

A. D. 1880, which awards to

Heinrich Lutzen

as owner, subject

to the liens of

as incumbrancers, the sum of *Two hundred and eighty five* Dollars, as

compensation for damages and injury to the *South east quarter of the north west*

quarter and the north east quarter of the south west

quarter (except seven rods on west side) of section

nine in township one hundred and fifteen Range twenty four

by reason of the taking of land necessary and required to be taken for the use and tracks of said Railway

Company for the following reasons, and upon the following grounds, viz:

1st, *That the said company deem the said*
award and report unjust and excessive and the amount
of compensation to be paid to the above named claim
ant more than the damage or injury to
said property

2nd, *That said commissioners did not allow*
in reduction of the damages sustained by
the above named claimant the benefit accru
ing to said claimant by the construction of said
road

Dated this *24* day of

June

A. D. 1880.

L L Bayler

Attorney for Appellant.

Upon reading the award in the within entitled matter and the within notice of appeal and accompanying affidavit, ordered that the appellant deposit in this Court the sum of *Two hundred and eighty five* Dollars, the amount awarded to the within named respondent, to abide the result of the appeal and the further order of the Court thereon; also that appellant give bond on appeal, as provided by statute, the penalty of which is hereby fixed at *Three hundred* Dollars, and that upon such deposit and the giving of such bond, all proceedings by the respondent upon the award, except to appeal therefrom, be stayed for twenty days.

Dated June *24* 1880.

J. L. MacDonald
Judge.

DISTRICT COURT,

Cass County.

In the matter of the petition of the

Hastings & Dakota

Railway Company, filed in said Court on the *24*

day of *May* A. D., 188*0*

Heinrich Lenzén

VERSUS

*The Hastings & Dakota
Railway Company*

NOTICE OF APPEAL.

Filed, June 24th 1880,

Eschmann

Attorney

W. J. =

State of Minnesota, }
COUNTY OF *Carnes* } ss.

DISTRICT COURT,
8th Judicial District.

In the matter of the petition and application of the *Hastings and Dakota*
Railway Company ~~Railway Company~~ to condemn certain
real property in the County of *Carnes* and State of Minnesota, filed in said court
on the *24th* day of *May* A. D. 188*0*.

Heinrich Lenz

Claimant and Respondent.
VERSUS

The Hastings and Dakota Railway
Company

Petitioner and Appellant.

Know all Men by these Presents, That we *Shubert Murrie* in
behalf of said appellant

as principal and *Charles H. Rice and Hugh G.*
Harrison

as sureties, are held and firmly bound unto *Heinrich Lenz*

above named in the sum of *Three Hundred* Dollars,
to be paid to the said *Heinrich Lenz*

for the payment whereof, well and truly to be made, we jointly and severally bind ourselves, our heirs, executors
and administrators firmly by these presents.

Sealed with our seals, and dated this *22nd* day of *June* A. D. 188*0*.

The condition of this bond is such that whereas, the said *Hastings and Dakota*
Railway Company
appeals to the District Court of said County of *Carnes* from that part or portion of the
and report
award of the Commissioners appointed in the above entitled matter; made therein, and filed in said court on
the *24* day of *June* A. D. 188*0*, awarding to said respondent the sum
of *Two hundred and eighty five* dollars damages, as compensation
for the taking or injuriously affecting the land of said Respondent by the said Appellant, for railroad purposes.

Now Therefore, if the said appellant *The Hastings and Dakota Railway Company* shall prosecute its said appeal without delay, and abide the order the said court may make on such appeal, and pay the costs of said appeal if it should fail therein, then this obligation to be null and void, otherwise of force and effect.

In Testimony Whereof, we have hereto set our hands and seals, the day and year aforesaid.

IN PRESENCE OF
J B Gillillan
T B Bailey
D D Merrill
W G Harmon
C W Prior
SEAL
SEAL
SEAL
SEAL

STATE OF MINNESOTA, }
COUNTY OF HENNEPIN. } ss.

Be it known that on this *22nd* day of *June* A. D. 188*0*, personally appeared before me *Shuburne S Morris*
Charles H Prior and Hugh G Harrison to me well known to be the same persons who executed the foregoing bond, and they severally acknowledged the same to be their free act and deed, and that they executed the same for the uses and purposes therein expressed.

Francis B Bailey
Notary Public,
Hennepin County, Minn.

STATE OF MINNESOTA, }
COUNTY OF HENNEPIN. } ss.

Charles H Prior and *Hugh G Harrison* being each duly sworn, doth each for himself depose and say: That he is a freeholder and a resident of the State of Minnesota, and that he is worth the sum of *three hundred* Dollars, named in the foregoing bond, over and above his just debts and liabilities, and exclusive of property exempt from execution.

Subscribed and sworn to before me this *22nd* day of *June* A. D. 188*0*.
Francis B Bailey
Notary Public, Hennepin Co. Minn.
C W Prior
W G Harmon
SEAL
SEAL

46.
DISTRICT COURT,

County

In the matter of the application of the

Hastings and Dakota

Railway Company, filed May 24
A. D. 1880.

Heinrich Lentzen

The Hastings and Dakota
Railway Company

BOND ON APPEAL.

I hereby approve the
within Bond filed 24
day of June, 1880

J. M. McDonald
Judge

Attorneys for Petitioners.

W. B. F.
Yield, June 24th 1880
Attorneys for Respondent

No. 1341

DISTRICT COURT,
CARVER COUNTY, MINN.

Fritz Frank et al.
App. Plaintiff.

vs.

Hastings & Dakota Ry. Co.
Res. Defendant.

L. P. Baxter
App. Plaintiff's Attorney.

Defendant's Attorney

Date of Entry June 24 1880
Count a
Register of Actions Page 243

Term Tried 19

Judgement for

Amount of Judgement \$ 480.00

Date of Judgement Nov. 2 1880

Judgement Book B Page 8

Default Judgement Book Page

Date of Docketing 19

Herald Publishing Co., Chaska, Minn.

Appeal

State of Minnesota, }

DISTRICT COURT,

COUNTY OF

Carver

JUDICIAL DISTRICT.

In the matter of the petition and application of the

Hastings & Dakota

Railway

Company to condemn certain real property in the County of

Carver

and State of Minnesota, filed in the said court on the 24th day of May A. D. 1880.

Fritz Frank, J. E. Mann and
H. J. Day

Claimants and Respondent,

vs.

The Hastings & Dakota
Railway Company

Petitioner and Appellant.

To

Fritz Frank, J. E. Mann and
H. J. Day

You and each of you are hereby notified that the above named petitioner, the

Hastings & Dakota

Railway

Company appeals to the District Court in and for the County of

Carver

Eighth

Judicial District, State of Minnesota, from that part or portion of the award of the

Commissioners, made and filed in the above entitled matter, on the 24 day of June

A. D. 1880, which awards to

Fritz Frank

as owner, subject

to the liens of

J. E. Mann and H. J. Day

as incumbrancers, the sum of four hundred & eighty Dollars, as

compensation for damages and injury to the North West quarter of South

West quarter and seven rods on the west side of

the North East quarter of the South West quarter of Sec-

tion 22 in Township one hundred & fifteen Range

by reason of the taking of land necessary and required to be taken for the use and tracks of said Railway

Company for the following reasons, and upon the following grounds, viz:

1st, That the said company deem the said award and report unjust and excessive and the amount of compensation to be paid to the above named claimant more than the damage or injury to said property.

2nd, That said commissioners did not allow in reduction of the damage sustained by the above named claimant the benefit according to said claimant by the construction of said road.

Dated this 24 day of June

A. D. 1880.

L. L. Baxter

Attorneys for Appellant.

Upon reading the award in the within entitled matter and the within notice of appeal and accompanying affidavit, ordered that the appellant deposit in this Court the sum of *Four hundred & eighty* Dollars, the amount awarded to the within named respondent, to abide the result of the appeal and the further order of the Court thereon; also that appellant give bond on appeal, as provided by statute, the penalty of which is hereby fixed at *Five hundred* Dollars, and that upon such deposit and the giving of such bond, all proceedings by the respondent upon the award, except to appeal therefrom, be stayed for twenty days.

Dated June *24* 1880.

J L W Leland
Judge.

vs. Fritz Frank
13.

Doct

DISTRICT COURT,

Carm County.

In the matter of the petition of the

Hastings & Dakota

Railway Company, filed in said Court on the

day of *May* A. D., 188*0*

Fritz Frank et al

versus

The Hastings & Dakota
Railway Company

NOTICE OF APPEAL.

\$480.⁰⁰

Chaska, October 3rd 1884.

Received of G. Hagenbuhl Clerk West Coast
the sum of Four hundred and eighty dollars
in full for the award to Fritz Frank made
by the Commissioners by their report filed
June 24th 1884.

J. E. DuBois
agent C and M. Railway Co.

44
F. E. H. H. H.
Agent for the
Hawkins and Valente R. R. Co.

St. Louis, Mo. - Fritz Frank,

John H. H. H.
G. H. H. H.
H. H. H.

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State of Minnesota, } ss.

COUNTY OF Carver

DISTRICT COURT,

5th

JUDICIAL DISTRICT.

In the matter of the petition and application of the

Hastings & Dakota

Railway

Company to condemn certain real property in the County of

Carver

and State of Minnesota, filed in the said court on the 24th day of

May

A. D. 1880.

Fritz Frank, J. E. Mann and
F. T. Day Claimant - and Respondent,

vs.

The Hastings & Dakota
Railway Company
Petitioner and Appellant.

To

Fritz Frank, J. E. Mann and
F. T. Day

You and each of you are hereby notified that the above named petitioner, the

Hastings & Dakota

Railway

Company appeals to the District Court in and for the County of

Carver

Eighth

Judicial District, State of Minnesota, from that part or portion of the award of the

Commissioners, made and filed in the above entitled matter, on the 24 day of

June

A. D. 1880, which awards to

Fritz Frank

as owner, subject

to the liens of

J. E. Mann and F. T. Day

as incumbrancers, the sum of

Four hundred and eighty

Dollars, as

compensation for damages and injury to the

North west quarter of the south west quarter and seven rods on the west side of the North east quarter of the South west quarter of section nine in Township one hundred and fifteen Range twenty four.

by reason of the taking of land necessary and required to be taken for the use and tracks of said Railway

Company for the following reasons, and upon the following grounds, viz:

1st. That the said company deem the said award and report unjust and excessive and the amount of compensation to be paid to the above named claimant more than the damage or injury to said property.

2nd. That said commissioners did not allow in reduction of the damage sustained by the above named claimant the benefit accruing to said claimant by the construction of said road.

Dated this 24 day of

June

A. D. 1880.

L. L. Butler

Attorneys for Appellant.

Upon reading the award in the within entitled matter and the within notice of appeal and accompanying affidavit, ordered that the appellant deposit in this Court the sum of *Four Hundred and eighty* Dollars, the amount awarded to the within named respondent, to abide the result of the appeal and the further order of the Court thereon; also that appellant give bond on appeal, as provided by statute, the penalty of which is hereby fixed at *Five Hundred* Dollars, and that upon such deposit and the giving of such bond, all proceedings by the respondent upon the award, except to appeal therefrom, be stayed for twenty days.

Dated June *24* 188*0*.

J. L. McDonald
Judge.

DISTRICT COURT,

Lawson County.

In the matter of the petition of the

Hastings & Dakota
Railway Company, filed in said Court on the *24*

day of *May* A. D., 188*0*.

Fritz Frank et al

VERSUS

The Hastings & Dakota
Railway Company

NOTICE OF APPEAL.

Filed June 14th 1880,
Guthrie, Nebraska
W. B. -

State of Minnesota,
COUNTY OF Carver } ss.

DISTRICT COURT,
8th Judicial District.

In the matter of the petition and application of the Hartings and Dakota
Railway Company, to condemn certain
real property in the County of Carver and State of Minnesota, filed in said court
on the 24 day of May A. D. 1880.

Fritz Frank, J & Mann
and F T Day Plaintiff and Respondent.
VERSUS

The Hartings and
Dakota Railway
Company Petitioner and Appellant.

Know all Men by these Presents, That we Shurburne S. Merrill
in behalf of said appellant

as principal and Charles H. Prior and Hugh L.
Harrison

as sureties, are held and firmly bound unto Fritz Frank J & Mann and
F T Day

above named in the sum of Five hundred Dollars,
to be paid to the said Fritz Frank J & Mann and
F T Day

for the payment whereof, well and truly to be made, we jointly and severally bind ourselves, our heirs, executors
and administrators firmly by these presents.

Sealed with our seals, and dated this 22d day of June A. D. 1880.

The condition of this bond is such that whereas, the said Hartings and
Dakota Railway Company
appeals to the District Court of said County of Carver from that part or portion of the
and report
award of the Commissioners appointed in the above entitled matter; made therein, and filed in said court on
the 24 day of June A. D. 1880, awarding to said respondent the sum
of Four hundred and Eighty Dollars damages as compensation
for the taking or injuriously affecting the land of said Respondent by the said Appellant, for railroad purposes.

Now Therefore, if the said appellant *The Hastings and Dakota Railway Company* shall prosecute its said appeal without delay, and abide the order the said court may make on such appeal, and pay the costs of said appeal if it should fail therein, then this obligation to be null and void, otherwise of force and effect.

In Testimony Whereof, we have hereto set our hands and seals, the day and year aforesaid.

IN PRESENCE OF
Francis B. Bailey
Edw. D. Bailey
W. B. Merrill
H. G. Harrison
C. H. Prior
SEAL
SEAL
SEAL
SEAL

STATE OF MINNESOTA, }
COUNTY OF HENNEPIN. } ss.

Be it known that on this *22* day of *June* A. D. 188*0*, personally appeared before me *Thurburn T. Merrill* *Charles H. Prior* and *Hugh G. Harrison* to me well known to be the same persons who executed the foregoing bond, and they severally acknowledged the same to be their free act and deed, and that they executed the same for the uses and purposes therein expressed.

Francis B. Bailey
Notary Public,
Hennepin County, Minn.

STATE OF MINNESOTA, }
COUNTY OF HENNEPIN. } ss.

Charles H. Prior and *Hugh G. Harrison* being each duly sworn, doth each for himself depose and say: That he is a freeholder and a resident of the State of Minnesota, and that he is worth the sum of *Five hundred* Dollars, named in the foregoing bond, over and above his just debts and liabilities, and exclusive of property exempt from execution.

Subscribed and sworn to before me this *22* day of *June* A. D. 188*0*.
Francis B. Bailey
Notary Public, Hennepin Co. Minn.
C. H. Prior
H. G. Harrison
SEAL
SEAL

W. B. Merrill
DISTRICT COURT,
Carr County
In the matter of the application of the
Hastings & Dakota
Railroad Company, filed
A. D. 1880.

Tracy Thompson
The Hastings & Dakota
Railway Company

BOND ON APPEAL.
I hereby affirm the
truth of the foregoing
and the
day of June A.D. 1880
W. B. Merrill
Attorneys for Petitioners.
Filed, June 24th A.D. 1880
Supreme Court (Minn.)

State of Minnesota, }
COUNTY OF *Carver* } ss. DISTRICT COURT,
Eighth Judicial District.
In the matter of the petition and application of the *Hastings and*
Dakota Railway Company, to condemn certain
real property in the County of *Carver* and State of Minnesota, filed in said court
on the *24th* day of *May* A. D. 1880

Fritz Frank
J. E. Mann and F. T. Day
Claimants and Respondent.
VERSUS

The Hastings and Dakota
Railway Company
Petitioner and Appellant.

STATE OF MINNESOTA, }
County of Hennepin. } ss. *Fredrick E. Du Loit*
being duly sworn, says that at *Chaska* in the County of *Carver*
in the State of Minnesota, on the *29th* day of *June* A. D. 1880,
he personally served a true copy of the notice of the appeal in the above entitled matter upon
Fritz Frank

the above named respondent, by then and there delivering in hand to and leaving with
said respondent such copy of the said notice of appeal, and that he then and there personally knew
the person so served to be the respondent
therein named.

Subscribed and sworn to before me, this *8th* day of *July*
A. D. 1880.
F. E. DuLoit
Francis B. Bailey
Notary Public
Hennepin Co
Minn

42,
DISTRICT COURT.

Carver

County

in the matter of the application of the

Hastings and
Dakota

Railroad Company, filed May 24
A. D. 1880.

Fritz Frank et al.

versus.

Hastings & Dakota
Railway Company

Affidavit of Service of Notice of Appeal.

Filed July 11th 1880
Kraynshuhl
clerk

Attorneys for Petitioners.

263,

State of Minnesota
County of Carver

District Court,
Eighth Judicial District

The Hastings and Dakota Railway Company - Appellant

against

Fritz Trauer

Respondent

It is hereby stipulated by, and between,
the parties to the above entitled action that the above
named Appellant withdraws from the clerk of the
above named court the sum awarded to the above
named Respondent in the above entitled matter,
which award was filed with the clerk in his
office on the 24th day of June, A. D. 1880; said
matter having been settled and compromised; and
also that the appeal herein be dismissed without
cost to either party.

Dated Oct. 30th 1880.

J. L. Bayne

Atty for Hastings and
Dakota Railway Company

Appellant

Fritz Trauer

Respondent

46.
District Court
County of Leaver

Hastings & Dakota Railway Company

vs

Wm H. Frank

Plaintiff vs Defendant

Filed for trial Feb 4 1884
E. Wraymull
Clerk,

163.

1 State of Minnesota
2 County of Carver District Court
3 1st Judicial District,

4
5 In the Matter of the petition of the Hastings and Dakota
6 Railway Company for the appointment of Commissioners
7 to ascertain and determine the compensation to be made
8 the owner and incumbrancers of lands required by the
9 Hastings and Dakota Railway Company for the use and
10 track of said Railway and for depot grounds.

11
12 The Report of H. W. Tiffany, Henry Gerdson and
13 Frank Wieseler Commissioners duly appointed by the above
14 named Court to ascertain and determine the compensation to be
15 made the owner and incumbrancers of lands required by the Hastings
16 and Dakota Railway Company for the use and track of said Railway
17 and for depot grounds having been filed in the office of the above
18 entitled Court, whereby it appears that the said Commissioners have
19 awarded damages and as compensation to Fred, Frank as
20 owner and to J. H. Maun and F. T. Day as incumbrancers of that tract
21 or parcel of land being in the County of Carver State of Minnesota,
22 and known and described as follows, to wit:

23 The North West Quarter
24 of South West Quarter and Seven rods on the West side of the North
25 East Quarter of South West Quarter of Section nine in Township
26 One hundred and fifteen of Range Twenty four the Sum of
27 Four hundred and eighty dollars for right of way through
28 said tract or parcel of land for the use and track of said
29 Railway constructed and to be constructed, used and operated
30 over the same by the said Company and its assigns.

31 Now, therefore, on motion of H. W. Baxter Attorney for
32 said Hastings and Dakota Railway Company, It is ordered and

1 adjudged that the said Fritz Frank and J. V. Mann and
2 J. S. Way do have and recover and receive of the said Hastings
3 and Dakota Railway Company the sum of Four hundred and
4 eighty dollars for the right of way for the use and tract of said
5 Railway across said tract or parcel of land as mentioned
6 and described in the petition filed in the above entitled Court, and
7 that upon paying the said sum of Four hundred and eighty
8 dollars, or tender or deposit with the Clerk of the above entitled
9 Court of said amount for the use of said Fritz Frank or the party
10 legally entitled thereto, an absolute right and title to the exclusive
11 use, control, possession and enjoyment of the right of way over
12 across through said tract of land above described, for fifty
13 feet in width on each side of the center of its Railway as now located
14 and constructed and to be constructed shall be and become vested in
15 said Hastings and Dakota Railway Company and its assigns
16 for the purpose of right of way and the track of said road
17 or Railway and for all other purposes for which by law
18 it is authorized to take, hold and enjoy the same,
19

Dated November 2^d 1884.

By the Court:

G. F. Weyenbuhl

Clerk,

State of Minnesota
District Court
County of Carver

The Hastings and Dakota
Railway Company
vs

Pross Frank

Judgment.

Filed November 2nd 1881,
C. Krayenbuhl
clerk.

U. A. Baxter Atty for the
Hastings and Dakota Railway Co.

No. 1342

DISTRICT COURT,
CARVER COUNTY, MINN.

John Abraham
Plaintiff.

vs.

Hastings & Dakota Ry. Co.
Defendant.

L. L. Baxter
Plaintiff's Attorney.

Defendant's Attorney

Date of Entry June 24 1880
Count 1
Register of Actions Page 243

Term Tried 19

Judgement for

Amount of Judgement \$

Date of Judgement 19

Judgement Book Page

Default Judgement Book Page

Date of Docketing 19

Herald Publishing Co., Chaska, Minn.

Appeal

Charla, November 15th ad 1881,

\$26.00

John Abraham
Receipt for \$26.00

Received in full by Comptroller
in the matter of the Hastings
and Washita Railway Company.

Given November 18th 1884
C. Grayenbuhl
Clerk,

No. 3.

11-11-84

State of Minnesota, } ss.

COUNTY OF

Carver

DISTRICT COURT,

Eighth

JUDICIAL DISTRICT.

In the matter of the petition and application of the

Hastings and Dakota

Railway

Company to condemn certain real property in the County of

Carver

and State of Minnesota, filed in the said court on the

24

day of

May

A. D. 1888.

Johan Abraham

claimant and Respondent,
vs.

The Hastings and Dakota
Railway Company

Petitioner and Appellant.

To

Johan Abraham

You and each of you are hereby notified that the above named petitioner, the

Hastings
and Dakota

Railway

Company appeals to the District Court in and for the County of

Carver

Eighth

Judicial District, State of Minnesota, from that part or portion of the award of the

Commissioners, made and filed in the above entitled matter, on the

24

day of

June

A. D. 1888, which awards to

Johan Abraham

as owner, subject

to the liens of

as incumbrances,

the sum of

Twenty Six

Dollars, as

compensation for damages and injury to the

west half of the southeast quarter

of section twenty in Township one hundred and

sixteen Range twenty three

by reason of the taking of land necessary and required to be taken for the use and tracks of said Railway Company for the following reasons, and upon the following grounds, viz:

1st,

That the said company deem the said award, and report unjust and excessive, and the amount of compensation to be paid to the above named claimant more than the damage or injury to said property

2nd,

That said Commissioners did not allow in reduction of the damages sustained by the above named claimant, the benefit accruing to said claimant by the construction of said road.

Dated this

24

day of

June

A. D., 1888.

L L Baxter

Attorney for Appellant.

Upon reading the award in the within entitled matter and the within notice of appeal and accompanying affidavit, ordered that the appellant deposit in this Court the sum of Twenty Six Dollars, the amount awarded to the within named respondent, to abide the result of the appeal and the further order of the Court thereon; also that appellant give bond on appeal, as provided by statute, the penalty of which is hereby fixed at Two Hundred and Fifty Dollars, and that upon such deposit and the giving of such bond, all proceedings by the respondent upon the award, except to appeal therefrom, be stayed for twenty days.

Dated June 24 1880.

J. L. MacDonald
Judge.

DISTRICT COURT,

Carver County.

In the matter of the petition of the Hastings
and Dakota

Railway Company, filed in said Court on the 24
day of May A. D., 1880.

Johan Abraham

versus

The Hastings and
Dakota Railway
Company

NOTICE OF APPEAL.

Filed, June 24th 1880,
Applicant Schulz,
243

State of Minnesota, }
COUNTY OF *Carver* } ss.

DISTRICT COURT,

Eighth Judicial District.

In the matter of the petition and application of the

Hastings and Dakota

Railway Company, to condemn certain

real property in the County of

Carver

and State of Minnesota, filed in said court

on the

24th

day of

May

A. D. 1880

Johan Abraham

Claimant and Respondent.

VERSUS

The Hastings and Dakota
Railway Company
Petitioner

Appellant.

STATE OF MINNESOTA,

County of Hennepin.

ss.

Frederick E. Du Toit

being duly sworn, says that at

Chanhassen

in the County of

Carver

in the State of Minnesota, on the

25th

day of

June

A. D. 1880,

he personally served a true copy of the notice of the appeal in the above entitled matter upon

Johan Abraham

the above named respondent, by then and there delivering in hand to and leaving with

said respondent such copy of the said notice of appeal, and that he then and there personally knew

the person so served to be the respondent

therein named.

Subscribed and sworn to before me, this

8th *F. E. Du Toit*
July

A. D. 1880.

Francis B. Bailey

Notary Public

Hennepin Co
Minn

44.

DISTRICT COURT.

Carver County

in the matter of the application of the

Hastings and
Dakota

Railroad Company, filed May 24
A. D. 1880.

Johan Abraham

versus.

Hastings and
Dakota Railway
Company

Affidavit of Service of Notice of Appeal.

Filed July 11th 1880
Wm. Krayenbuhl
Att.

Attorneys for Petitioners.

263.

State of Minnesota,

COUNTY OF

Carver

ss.

DISTRICT COURT,

8th

Judicial District.

In the matter of the petition and application of the

Spattens and Dakota

Railway Company, to condemn certain

real property in the County of

Carver

and State of Minnesota, filed in said court

on the

24

day of

May

A. D. 188

Johan Abraham

Claimant and Respondent.

VERSUS

*The Spattens and Dakota
Railway Company
Petitioner*

Appellant.

Know all Men by these Presents, That we

Merlun Murrell

in behalf of said appellant

as principal and

*Charles H. Poir and Hays G.
Harrison*

as sureties, are held and firmly bound unto

Johan Abraham

above named in the sum of

Two hundred and Fifty

Dollars,

to be paid to the said

John Abraham,

for the payment whereof, well and truly to be made, we jointly and severally bind ourselves, our heirs, executors and administrators firmly by these presents.

Sealed with our seals, and dated this

22^d

day of

June

A. D. 188

The condition of this bond is such that whereas, the said

Spattens and Dakota

appeals to the District Court of said County of

Carver

from that part or portion of the

award of the Commissioners appointed in the above entitled matter; made therein, and filed in said court on

the

24

day of

June

A. D. 188

, awarding to said respondent the sum

of

Twenty Six

Dollars damages, as compensation

for the taking or injuriously affecting the land of said Respondent by the said Appellant, for railroad purposes.

Now Therefore, if the said appellant *The Hastings and Duluth Railway* shall prosecute its said appeal without delay, and abide the order the said court may make on such appeal, and pay the costs of said appeal if it should fail therein, then this obligation to be null and void, otherwise of force and effect.

In Testimony Whereof, we have hereto set our hands and seals, the day and year aforesaid.

IN PRESENCE OF
J. B. Gillman
F. B. Bailey
H. G. Warron
C. H. Prior
SEAL
SEAL
SEAL
SEAL

STATE OF MINNESOTA, }
COUNTY OF HENNEPIN. } ss.

Be it known that on this *22* day of *June* A. D. 188*0*, personally appeared before me *Sherburn & Munroe* *Charles H. Prior* and *Hugh G. Harris* to me well known to be the same persons who executed the foregoing bond, and they severally acknowledged the same to be their free act and deed, and that they executed the same for the uses and purposes therein expressed.

Francis B. Bailey
Notary Public,
Hennepin County, Minn.

STATE OF MINNESOTA, }
COUNTY OF HENNEPIN. } ss.

Charles H. Prior and *Hugh G. Harris* being each duly sworn, doth each for himself depose and say: That he is a freeholder and a resident of the State of Minnesota, and that he is worth the sum of *Two hundred and Fifty* Dollars, named in the foregoing bond, over and above his just debts and liabilities, and exclusive of property exempt from execution.

Subscribed and sworn to before me this *22* day of *June* A. D. 188*0*.
Francis B. Bailey
Notary Public, Hennepin Co. Minn.

C. H. Prior
H. G. Warron
SEAL
SEAL

DISTRICT COURT,
Carver County
In the matter of the application of the
Hastings and
Duluth
Railroad Company, filed *24* *Mar*
A. D. 1880.
Johann Abraham

The Hastings & Dakota
Railway Company

BOND ON APPEAL.
I hereby approve the
within bond this 24
day of June A.D. 1880
L. H. MacDowell
Attorneys for Petitioners.
Filed, T. M. 1880
Chas. H. Prior
Wm. H. Harris

No.

1343

DISTRICT COURT,
CARVER COUNTY, MINN.

*The Washington Dakota
Railway Company*
Plaintiff.

VS.

John O'Fey
Defendant.
Resp.

L. L. Baxter
Plaintiff's Attorney.
app.

Henry Hinds
Defendant's Attorney.
Resp.

Date of Entry

June 24 1880

Register of Actions

Page

270

Term Tried

Oct. 1881

Judgment for

Resp.

Amount of Judgment \$

1510.22

Date of Judgment

Feb. 24 1881

Judgment Book

B

Page

36

Default Judgment Book

Page

Date of Docketing

Feb. 24 1881

Judg. Res. A. 324

Appeal

Page 8

State of Minnesota District Court
County of Carver Eighth District

The Hastings and Dakota
Railway Company, Appellant

against
John R. Riegler, Respondent

The issue in the above entitled action came on for trial before Hon. John S. MacDonald, judge of said Court, and a jury, at a general term of the above named court, commenced and held in and for the above named County of Carver on the 11th day of October A.D. 1880 when the following proceedings were had. The said respondent opened his case, by his counsel, and then maintained the issue upon his part. The said respondent was called sworn and testified in his own behalf as follows: I am the owner of this land? Is so. V. At the junction of these two roads? Is so. V. How long have you lived on that farm? I lived on this farm for twenty five years. The 2d of January 1881, L. How large a farm is it? A. All together is four hundred acres, less what the railroad company have taken off. L. How long have you owned the farm? A. Twenty five years. L. What part of it have you owned twenty five years?

2 Q. This part of it where the river cut off your
through, the most of it, not all together.
3 Q. How long have you owned the rest of
4 the farm? A. I owned some for nine years
5 and I owned some, I believe for seven years
6 and the last part of it, I believe it is one
7 hundred and ninety three acres, I bought
8 of Carter County, it is called the Carter
9 County Poor farm, I believe it is one
10 hundred and ninety three acres, and
11 I bought this, I put it in possession the
12 last part of October two years ago. Q.
13 For what purpose do you occupy it? - do
14 you use it? A. For farming. Q. As one or
15 several farms? A. For one farm all together.
16 Q. How much of the farm is improved?
17 A. I never measured it, but so by guess,
18 meadows and cultivated plowed land
19 I believe about one hundred and fifty-
20 ten, may be twenty acres. Q. Is it more
21 as a whole? A. This is all fenced - not
22 measured it is only about - I think it is
23 about two hundred acres fenced. Q. Is
24 it fenced up into different fields? This
25 two hundred acres - all in one field?
26 A. No I believe on one fence it is only
27 fenced about one hundred and twenty
28 acres. Q. Is it fenced up in different fields?
29 A. No Sir, one forty is separate, what I
30 bought from Carter County, it was
31 fenced all around.

3

Q. Any dwelling house on the farm? A. Yes
Sir. Q. How many? A. Only one on this
Old farm. Q. I don't speak of the old
farm, or new farm, I speak of the whole
four hundred acres. A. Three dwelling houses.
Q. Can you give the description of this farm?
A. I think I can as near as possible. Q.
State it. The government description section
and quarter. A. Yes sir. Q. What are they
A. It is. Q. The North West quarter of section
seventeen and the South East quarter of
section eight. A. Yes sir. Q. The East half
of the South West of eight. A. Yes sir.
Q. On what part of the farm is the house
in which you live, in reference to this
cut off? - The new rail road. A. It is
on the quarter section of section seventeen.
Q. How far is it from the cut off? A. The
house is just about a half a mile from
the commencement. Q. Where are the other
dwelling houses? A. The other dwelling house
is just about on the center from the South
West of the South East quarter of section
eight. Q. How far is that from the branch
rail road? A. It is a little over a
quarter of a mile. Q. Where are your cultivated
fields on this farm in reference to the
branch? A. Right north from the dwelling
house on this farm where this cut off goes
through. Q. How much of your cultivated land
is north of this branch road? A. I am not

44

1 Very exactly sure, because I never measured
 2 it, but then by my guess, it must be between
 3 forty five and forty seven acres. Q. Is
 4 the main line of the rail road run
 5 through your farm? A. Yes Sir. Q. How
 6 much of the cultivated land would
 7 be between the two roads? A. Altogether
 8 what lies between the two ^{main} roads, might
 9 be about twenty five or twenty six
 10 acres. Q. Will you state in what direction
 11 the branch road runs, after it leaves
 12 the main line? A. In a North easterly di-
 13 rection. Q. Through how much land
 14 which fortin does it run? A. It comes
 15 into our corner through four fortins. Q.
 16 Does it run more North or more East?
 17 A. It runs more North East. Q. How
 18 much of your land - Your whole farm
 19 would be worth if the branch? - A. I am
 20 not very sure but it might be
 21 between one hundred and sixty, or
 22 between one hundred and seventy
 23 or one hundred and eighty acres.
 24 I am not sure, but it might be a much.
 25 Q. Have you any pasture? A. Yes Sir.
 26 Q. Where is your pasture land? A. I have
 27 got one on the west, and where the cut
 28 off commences. Q. About how large
 29 a pasture? A. About eighty acres. May
 30 be a couple of acres over. Q. Is that
 31 timber or marsh or both? A. It is timber and

80

Marsh. Q. What kind of a marsh is it?
A. It is a marsh - by dry seasons the cattle
can go either way, where ever they want
without sinking, but many together, they
cant go one behind the other, but
either one by himself. Q. In dry seasons?
A. Yes Sir. Q. How is it in the wet part
of the season, or wet seasons? A. They
can get all of the time, over the whole
marsh, but not one sinking either one for
himself. Q. How does the branch run with
reference to your road for your cattle
to the pasture? A. It cut off my road
for my cattle, what I can save the road
for my cattle to drive them in the pasture
it cuts it off all the dry ground, what
I need for driving or letting the cattle
from the cow yard out in the pasture.
Q. Do you mean that they took it? A.
They took it every foot of it. All the dry
ground. Q. So that you mean that
there would be no chance for a cattle
road from your barn and premises
to your pasture at all? A. No Sir. Q.
Where is your meadow? A. Forty. Q. My
meadow is a little north east from my
field. Q. From what field? A. From my
field right north of the house in section
eight. Q. Which side of the creek is it? A. The
creek cuts through the meadow. Q. Then it is
on both sides of the creek? A. Yes Sir

Q. In the North East part? A. In the North East
part. Q. Do you cultivate this farm your-
self? A. Yes sir, I do. Q. You are a farmer
then? A. Yes sir. Q. What is your business?
A. Yes sir, That is my business. Q. How long
have you been a farmer? A. All since I have
old enough to work. Q. About how many
years have you conducted a farm? A.
I think about thirty five years. Q. You
began to work on a farm when you were
ten years of age. Q. On this farm you
have worked on portions of it how
long? A. But my next wife the
3^d of January, I have been working
about five years, all the time on this.
Q. Will you state whether the track
of this French road has been graded
or any portion of it graded? A. Yes
sir. Q. The whole of it? A. No they have
not got quite through. Q. Will you
state how the grade of this track cor-
responds with the natural surface
of the land? A. It is something from
one to eight foot fall. I think it is
from one to eleven foot. I believe
~~from~~^{two} to eleven foot cut. Q. Is it either
a cut or a fill all the way across your
land? A. All the way through my prop-
erty. Q. Will you state whether you have
any wood crossings from your
different dwelling houses across the road

7 That the branch takes before the road went
8 there, have you any roads leading from
9 your dwelling houses to the north across
10 the line that the road now takes? Q. Yes
11 Sir. Q. Where were they? A. Right north of
12 the dwelling house on the land of section
13 eight, between the house and Survey V.
14 And is that road affected by the grade?
15 A. It is affected by the grade on one
16 side it is cut three feet, and higher
17 on the upper side. Against the hill
18 it is cut six feet, it is so much
19 upwards. Q. As the grade is established
20 upon the ground, is there any place
21 or places, where a farm crossing could
22 be made? A. No Sir but very poor. Q.
23 In what respect very poor? A. It is around
24 on the side hill, because it is rather way
25 up hill. Q. And when the cut comes
26 to the hill? A. Where the cut goes
27 right through it - goes right over
28 the center of this hill, because if a man
29 cross that road he must have and
30 and a right to come all of the time
31 a mile up and down, and not side
32 hills. Q. At this place where you say
33 the crossing would be, or could be
34 how is it in reference to getting the cars
35 before you get upon the crossing? A.
36 That is a hard matter. That is a hard
37 thing to tell because it is a deep cut and

8 Whenever I have got to cross - it is in a
9 little ~~off~~ in a crook - It turns a little
10 and I cannot see, and no man can
11 see the train, not before she is right
12 before him, Q. Are you acquainted
13 with the value of farming lands
14 in that neighborhood? A. Yes I think
15 so because I bought the biggest part
16 of mine. Q. Do you know what farming
17 lands in that neighborhood were worth
18 on the 24th day of June this year, at
19 the time of the filing of the report of the
20 Commission, or about that time? A
21 Well sir, I didn't buy it. - Q. Do you
22 know what the value of farming lands
23 were in that neighborhood? A I think
24 so. Q. Will you state how much this
25 farm was worth at this time, I mean
26 the whole farm as a farm in June last
27 without being affected by the branch
28 rail road? A. Well sir I have got
29 no way to say - I just answer
30 the question - A. Between 11 and 12
31 thousand. Q. Will you state what the
32 value of that farm was with the branch
33 rail road upon it, in the manner
34 in which it is located upon that farm?
35 A. That is hard to tell, that is more than
36 I can say, because I ain't alleged -
37 Q. State what in your judgment the farm
38 was worth at that time affected by the branch

Q road would? A. I think it is one quarter
-one fourth less worth with this cut off
than it was before - (The court) Q. You mean
the rail road when you say 'cut off'? A.
Yes sir, I mean this branch. Q. Will
you look at this Map? (The Referee) Q.
A. Will sir that is exactly my farm
- how it is located, just exactly how it is
placed. Q. Did you make that? A. Yes sir
I did. Q. Does it indicate the farm, the
ten forty of which the farm consists? A.
Yes sir. Q. Does it show about the
location of the French rail road ac-
ross the forty? A. Yes sir. Q. And the location
of the marsh that you refer to? Q. Yes
sir. Q. Will you state whether you
have measured the distance between
the two rail road tracks at the point
where the French crosses the west line
of the marsh - where the cattle road
is? A. Yes sir. Q. Will you state the
distance between the center of the
two rail road tracks at that point?
A. At the point where the dry land
on the north side comes, or how? A. Yes sir.
A. I stepped from one center to the other
of the two rail road tracks, where on the
north side comes dry land what I
think is mine. Q. Answer the question
What is the distance? A. It is fifteen
steps from one center to another.

10 Q. And that is the point where the rail
road takes the south road? A. Yes Sir.
Q. And there is no dry land between
the branch rail road and the marsh?
A. No Sir. Q. They take the whole of
it? Yes Sir.

Cross examination by Mr McQueen —
Q. Where is it that there is no dry land?
A. Between the branch. - this new cut off
and the old Hastings and Dakota. Q.
On the western side of the marsh you
mean? A. It is no dry land between
the new cut off and the old Hastings
and Dakota. Q. Where west of the marsh?
A. What belongs to me. Q. Is there
not a ditch on the line between you
and Mr Frank, on the side of the road?
A. Yes Sir, but not for to have a road
between the two rail roads. Q. Is there
not plenty right up to Mr Frank's
land for eighty to one hundred rods
there all the way from the main Mill
road down beside the old one? A.
You mean west of the marsh? A. Yes Sir
west of the marsh. Q. Is there any land
left west of the marsh except what
the road takes and pays for, don't the
two limits of the road come together
west of the marsh? A. Yes Sir. Q. And they
go together a little way on the marsh
before they separate. The Court - Taking the

11 1 hundred feet of each? A. Yes they take
2 their hundred feet, then they take
3 about ten or fifteen ~~there~~ rods
4 west from the quarter post - from the
5 South East quarter corner post
6 of about fifteen rods west, they
7 have got all in one. Q. Just this
8 side of the place where they separate
9 there is a crossing, just in under
10 the road bed, high enough for
11 the cattle to go through - This side
12 east of this point on the new
13 road - Did you see a crossing
14 there? A. No sir. Q. Do you swear
15 that there is no crossing east of this
16 point? A. Yes sir. Q. What is that
17 structure? A. On the new road.
18 Q. Yes sir. A. That is a drainage canal
19 a cattle guard on top. Q. You did
20 see it then? A. Yes sir - I called for
21 it. Q. Then your cattle in going over
22 your house or barn, can pass
23 through there and over to your woods
24 pasture, provided they could walk
25 on the marsh? A. No sir. Not by drive.
26 Q. If they could walk on the marsh
27 they could go? A. No sir. Q. It was
28 not necessary to build it so high
29 for a water drain? A. I called for
30 a cattle guard on top. Q. That was
31 put in? A. Yes sir. Q. It looks as

12 though it was going to be just as
you wanted it? A. Yes Sir. Q. As you
go east from there after leaving
the marsh, you come to the cut ~~off~~
which you have described? A. Yes Sir.
Q. Now if you are to pass well east
until you get away from the end of
that cut and before you get to that
creek, is there not a good place to
go across, on grade right at the
end of that cut? A. Yes Sir. Q. Between
the cut and the creek? A. Yes Sir. No.
Q. There is no hill on either side there
A. Yes Sir. Q. Is there not a sort of a scarp
in the land on both sides? A. One on the
south side up to the dwelling house
then it is close to a little marsh. Q.
Now you turn delay? Yes Sir. Q.
Did you see when that wagon truck
was across the snow just at the
easterly end of that cut? A. No
I was not there. Q. There is a place
here where you could cross? A. Yes Sir.
Q. You requested that the crossing be
put at the other end of the cut, did
you not? Didn't you request it specif-
ically of the engineer? Didn't you tell
him that you would rather have it
over at the other end of the cut at
the western end? A. I showed the engine-
er, so it seems to me to make the best

13 Crossing they can never get. Q. So they changed it. It was at your request that it was located where you say it was. a sideling place? A. Yes Sir. Q. There is where they said they would put it because you wanted it? A. Yes Sir. I told them so. Q. As you go directly the rail road crosses the creek on a bridge? A. Yes Sir. Q. And then is the meadow you have spoken of? A. Yes Sir. Q. You also had a passage way left very near the creek? A. Yes Sir. I believe they left one. Q. Left two about 12 feet wide on each side of the creek, and cattle can run through it? A. Not horses. Q. But you can measure it? A. It comes right up to my hand. Q. Just on the easterly side of the creek? A. Yes Sir. Q. Did you measure it? A. I went through myself. Q. How high is it? A. It is just high enough so I can go under it standing up straight without bending my head down. Q. And much higher? A. I believe not an inch. Q. But you look at it? A. I believe I did. Q. Is that high enough for your horses to go through? A. Not without they bend their heads down. Q. Then and ditches on each side of the road lead through the meadow down to the creek being constructed?

1.41 A. Do you call it ditch? or do you
call it ponds? Q. I call them constructed
They are not finished yet, but you
asked to have them put down on each
side there so they would be a foot
below the meadows? A. Yes Sir. Q. They
are to work there now, and so far
as you know it will be put just as
you asked to have it? A. I think they
promise me so. Q. Have you not
leading from your house a road
very independent of your land that
leads off up to this right, that lies
furthest west - Four woods pasture?
Is it a public road, or is it traveled?
It is a public highway where they
go out in going from your
house, northwesterly, and going
to your furthest right, I suppose
it is a highway? A. Yes Sir. Q. That
leads from your place over to your
woods pasture, it crosses right
on to your woods pasture? A. I
do not think quite because I think
the river road company takes seventy
or some feet there. Q. But they take
off of your land line don't they?
- Of that right, at the other end
(referring to map) This road comes along
here somewhere and runs up here?
A. This main road comes right straight

15- 1
2 East, I call this South and I call
3 this North, and that is the Chaska
4 and Glencoe road, going out here
5 west and this is the Hastings and
6 Duluth, old suit road, and this
7 is the Hastings and Duluth road
8 cut off, and just exactly the right
9 name. Q. This road runs up here
10 like that? A. Yes sir, but not quite.
11 Q. Does it cross the suit road - that
12 Wagon road - up here anywhere? A. Yes
13 sir. It did cross the old road right
14 there. Q. Right there? A. Yes sir. Q. That is
15 just off your west line is it not?
16 taking your further right, west? A. Yes
17 the first old suit road as it is called.
18 Q. You have one house on that further right?
19 A. No sir. Q. You know where the house
20 is on line in? Yes sir. Q. And the
21 big house western from it? Yes sir.
22 Q. Where is the third one? A. Right close
23 to this house I live in now. Q. Then you
24 have another house north of this cut off?
25 A. I have one where this suit road
26 contractors live in, that is my house
27 and stable. Q. Mr. Hinder that is
28 not north of the cut off? A. No sir. Q. I
29 understood you to say that you had
30 a house on the North side of the cut
31 off? A. No sir I never did say so. Q.
32 Then there is no house on the North side of

166 This Mafasul will do well? No Sir -
Q. They are on one hundred and sixteen
in Section Seventeen, are they not? A.
No, Sir - There are only two dwelling
houses on the quarter section of Section
Seventeen, and it is one dwelling
house, and the same in the quarter
Section of Section Eight. Q. How far
from the line between Section Eight and Seven-
teen? A. It is about four or five rods.
Q. What is the log house where the rail-
road men board? A. Yes Sir. Q. What
is the actual value, in your opinion
of the land per acre, by itself, inde-
pendent of the damage to the farm,
that the rail road takes, and appropriate?
Or, what is the value per acre of
that tract? How much per acre is
it actually worth? Just the land?
How much an acre is your farm
worth, counting no railroad there
- this new road away? A. I think
it is about \$300 altogether, in average.
Q. I believe that this rail road takes
Eight acres and a fraction. Now then
what damage is it to you besides
taking away the land, that they
take from you and deprive
you of the use of - What is the
damage to you? A. The damage
what I think it must be, I made it

17 Out as low as I possibly could
Q. Not the amount but tell them in what
consists the damage. We want to get
at this thing as near right as we
can, and whatever the evidence shows
it to be, we are willing to pay, you
have said what the land was worth
now leaving out the value of the acres
that they deprived you of, just tell
me in what the damage consists? What
other damage is there? A. The first
damage is this. This new rail
road cut off cuts me off the
west eighty acres from my use
entirely, takes away my road what
I had before the rail road was
built from the cow yard along
west into my pasture, and the
cattle could come back any time
in the day, or any time in the evening
and come back to the cow yard
again. Now this new rail road
comes and takes up all of the
dry land, and takes off the road
what my cattle had before. So
I have no use, no more of the west
eighty of this pasture land. I bought
this twenty acres of Frederick Frank
and to get use from my Northwest
forty. If I did not bought this South
West forty from Fred Frank I

118 Could have no more use of my North
West forty, And I paid to Fort Frank
\$400, the cash, after he had the rail
road money from the Court - He wants you
to go on and state how this rail
road damages your farm. A. Sir
I think by my guess, only cut off
me this West Eighty is the very lowest
between \$400 and \$500, damages
to me - Q. Is that all? A. No Sir - That
is only about the pasture. What
else? A. Then comes the next, it
cuts up my fields, it cuts up my
grass road where I haul from
the South Side Clear over my
whole field up to the North Side
over my whole field and the
meadow, the road comes the field
where it cuts it so bad that it
cannot be fixed - I keep it then
because it goes over the hill,
I believe they have on one side
three feet cut and on the other
side six feet and it is more over
the hill, and if I did not to keep the
crossing there, they got to make
another cut over the whole hill or
else I cannot climb up - And so
it is so much damage to me
that I could never think so much and
if I told you what the damage

19 is to me, if you might think it
is not so because I know better
Q. Is that all the damage? - How
much is that in dollars and cents?
A. That is very least only the
damage of this road is the very least
\$100 or \$150 - Q. What else is there?
And then comes the other forty where
the road cuts me through the meadow
It is about five acres, I believe
when they dig two creeks on either
side this rail road. Q. I mean
in addition to the land what
is the damage there? A. There is
the damage to the very best \$300. Q.
For what? A. For that cutting up
and cutting up of that forty there
(Mr. Hinds) Q. What forty is that?
A. The South East 40. Q. The \$300
what is that for? A. It is for what
comes from the East side, from
Forty Frank and what I call
every year, may be twice or three
times over the meadow, and mowing
the meadow so as the grass grows
short and hard, and grows a
good deal more grass. If you
have got water that overflows
your meadow it grows twice
as much, and it is so, because
now it is cut off and the rail road

20 Company dig a pond when the
water goes right into, and settles
the manure right down, and then
it goes into the creek, and don't
go any more over my forty.
Q. Is that all of that? A. Yes Sir. Q. What
is the damage then? A. I want \$800.
Q. Those ditches are not open into the
creek? A. I guess not. Q. You asked
to have them put down one foot
below the meadow? A. Yes Sir. Q.
If they leave them as they are now
they won't drain your meadow.
A. No Sir. Q. Do you mean that these
places where they dig dirt out
would absorb all the water that
would overflow the meadow. What
is the damage then? A. I say the
water that comes from the East
side it sent you any more and
overflowed my meadow. And because
it became the railroad company
put up a dam over eight feet
high. Q. Does the dam run
straight through the meadow?
A. They keep the running water
right in the ditch, and it don't
go any more over my meadow
and mow the grass. Q. Do you
do you think? A. Yes Sir. Q. What else?
A. Then comes the next. Q. Next comes

21 the road - What is your east line?
A. Yes Sir - I have got forty acres
there - It is not cleared out for to have
use to cut it up with a mower
for cutting hay. It is my pasture
and they come and cut it up,
just entirely cut off the corner
and got a ditch there just the
same - got that pond - Mud-hole.
Q. You have a crossing on the
east side of the creek under the rail-
road? A. Yes sir. - Q. Do those cows
sustain you elements of damage
as near as you can figure it?
A. There is \$200 of damage for that.
Q. Do you know how much of
your amount of damage, as
you have told it, now amounts
to? A. It might come up to \$2000.
Q. How much did you state
in your direct examination it
was? A. The very least \$2100.
Q. Did not you state that your farm
was worth \$11000 or \$12000? A.
Yes Sir. Q. And did not you state
that ~~under~~ this new cut off ~~was~~
placed that it was depressed to
one quarter of its value? A. Yes
sir. Q. That would make it some
more? A. Did not I state it as low
as I possibly could. Q. What is

22 to prevent your cattle from
running into this place that is
constructed for a drive and camp
pass, and running from your
house over to your woods pasture
is there anything? A. No. I did you
ever drive with your wagon on
that road, that your boy was dis-
trayed, from your barn over to your
woods pasture? A. Yes Sir. Was
it a wagon road? A. By all seasons
I could go around and follow
the Husbands and Duke road and
then turn on into the woods. I
But the road that was traveled by the
cattle was not a wagon road, nor before the
cut off was built? A. I did not make
it for a wagon road, but whenever
I need it, I went many times from my
house or from my yard right
west. Where should I go? A. Along the
wagon road can't you? A. But
then it is nearer. Q. You can go on
the wagon road with your team? A. Yes
Sir I can. Q. Does any part of this new
railroad touch the piece of land that used
to be the poor farm. That is the quarter section
that is in Seneca? A. No Sir I don't
think, No Sir on no place. Q. It does not
touch it does it? A. No Sir. Q. Can you
state how far it is from west of your

23 Westly line to the point when you say the
cattle road was destroyed at the most western
line of the right - of the forty which you
bought from Frank. How far east of
your western line is that where you say
that road has been destroyed? A. From
the west end up to this point when I
state is rail road destroyed my road.
Q. Yes sir - A all through, I don't know
no other way. Q. How far is this place
where the road was destroyed east of
your west line? A. From my cattle
yard clear up to my west line. - No
Q. How far is this place when you said
they destroyed your road so that your
cattle could not go into your pas-
ture - How far is that from your west
line? A. If the rail road company would
set up the fence on this part - Q. Can
you say how far it is from this place
where you say your cattle road is de-
stroyed directly east to your west line
Was it ten miles or twenty miles, or
was it fifty rods? A. It might be about
fifty rods. Q. Fifty rods from your
western line? A. Yes sir. Q. How far was
that cattle path at that point where
it was destroyed from the old rail road
track? A. It was all around the marsh.
Q. Did your cattle go up there as they passed
west to the woods pasture, at this particular

24 place that you complain of? Was not the
path inside of the old railroad line
of the Hastings and Dakota Railway road
up alongside the track? Did you ever
measure that inside of the fifty feet limit?
A. As long as I have my cattle there in that
pasture. Q. Was not that path to the best
of your judgment at the place where
you say that it was destroyed, just
on the north side of the old road and
within the fifty feet that they owned
before? A. They owned only twenty
five feet on the north side. Q. What
they own more than twenty five feet
on your west right on the north side
of their old track? A. They own fifty
feet on this ground, that Fritz French
had before I owned it. That is my west
right now. Q. Is it not on that that
the cattle path was? A. I do not believe.
Q. Your cattle path was fifty rods east
of your most westerly line - the west
line of the land which you bought of
Mr. Frank. Was it not? About fifty
rods as near as you can judge?
A. I say only they destroyed my road.
Q. You say it was fifty rods east
of your westerly line didn't you?
If it was fifty rods east of your
westerly line it was still on your
west forty, that forty is ~~fifty~~ eighty

24 roads which, from east to west, like
every other forty? A. Yes Sir. Q. And
if this cattle path was fifty rods
East of the western line it was on the
quarter that runs boundary of Mr. Franklin?
A. Yes Sir. Q. On that has not the road
road got fifty feet on both sides
of the middle of the road? A. Yes Sir.
Q. Then there is a hundred feet right
of way then? A. Yes Sir. Q. Now then
according to the last of your settle-
ment, was not that cattle path within
the limits at the place when it was
destroyed, of the old road road
line? A. No Sir. I had my cattle path
so far north that it don't touch
the road road land, the nearest
was on my ground when the
Hustings and Dakota drove only turning
from foot on the north side. Q. How
much was it then? A. I think just
about twenty five feet, I never measured
it. Q. What is to prevent the cattle
from that portion of your farm going
over our track right up to a
cattle pass on the marsh and going
on to the woods pastures? A. Do you
call this a cattle pass? I call it ^{only} a culvert
to let the water through - I didn't you say
they could go across if dry and
not go in drow.

26 Q- If they goes only one in ahead but not three
 or four or five or ten. If one go here and the
 other there. That is what I said, But that crossing
 or that Culvert, or that Cattle guard I believe is
 only ten feet wide- I Did you also state the
 other day what you thought would be a fair price
 for this damage? Did you state it would be \$800⁰⁰?
 A I never did I Did you not so state? A I never did
 I Didn't you also agree that they damage in case
 we brought the roads together just in that way
 without putting upon crossing in the old path there
 which would require you to drive in wet weather
 around the road, Didn't you say that you thought a
 \$100 would make that right- A What? Blocking
 up the Cattle path and didn't we agree to give you
 a \$100⁰⁰ for driving them along the road instead of
 putting in another Cattle guard, if you drove them
 along the road. Didn't you say you thought about
 a \$100⁰⁰? A- What for- I- for spending your Cattle
 pass- Didn't you say that just for spending your
 Cattle pass, and didn't we agree to give it, and
 wasn't it a fair trade if we settled on the other? I
 didn't mean for any thing else, I don't mean for your
 land- I don't mean for your road or any of those other
 things at all I just mean those matters of the Cattle
 pass and having to drive the Cows along the highway
 in wet times when they could not go the other way
 and did we not agree to give it- A- well please I
 don't understand- I don't understand the question
 don't you? A- I don't believe exactly- The Court-
 The question is did you not agree to say to Maj Rogers
 the engineer that a \$100⁰⁰ would be a right sum or

27 Correct sum for the damages for taking this Cattle
28 truck and not putting in a guard - A No Sir I Not
29 exactly that - It is an equivalent for not putting the
30 Cattle off under the truck, that you would take a \$100⁰⁰
31 and don't you know that that is the reason why you have
32 not got it there now the Court - Go on and state yourself
33 what there was about the \$100⁰⁰ - I don't know who said
34 it you or the other parties, estimated the cost of putting
35 the cattle guard: but as I understand you said you
36 would take \$100⁰⁰ and we agreed to give you a \$100⁰⁰
37 in lieu of the expense of putting a cattle guard
38 there that you would take and put in your pocket
39 a \$100⁰⁰ instead of our putting it in in that place
40 A Yes Sir I And Mr Rogers agreed to pay it - A Yes Sir
41 He told me that is all you wanted for it further
42 cost and only this \$100⁰⁰ says I "No it has nothing
43 to do with the damage I - we don't want to take any of
44 you - and in any thing we have spoken about
45 A - He told me "We cannot give you no cropping here
46 on this place because it is too narrow and it is not
47 room enough to give you an under cropping" Well
48 says I then if you can't give me an under cropping
49 where shall I drive my cattle around He says "Now
50 you have got a cropping you can crop right there on
51 the west side of your field" and I told him "Now then
52 if you give me a cropping here then I don't need to
53 drive the cattle on the main road then I can drive
54 them - it saves me some steps it is only half way
55 and I don't need to drive them on the main road and
56 if you give me the \$100. just only for this cropping then
57 you don't need to put any in - only in account for this
58 cropping - not for the damage for the west pasture because

2 & the damage isn't any less in this West right
Mr. direct recommending by Mr. Meins

2 I understand you the talk about the \$100 more for
the damage for the Culvert which they did put under
the truck - A- for the second passage what'll except it
2 That the difference would be \$100 A- yes sir only for the
passage I did they put that passage there A- they were
here, he said he can't do it. I said what you told him
your damage would be in your payment \$100 less with it
there than if it was not there - The Court Mr. Rogers
having told him that it was very difficult, or he said
not put it there, that he would release his claim and
for that Cropping for a hundred dollars I said they
would give him a \$100 more - A yes sir just ready
A- He give me a \$100 more just for the Cropping where
he claims he can't give it to me I did you come away
bargain with Mr. Rogers A- No sir he never would
give me anything I would not give you the \$100

Objected to as immaterial

2 You spoke about their having put a drain up by
your meadow under the truck A- yes sir I do that
to drain water or for a pup for cattle - A it is called
for a drain for a Culvert I said in a mud hole
A- This is a story right there I dug a ditch for
about fifteen years ago to drain the water away I said
they simply made a culvert where you had a ditch - A- I
told him I wanted a four foot wide Culvert and a cattle guard
on top of it then he said if we give you just filling for it
from the top clear to the bottom then you have got it just
as you see it - It was never talked about that place for a
Cropping because it is nonsense to put a cropping there you drive
your cattle right in a mud hole and you get them drowned

Q and killed there. This call for a drain? You built
a drain there fifteen years ago - A yes Sir? and the
drain is there still? A yes Sir? You spoke about
that the old rail road there on your land in some places
having the right of way only twenty five feet on the North
side - A yes Sir? What is that in reference to
the Marsh and in reference to the Cattle track on
the Cattle road - A It is right west of my dwelling
house on the old place? Is it right adjoining the Marsh
A yes Sir? Why did you give them only twenty five
feet there and fifty feet on the North side in the rest of
the ground? A I did it as a matter of course.

Q The Cattle path was about twenty five feet from the
center of the old road - A yes Sir? I had the fence right
between? Was it about twenty five feet? A It was twenty
five feet North from the center of the Hastings and
Dakota rail road -? How wide was that Cattle
path? A Just about twenty five feet - the dry passage
where the Cattle can walk? A And that was your land
A yes Sir? And you never sold it to the old company
A - No Sir? But they took it this time in the branch
A yes Sir? You state that in the reasons of what
your damages consist of the third one that you give
was that the branch road cut up your field - A yes Sir
? You did not state how much you thought the damage
to your farm was for cutting up your field - A - No Sir? You
may state what in your opinion that part of your damage
would amount to - the cutting up of your field in the
different shapes how many dollars do you think the
damages would be? A I think about one third the value
one fourth the value of the place? the cutting of the field
is one fourth the value of the place? A the cutting up of the whole farm

30 Q. You said that the road run a crop your fields from corner
A corner and cuts them up. A. Yes Sir I and that was
one part of your damage, that you did not say how much
it was damaged by cutting up. Did you ever estimate in
your own mind how much it was.

Objected to as incompetent and that the witness is not the
jury that the jury could that it was not a proper case for
an expert. Objection overruled

Q. Does it make a cutting up of your fields in anything
shapes - does that damage the fields themselves certainly

Q. Will you state what other damages besides these you have
named to counsel the branch you show does it damage
you besides these reasons that you give? All the
danger about the trains running up and down

Objected to as remote - Q. The dangers to what is
A. For getting cattle killed may be getting trains just
run and smashed up entirely

Objection to his stating damages from the possibility
that he might some day or other get killed while cattle
he is out that will be stricken out as not responsive

Q. Dangerous to what - what would be the danger? A.

Whenever the train comes and I have to crop the rail-

road then it is the danger - the trains might catch

me right on the rail road because I have got the

cropping on the east side of the hill where I can't

see because it is in a cut and it is a little in a crotch

Q. And in regard to cattle? A. I must keep my cattle

in my field - Objected to - Q. Will you state whether

in the cropping of the track yourself trains or cattle

you have to take greater care to avoid the passing train

A. Yes Sir I have stated before that there was a cut at the only

place where croppings could be well made? A. Yes Sir in the best

31. The direct recommendation by Mr. McMain

Q Now long a strip is this meadow east and west where you retained this twenty five feet Did you retain this twenty five feet: Was it you that refused to allow them to have fifty feet for the road - A Yes Sir I was right here to Mr Rogers

Q Now long a strip east and west - A There is the surveyor and you can ask him and you know if it is correct

Q I mean my question - A I do not know I never measured it I do it more than a crop that twenty acres - A When

twenty I the east twenty of the forty you bought of

Mr Frank - A Yes Sir it is mine I do it is not

further west than the westerly line of the east twenty

A - It is from where the Hastings and Dakota railroad crosses the public road clear up to my end between

me and Fritz Frank sixty rods east from the west end of this eighty acres that is the distance

where they own only twenty five feet on the north side of the track from the center I - I wish you would

just turn to the jury and state again where this twenty five feet is - A - Where the railroad Company owns only

twenty five feet is sixty rods east from the road line of this forty acres that I bought of Fritz Frank clear

to this crossing where the Hastings and Dakota railway crosses the main road I didn't measure

it particularly so I could give you the value of feet

Q - Do you mean that it commences at the west side of this forty, or that it commences at a point sixty

rods east of the west point and runs from there to where the old Hastings and Dakota road crosses the

highway A - Sixty rods east from the west corner it commences I - and then it runs easterly to where

the Hastings and Dakota road crosses the highway

32 A- yes Sir L. How far is it to the nearest West
point measured by the most direct line from the
most Northern side of this strip of twenty five feet
to the most Southern line of the new cut off
A- I dont understand- L- I understand you we came
in and took some of this twenty five feet with this new
cut off and as I understand it we dont go any where
near it you claim that we came in with this new
cut off and run on to this twenty five feet- A- No Sir I
never did- L- I claim that we dont come near it- A-
No Sir you dont- L- but we dont come near the twenty
five feet that is just outside of it. Now then you tell
how far it is from the north line of this twenty five
feet to the Southern line of the new cut off- about how
far- A- I believe you see it better in the map-
L- How far as near as you can tell on your station
cant you- A- I think I can show- L- How far- A- It
might be between this twenty five feet and the South line
of the new cut off- it might be about fifty feet.

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After having the jury not to take a thousand to
 about the case the court took a recess until nine o'clock to-
 morrow morning - Wednesday Oct 20 9 A.M.

Herrman Miller called by respondent (defendant)
 sworn testifies as follows - Direct examination by
 Mr. Hinds - Q Where do you live - A - Farm of Dohlgren
 Q are you acquainted with Mr. Hlyer - A Yes sir
 Q How far do you reside from his place - A One mile
 Q How long have you resided there - A About twenty five
 or six years Q What is your business - A Farming
 Q How long have you been farming - A All since
 this twenty six years Q Are you acquainted with
 the value of real estate in the neighborhood of Mr
 Hlyer - A Just as it is sold and bought Q You are
 acquainted then with how it is sold and bought -
 A Yes sir Q Are you acquainted with Mr. Hlyer's
 farm A Yes sir Q And know how it is situated A Yes
 sir Q Own it and own it - A Yes sir Q Frequently
 A Yes sir I worked for him some and helped him stack
 Q Do you know how large a farm he has got A I
 cannot tell exactly by the number of acres I think
 he has got about half a section there Q You know how
 it lays - A Yes sir Q And how the boundary lines are
 A Yes sir Q Do you know the line of the branch
 rail road - the Hastings & Dakota branch rail road
 that runs across it A Yes sir Q Do you know in
 what manner it runs across in what direction it
 runs across this land A Yes sir Q Have you been
 there since it was graded on his land - A I have been
 there last week Q You could see the line of the branch
 road upon the ground could you not - A Yes sir I will
 you state what in your judgment was the value of that

340 form as a whole in June last within any regard
to the branch rail road at all within the rail road
there - Q. You mean the whole farm all the land
I. Yes Sir. Now say there are ten farms there would be
four hundred acres in the farm what was that farm as a
whole worth at that time - A. I think it ought to be
worth \$10,000 or \$12,000 the whole land there I will give
state what in your opinion the farm is worth cut up or was
worth then cut up as it is with the Hastings and Dakota
branch road running on it with the road upon it. What
in your judgment was it worth at that time
A. I could not tell exactly I sense that it is a big dam-
age to his farm. I know much do you think it would be
worth with the rail road upon it - A. in my judgment I judge
it damage to his land between W. McManis. Now look how
much it would be worth with the road upon it - I. The whole
farm worth with the road upon it - A. I could not tell
that I could not answer this question - I. As near as you
can in your judgment - You say it would be a big damage
A. It is a big damage of course - I. Do you think it is
worth \$10,000 or \$12,000 within the road - A. Within the road
I. How much is it worth with the road - The Court
has much more to say - A. Call it \$2,000 less

Cross examined by W. McManis
I understand you to say that you live a mile from W.
R. L. place - A. Yes Sir - I. Which direction - A. North or
North West - I. In the same township - A. On the same
township - I. You know the value of farms about
where you live do you not - A. Yes Sir. And in
the town adjoining that I live in - Not
exactly in the towns around there. I have
known the value of lands adjoining where

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Q

you live in such direction, with a mile
or two, including as far off as Mr
Pfleger's side till the ferry, as near
as you can what you think Mr Pfeleger
farm is worth today with that Hastings
and Dakota rail road running over
it, as prospective then - say four hundred
acres - a quarter section in center
and then a quarter section lying
right north of it - With the old
Hastings and Dakota road running
across it. Then in addition to this,
cut off - taking his farm just as
it is - His plowed land his fence
and everything - Tell the jury what
would be a fair value price for
that farm today - the four hundred
acres? - A. About \$10,000, or 12,000.
Q. Tell the jury what you think that
farm is worth today, the four hundred
acres with the Hastings and Dakota
cut off just as it is then - as you
saw it last week? A. I call it
\$10,000. - Q. You think it is worth
it now? A. May be it is less now.
Q. Is it your best judgment that
it is worth ~~the same~~ ^{\$10,000}? A. Yes Sir. - Q.
You mean ^{that} it would sell for that? A.
I don't know that I would buy it for
that. - Q. That is about as near as you can
fix it is it? A. Yes Sir as near as I can.

34 The latter Timber was called soon and
testified on the part of the respondent as
follows - (Direct examination by Mr. Hoyer)
Q Where do you live? A. Beckley. Q. Are
you acquainted with Mr. Pflieger? A.
Yes Sir. Q. How far from his place do
you live? A. About three miles I guess.
Q. Same town? A. Yes Sir. Q. How long
have you lived there? A. I guess about
twenty two years. Q. How long have you
known Mr. Pflieger? A. As
long as I have been here. Q. Have
you been over it? A. Yes Sir. Q
Have you been over it since the
Hustings and Dakota branch road
was located over it? A. I have been
over it three or four times over. Q.
Did you notice how the ground was
across the level - in what
direction? A. Yes Sir. Q. Was it graded
at the time you saw it? A. Not the
first time I was there - the last time
the most of it. They are not through
yet. Q. Did you see how the
road is benchked up and cut through
the farm? A. Yes Sir. Q. You noticed that
did you? A. Yes Sir. Q. Are you acquainted
with farming lands in that neighborhood?
A. Yes Sir. Q. What is your opinion was
that farm worth last summer - the 24th
day of June - I mean the whole farm

37 hundred acres, without the branch
rail road then cut all - What was
it worth without the road? A. Between
\$11000 and \$12000 - All together - Q. You
stated that you noticed the location
of the branch road across the farm?
A. Yes Sir - Did you notice to see
how high the benches were built
and how deep the cuts were made
across the land? A. Yes Sir - Q. Will
you notice how much of the farm
lies upon the north side of the branch road? A. He
got most of the farm then - Q. Did you notice how much
I cannot say exactly how much - Q. Did you notice A. A. He
got the most of it then - Q. Did you notice the location of the
house where he lives? A. Yes Sir - Q. Did you take any notice as
to what kind of crossing for the working of that farm
across the road could be had? A. Yes Sir - I know it
seems to be where he wanted, and he got
a crossing then on his farm, he got to run up on a
kind of a hill, right straight up, and they cut their line
along, and he can't go up no more, then he got to go
slanting along the hill, he could not go any further, then
is a marsh, he got to go slanting along, side the hill, he could
not do anything else - Q. It is on a slanting side hill, the
only place where he could get a crossing over the road
A. Yes Sir - Q. Did you notice that there are deep cuts on each side
of the road, on both sides of the crossing? A. There are deep cuts
along side the hill, on the south side they are not so high
Q. Did you notice how inconvenient or what trouble it was to work that part
of the farm with his house upon the other side - I mean the trouble in
crossing the rail road? A. It would make an awful sight of trouble

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Q. You notice how it would be? A. Yes
Sir. You got to cross day and nights
with a team and a man got to
risk his life and everything to
get there and back. Q. Will you
state what in your judgment the
farm was worth with the branch
road upon it, just as you saw
it when you were there last, or
just as it would be finished
with the grade finished. Can you
state how much it would be
worth, supposing it was to be
sold? A. I guess a man won't
buy it less. When I buy it, from
1500 to 2000. - and some don't
want it at all on account of
the rail road crossing. Q. Your
own judgment, would be how
much? A. From 1500 to 2000
and then he got to risk his life
and something else all his life
time. Q. You take that into con-
sideration? A. I know what the
rail roads are. Q. Does the main
road run through your farm?
A. Yes Sir. Q. Do you know what
the trouble is? A. I know it. Q. The
inconvenience? A. If a man don't
get a rail road he finds out
a man that he off a mile or two

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from a rail road, by Gully, he rather
pay a couple hundred dollars than
not see it. Q. Did you notice when
Mr. R. Lyon's meadow land was on
the farm? A. Yes Sir - It is north
of the branch, the road runs over
the best piece, I would rather pay
\$50, when a man brings such
a piece where it runs through
where he got the best meadows.
Cross Examination by W. H. Mair

Q. You say a man would rather
pay \$300, and be away where
he would not see them? A. Yes Sir
Q. Do you think that would be
about the amount of damage
that would result from the
inconvenience and trouble? A. That
is not what I mean, I say that
a man that be not on the track
would rather pay \$200, and
not be annoyed, I mean the rail road
do some benefit for the country
and not for those it runs through
You can have an all cord and
the rail road come and scare
it off. Q. You have lived on
the rail road some? A. Yes Sir
Q. You never got killed yet? A
I pretty near got killed two weeks
ago about. You were not hurt any though

Q. A. Yes Sir, I was hurt, I lost a coat
and half an ear, and everything.

Q. Your horses have not been killed
or your cattle? A. No Sir, Q. You
are a cautious man and look out?

A. You be bound to look out.

Q. There is danger on the rail
road all the ~~time~~ which, you would
not give \$50 an acre and take care
the rail road takes? A. No Sir, Q. How
about that Marsh, what do you
think that is worth - What the

rail road takes - that willow ~~and~~ marsh?
A. It is not so much worth

as the other, Q. That is not very
valuable? A. I picked some cream-

corn there, Q. That is not very
valuable land - that willow

marsh? A. I don't find fault
with what it is. Q. It is not

very valuable is it? A. It is not
so good as the other. Q. You tell

the jury as much as you can what
you think that farm is worth - supposing

I come to you to-day - and give me
your best judgment, and I want to

know what that farm is worth - that
four hundred acres, including that

marsh and house, with the Hastings
and Dakota road on it - what would

you say was a fair market price for that

41 / 1 farm with the new road on it just as
2 it is? A. I say, I cannot the whole farm
3 between - 2. Tell the jury what you say
4 is a fair price this morning to go out
5 and buy Mr. Pfleger's farm - the market
6 price for the whole four hundred acres?
7 A. What a fair price was - the way
8 the ground and the farm be sold in
9 our neighborhood - then I say now I
10 count this farm before the track went
11 through - 2. You answer that first and
12 then go back and answer your own question
13 at your leisure. What is a fair market
14 price for that farm this morning with
15 the Hastings and Dakota railroad cut-
16 off on there? A. About \$11,000 - the whole of
17 it. The Court - This morning four hundred
18 acres? A. Yes, sir, and I guess you could
19 not buy it any less, in the way the ground
20 be sold and the way we sell the farms.
21 I got no benefit and nothing by it. 2.
22 Is there any damage except the value of
23 land taken away from him by this
24 Hastings cut-off, and the trouble of going
25 across the track, and the danger you have
26 spoken about independent of going across the
27 track. A. Oh, yes. take it in dry seasons
28 too on account of fire. When the engine come
29 across he has got to be afraid day and
30 night. 2. How far is the railroad from his
31 nearest building. A. That makes no difference.
32 The fire runs over the ground. 2. How far is

Q. the railroad from his nearest building.
A. That makes no difference. The fire runs
over the ground. Q. How far is the railroad
from the nearest building? A. I guess about
fourty or fifty rods. Q. To the nearest build-
ing? A. Yes, sir. Q. Then the house where
he lives is a good deal further off? A.
Yes, sir. Q. There are no barns or any other
buildings within forty or fifty rods?
A. I can not say exactly. Q. No other
nearer than that? A. No, sir about danger
in dry seasons I got to do the same on
my land. I got to run with my family
to stop the fire. Q. You say there is
danger of fire? A. Yes, sir. Q. Is there
anything else? A. There is lots of danger.
You never can raise a fuff or nothing
except it got and get killed. Q. How
much is that danger? A. All kind of danger
you know. Q. Anything else? A. Lots of it
the whole year round. Q. What else except
the danger resulting from crossing and
going from one to the other with teams,
cattle and so on — is there anything else
you do not think of anything else do
you? On account of the wagon road passing
by Mr Pfleger's house and up and across it.
The Hastings and Dakota road passing
very near the corner of this road? A.
Yes, sir, that is the main travel road.
Q. When ever he goes north west from his
house he goes on the highway, dont he?

43- A. Yes, sir. Q. You have to look out for
the cars there? A. Yes sir. Q. There is also
another north and south road between him
and Mr. Frank's? A. It is not a road. That
is where the cattle pass there. Q. I mean on
his east line between him and Mr. Frank's
there is a good road run over the hill
there? A. Yes, sir. It runs from south to
north. Q. People going either way there have
to cross the rail road? A. Yes, sir. They are
right on the line. Q. He can go over to his
fields by going down on his east line on
a highway? A. Yes, sir. Q. By coming
from his field on his west line he can
cross on a high way and go right down to
his house? A. He could not go there over
the whole field over there. There is a creek.
Q. From his west line - to go to his west
line he can cross on the highway and get
to his house? A. No. The creek runs right
between it. You mean the west line?
Q. I mean clear across the creek. A. Yes, sir.
take the main travelled road. Q. He can
not get across that willow marsh from his
wood's - pasture to his fields on the north
side of the rail road to save his life?
A. No. Q. Then he can not get from his
wood's - pasture to that marsh. He has got
to go down on the west side. A. No, sir.
Q. He can not get to the east part of his
field, that is east of the Carver creek -
he can not get from there over to this

34 middle field? A. No, sir. Q. His best way
would be to go down to the east road. A.
The most of this west Forty - it is most on
account of cattle, about driving cattle across
and driving the main road. You know when
he got to go and drive the cattle across there,
he has got to go two roads. And he
could not do anything else. You could not
get there with cattle on this branch. When
you drive some cattle in this point there it
scars the cows. The main road comes over
the old road twice before it can get on that,
and to drive cattle there I would not do it.
You know the main travelled road goes over
twice over this old road. Q. Before this Hastings
cut-off was put in there you think his
cattle can go from his house up on the
inside of the old Hastings and Dakota road
and around to his woods - pasture without
crossing any road? A. Yes, sir. Q. Was there
any lane fence there? A. It used to be an
old fence there, but not now. The fence
is down now. Q. You can not see any-
thing of it there now? A. I do not know
that there is any yet. Q. The cows commonly
go from his house over there before the new
road was built? A. He don't need to go
across. Q. They would have to cross this
cultivated field near his log house?
A. No, there is no field there at all.
His old house stands right on the bluff
and it runs right to the meadow, and

39 on the meadow and on the south side along
side the rail road track. And the main
traveled road it kuts off from the road
and from the main track. Q. It has not
bee fenced for a year or two? A. Not that
I have seen. Q. Is there anything to prevent
cattle from getting into the same field
on the north side of the Hastings and Dakota
road, and come into this pasture and right
off into his woodi-pasture - nothing to
prevent that if they could walk cross the
marsh? A. I would not give \$5. for that
cattle pass. It is only so high for big cattles
I guess they would not go under there. Q.
You went there purposely to see this? A.
Yes, sir. Q. There were some others with you?
A. Yes, sir. Q. Don't you know that that cattle
pass is made by piles driven down in
a big bank and that it is nine or ten
feet high? A. I do not know how long
those timbers be in the bottom. Q. There
is no dirt on the top of the culvert?
A. Not yet. Q. Isn't it not nine or ten feet
high. A. No. Q. How high is it A. I guess
I could not go straight through I was
down on my person into it. Q. You have
not any cattle that are much higher than
you are? A. Not yet. Q. Did you say
that you did not have any interest in
this at all? A. No, not that I know.
Q. Have you got a neighbor the same
name as yourself? A. I guess not.

Q. You have had lots of litigation for the last eight or ten years with the company? A. Yes, sir. I Rather enjoy it fighting the rail road? A. Yes sir. We were for six years but we are through now.

Re-direct examination by Mr. Hinds

Q. You stated in answer to counsel that you thought that farm was worth to day \$11,000 - you recollect stating so?

A. Yes, sir. Q. Do you mean that it is worth \$11,000. Objected to as inconsistent.

The Witness - Will the judge allow me to state what I forgot? The Court -

State it if you forgot anything. A.

I know I told you this farm be worth between \$11,000. and \$12,000. Now just I forgot you asked me what I said to day. I forgot this payment what is be bound to do. I count this payment off of what the company got to pay, and then I count this farm \$11,000 left, when they have paid. That was my meaning. Mr. Mc Hair

That it is worth \$11,000. after the said road is put there? A. No, sir, after the company has paid what the commissioners have allowed him, then it is worth \$11,000. The Court - You mean after the company has paid it is worth \$11,000?

A. I only mean when every thing is settled what it be worth. That is my meaning. Q. You mean then that the farm is worth - Objected to. \$11,000.

418 with the road just as it is do you? A.
When they have settled. Not before. They have
settled - it is more worth. Q. You mean
that the farm is worth more without the
road? A. Yes sir that is what I mean.
Q. What do we understand you to state
that the farm is worth ~~without~~ the road
there at all - supposing the road had
never been put there. Objected to as gone over.
Q. State what your understanding of the
value of that farm as a whole was last
June without being affected by the Hastings
and Dakota branch road at all. Objected
to as inconsistent and that he should
prove the and not the understanding of the
witness at ^a the first time. Objections sustained
as gone over. Q. You stated that the public
road across the old Hastings road twice
between his house and the west side
of his farm. A. Yes, sir. Q. Will you
state whether there is any chance to get
from the public road to that west Eighty
without crossing both roads? A. Yes, sir.
He have a crossing between - you know
on the new road where they pretty near
come to gether - thiner track. Q. Can
he get - Objected to. The question that I
asked was whether he could get to the
west Eighty from his house where he
lives upon the public road without
crossing both railroads? A. Yes, sir. When
he got that new road there. The Court

38 The road is there now? A. The public
crosses twice over the old. — Q. Going from
his house upon the public road west he
would cross the old road twice. Objections
to Mr. Hinde testifying unless he is sworn.
(Questions withdrawn) Q. In going from his
house west to his westerly line upon the
public road, how many times would he
cross the old Hastings track? A. He got to
cross twice. Q. How many times does he have
to cross the rail road to get off the public
road onto his Eighty there in the west
corner. How many rail roads would he
have to cross from the public road
onto his west Eighty? The Court. How
many rail roads would he have to
cross getting from the public road to his
west Eighty? Q. After he got to his west
line? A. He goes once — before he crossed
twice. Q. When he gets to his west line,
You know where that is? A. Yes, sir.
Q. How many times would he have to
cross the rail road to get onto his west
Eighty running north from the road
onto his west Eighty, how many times
would he have to cross the rail road?
A. You mean over both rail roads?
The Court — He wants to know how many
times he would have to cross the railroad.
A. Twice. He got to go there and back again.
Q. Which road would he have to cross
first, the old or the new? A. The old.

Q. In crossing the old would he cross it
on a level, or would he have to go down
a steep pitch? A. I cannot say where they
make the crossing on the new road. Q. Haven't
they graded when you was there? A. No.
They got a bridge across there. Q. And
the grading was not dug there? A. No, not
at this time. George Gittler, called by
defendant, sworn, testified as follows:

Direct Examination. By Mr. Hinds.

Q. Where do you live? A. I want a man
now for language. Q. You live in Carver
County: what town? A. Dahlgreen.

Q. How long have you lived there? A.
About 26 years. Q. How far do you live
from Mr. Pfleger? A. Two miles. Q.

What is your business? A. Farming.

Q. How long have you been a farmer.

A. Since I am here. Q. Do you know

Mr. Pfleger? A. Yes, sir. Q. How long

have you known that land? A. I guess

as long as I live here. Q. Have you been

over his land? A. Yes, sir. Q. Traveled

over it? A. Yes, sir. Q. How often - been

over it more than once? A. I was over

there about 14 days. Q. Have you been over

it more than once? A. Yes, sir, I was over

there more than once. Q. Do you know where

his lines are? A. Yes, sir. Q. Know about

how much land he has there? A. I guess

he had 400 acres? Q. Are you acquainted

with the value of farming lands about

there? A. Not exactly. Q. Probably no body knows exactly? — but have you —
The Court — Are you acquainted with the market value of lands around there — how land is selling he wants to know if you know anything about it.
A. Do you mean the acre. Q. No. Do you know anything about the value of farming lands. The Court. Not Mr. Pflegers's land but any land around there, do you know anything about it. A. Yes, sir. Q. You know something about the value of lands about you? A. Yes, sir, I know. Q. Will you state what is your judgment Mr. Pflegers farm was worth in June last without the Hastings cutoff — without the branch road at all being upon it? A. That was worth about \$12,000. Q. Have you been over this land since the Hastings cutoff was located upon it? A. Yes, sir. I was there. Q. When? I guess it is about 14 days. Q. Was the line of the road graded or partly dracked at that time? A. Yes, sir. Q. Did you notice in what direction the branch road runs across the lands? A. Yes, sir, — East and west. Q. Did you look to see how much the filling, how high the banks across that. A. Yes, sir. I saw that. Q. And how deep that cut through the high ground?

Q. Yes, sir. I saw it. I. Did you look
to see how much of his farm was upon
the north side of the branched road. How
much of Mr. Pflieger's farm lies north
of the new road? A. I cannot tell, I guess
about 40 acres. I. Which forty is that you
refer to? A. Between the Hastings and
Dakota rail road and that new branch
road, what I mean. I. How much of
the land lies north of the new road—
on the other side of the new road from
his house? A. I do not know exactly.
I. Did you notice what portion of it
did lie north. Objected to. I. Did you
notice that a portion of his land lies
north of the branch road. Objected to
as incompetent. I. Did you notice whether
any of his farm lies north of the
cutoff. Objected to. A. I do not know
exactly—three or four forties. I. You
do not know exactly but you say
how much. Objected to. A. Three or
four forties I do not know exactly.
Objected to as incompetent. The Court
You say there are three or four forties
north of the branch road? A. Yes, sir.
I. You may state what ~~the~~ is your
judgment that farm was worth with
the branch road there—what it was
worth last June, say with the branch
line upon it? A. I guess, that is worth
about \$9,000. The Court. With the rail

52 road. A. No. Without the rail road if
he gave his money now. The Court. You
said before it was worth so much without
the Rail road. A. I said \$12,000. The Court.
How much is it worth with the rail road
on it. A. It is worth about \$9,000.

Cross Examination. By Mr. Mc Nair.
Q. How much was Mr. Pflieger's farm
worth per acre last summer — last May?
A. It was worth about \$35.00 an acre.
Q. About \$35.00 an acre. A. Average acre
for acre. Q. How many acres was it?
A. I guess 400 acres. Q. How much would
that be — 400 acres at \$35.00 an acre? A.
I didn't count. Q. It was not worth
\$14,000.00? A. No. I say \$12,000.00. Q. Then
400 acres is not worth \$35.00 an acre.
You want to drop a little on the acre.
How much is it worth this morning
with the Hastings and Dakota cut
off on it — The road just as you
saw it? A. It is worth about \$20.00
an acre — about \$8000.00 A. Yes,
sir. Q. Is that what it is worth —
\$8,000.00 now. A. I don't want it now
for any more than \$8,000.00. Q. Is it
worth any more than eight — twenty
dollars an acre. Q. Twenty dollars
an acre. Q. That is all it is worth
is it — what made you give Mr. Hinds
a \$1000.00 more than you give me
You told him it was worth nine

5-8 and you tell me it is worth eight.
What makes you make you make a
\$1000 difference; what makes you make
a difference in his favor of a \$1000 don't
you see that there is a difference there
of a \$1000 in a minute and a half
and one farm. A. You can figure it
out quicker as I. I. You did tell him
it was worth about \$200000? A. Yes, sir.
I. And you did say that you understood
there was 400 acres? A. 400 acres. I. And
you did say it was worth \$20.00
an acre. What makes you tell him it
is worth \$9000.00 and me it is worth
\$8000.00 — what makes you tell me it
is worth \$12000.00 — A. I don't figure
it out before how much it was, I.
Then you sort of guessed at this all
around. You recalled what you totted
talked about with this other man
when you put it at \$12000.00 and
mine again — you recollect these two
things don't you; tell the jury as near
as you can how much of Mrs. Pfleger's
farm lies on the north side of this
new rail road. If you are going to
appraise it you must know where it
is. How much land on the north side
of the new rail road? A. I guess about
three or four forty acres. I do not know
on the north side I. Do you know
what shape they lie in: do you know how
the forties are.

Q. (The Court) Are there in a square 160 or
fewer feet long or in a form of an
L, or how is it? A. I do not know
exactly, I guess it is longer than wide
Q. How much of that is marsh, do
you know - that lies on the north
side? A. Yes sir I know. Q. How much?
A. I guess that is about 30 acres, Q. How
much is that worth an acre. A. Not much
account, I guess that is worth about \$25.00
or \$20.00. Q. Do you mean an acre?
A. An acre what I mean. He don't
want to sell it for an acre. Q. you mean
\$20.00 or \$25.00 an acre with the marsh
is worth that. A. Yes sir. Q. Do you
know what taxes he pays on the
marsh land? A. I don't know. Q.
Didn't you make a statement of
how much it ought to be taxed?
before the commissioners here a while
ago? A. No. Q. Are you sure about
that? is not that the piece of land
that did not pay any taxes? are not
you the man that made a statement
here to the Commissioners a while
ago in regard to that? A. No. Q. In
valuing this land you say it is worth
\$12000. last summer and \$900.00 or
\$14000. and \$8000.00 now. Why do you make
that difference? A. He got a good deal
damage on his land. Q. What does

Q. The damage consist of, & A. It spoils the
land. Q. Does it touch the south quarter
section at all - this road the 160 that
he lives on that used to be the Poor farm
A. No. Q. Then it dont damage
that any does it? A. No not the
rest. Q. All the damage consists in
what they took and the inconveniences
in getting on the opposite side. A. Yes
sir. Q. Do you know how much he
could raise on the north side how
much of a farm has he got cultivated
on the north side - do you know.
A. I guess about 40 or 60 acres. I do not
know exactly. Q. How much of this
amount of damage that you arrive at
do you place on the land and how
much for the inconveniences How do
you divide it? how much do you
call the land and how much do
you call the inconveniences or havent
you ever figured on it so as to know
any thing about that. A. I guess that
is about \$600⁰⁰. Q. For which? A.
For this cutting through. Q. \$600⁰⁰ for
what? A. For damage. Q. You think
the new cut off damages him about
\$600⁰⁰? A. Not the whole of it - on the
north side and on the East side.
Q. Is that \$600, about what you fix
the damage to his whole farm for the
new Railroad being built there?

5 6 A. No. 2. What is the \$600 for?
A. On the North east side. I mean
that forty. Q. You think one
forty is damaged \$600. A. Yes sir.
Q. Are you sure that is what you
mean. A. I guess so. Q. You are not
very sure that that is what you mean
that one over forty is damaged \$600?
A. I think so. Q. How much land does it
take out of the forty? A. I don't know
exactly. I guess about three acres. Q. That
forty is not worth quite \$600 without
any buildings on it. It would not sell
for \$15⁰⁰ an acre you would not give
that for it to day? A. I got no use
for it. Q. You would not give that
to speculate on it - \$15⁰⁰ an acre
without any buildings you do not
wish to be understood as swearing
that you think one forty is damaged
\$600 by the Railroad running across
it. That is not what you mean is it -
the damage is more then the land
is worth according to that? A. The
damage makes more then the land
is worth. Q. Do you mean that do you
wish to be understood? You want to
leave it that way - you want to be
understood that the damage is more
then the land is worth? A. I've got
damage the whole time. Q. You say
that that forty is damaged \$600, and

Q. You say you would not want to buy
it at that. You mean that the damage
to one forty is \$600⁰⁰. A. Yes sir. Q.
You think there is about three or four
forties that it runs through. A. Yes
sir. Q. How many forties does the
Railroad run across — do you know?
A. I guess about three forties. Q. I guess
it touches a fourth one a little. If it
touches three and they are damaged
\$600. a forty that would make \$1800⁰⁰.
what do you make up the balance of
your \$3000. out of. A. Which \$3000.
Q. The difference between twelve and
nine? A. He don't cant sell it now
any more for \$900⁰⁰. Q. Could he sell
it for \$12000. last summer after he
cut of the wood that was on the
Poor farm? A. He did not want to
sell it. Q. You say he could not
sell it now for nine. Could he sell
it before for \$12000. the wood has been
cut off pretty much? A. Yes sir. Q.
It is not worth as much now as it was
when he bought it? A. No not so much.
Q. And he did not pay anywhere near,
\$30⁰⁰. an acre for it — do you know what
he paid for it? A. I know what he
paid for it. Q. And you know there
was wood on it then? A. Yes sir. Q. And
you know that he has cut a good
deal of wood since — a few thousand cords?

58 A. Yes sir, and cut enough, and it is a
good deal of work and a good deal of
profit. Q. The wood is cut - the cream
of the thing is gone aint it? (No answer)
Redirect Examination by Mr Hincks.
Q. Is ther not lots of woods still standing
on that Poorfarm? A. Yes sir, I Is not
there to much wood on it? A. Some
good deal of wood on it too. (The number
of witnesses on value limited to five, on
each side by the court) Contract
Pfleghaar. Called by defendant sworn,
testified as follows. Direct Examination
by Mr Hincks. Q. Where do you live?
A. Benton. Q. Are you acquainted
with John Pflegar? A. Yes sir. Q. Is
he any relation to you? A. No sir. My
name is not like his. Q. How far do
you live from him? A. About two
miles. Q. How long have you lived there?
A. Twenty five years next spring. Q.
What is your business? A. Farming.
Q. How long have you been a farmer
A. My life. Q. And you have been
a farmer there? A. Yes, sir. Q. Do know
Mr Pfleger's farm? A. Yes, sir. Q. How
long have you known that? A. As
long as I am here. Q. Have you been
over it. A. Yes, sir, several times. Q. And
know how it is situated. A. Yes, sir.
Q. Know about how much land
he has got? A. Yes, sir. Q. Are you

59 acquainted with the value of farming
land about there. A. I am acquainted
so far as in Carver County, in the
neighborhood and how farms be sold.
Q. Will you state what is your opinion
and your judgment his farm is worth
on the 24th of June last when the com-
missioners made there award of damages,
without the rail road being on it? A.
It is worth in my opinion about \$10,000.
to \$11,000. to \$12,000. I exactly cannot
tell exactly. Q. Have you been over
the farm since the branch Railroad
was put upon it? A. Yes, sir. Q. When
was you there last. A. I was there
last. I do not know whether it is
three or four weeks past. Q. Was the
line of the Road marked out and
worked on? A. It was worked only
several days now. Q. When did you
say you were there last? A. About
three or four weeks. I cannot tell
exactly. Q. Did you notice how
the road run over the different
forties. A. Yes, sir. Q. Did you notice
about how much of this land was
north of the branch road? A. I believe
it is about between 160 or 180 acres.
I cannot say exactly. Q. Did you
notice were crops were cultivated, the
cultivated lands and meadows lands?
A. Yes, sir. Q. And pasture lands?

Q. A. Yes, sir. Q. And where his houses
were. Did you notice whether there was
any fell or embankments upon the land
for the bed of the road? A. Yes, sir. Q.
Or cuts through the high grounds. A.
Yes, sir. I noticed that. Q. Did you
notice the convenience or inconvenience
of working the farm across the rail
road, or where the crossing could be?
A. Yes, sir I noticed that. Q. Will
you state what is your judgment
that farm is worth last June with
the Rail road upon it — as a whole
farm? A. It is worth about two
thousand dollars less worth than
I said before it was worth.

Cross Examination by Mr. McNair
Q. How far do you live from Mr
Pfleger? A. I said before I lived two
miles. Q. Which way? A. Right on
the track, in Benton. I live close
on the ^{next} farm to Benton Depot. Q.
West from this farm? A. Yes, sir.
Q. You know the general value of
land about there? Yes sir I do. Q.
As far East as Mr Pfeleger's and still
further east, and do you know not?
do you know where Mr. Frank's
farm is. A. Yes, sir. Q. And you know
the farms east of there for a little ways
A. I know, still I am not so much
acquainted there. I never was over there

on the same ~~farms~~ 2. You know the
farms around Benton and are acquainted
with the value of them. A. Yes, sir. 2.
Tell the jury would be fair marked
price for Mr. Pfleger's farm to day with
the new road there? A. I stated before
what it was worth. 2. Tell the jury
what is a fair marked price for ~~the~~
Mr. Pfleger's farm with the road there?
A. \$2.00 or less. 2. Just tell them as
near as you can what you think that
farm is worth? A. It is worth about
\$8.000⁰⁰ or \$9.000 or \$10.000⁰⁰ this money.
I cannot say sure anything. That is
my opinion. May be a man would ~~be~~
not buy where it goes through. 2. And
may by some might give a good deal
more on account of that road? It may
be. 2. Dont you think that road is an
advantage be it? Dont you think it
will bring more money in the nearest
cutoff west of that Hastings cutoff
on it then without? — with ~~that~~
~~cutoff~~ on it, one line running to
Hasting and one to Minneapolis — Dont
you think the property is worth more
either for farming or to stick in an
Elevator there ~~or~~ to bring wood? Dont
think the farm worth a great deal
more to day for cash with the Rail
Roads being there. A. I think different.
I think those farmers living there

Q 2 or four miles from the track, be not
bothered and a farm that a Rail Road
goes through it is damaged forever and
ever. Q. Dont it cost something to
haul wood three or four miles? A.
Yes, sir. Q. Is not it an advantage
to have these Roads come together
on that big farm? that is this peculiar
condition of things, with the roads
coming together as represented on
these maps here. (Referring to the map)
taking that 160 to be Mr. Pfligers in
17 and that in eight another taking
that eighty west of eight on the north
making a track of 400 acres. This
being the old road another being the
new road, now with that connection
made complete on his land without
any body else being able to get to it,
and there running together on his
land here, and he owning this little
strip between there. Dont you think
that any body that would want to
buy a farm or a piece of land of 400
acres there, dont you think that
400 acres is worth several thousand
Dollars and with that Hastings
cut off. ? A. No I cannot give you
an answer unless you tell me before
that you build an Elevator there.
Q. With the Rail road owning the
right of way, saying a 100 feet wide

Q. On the two roads, and with Mr. Pflieger
owing all the ballence - he is the man
that is going to build the Elevator or
sell to you - with him owing the land
on both sides and in between dont you
think his 400 acres is worth more then
it is without that cut off? A. No. I
do not think it is unless you build
an Elevator maybe and run through
and not let a passanger on. Q. With
your knowledge of roads, we run
them for profit? Objected to as incompetent
Q. Dont you think that the road benefits
the land that lies East of the creek by
being build through there and the
ditches: I mean out side of what they
take and pay for. Dont you think
it is benefited by there construction
of the road - the lands adjoining what
they take on the east side of Carver
creek? A. You mean that meadow.
Q. Yes, sir. Dont you think it benefited
the land and joining what they take
by constructing the road and ditches
on both sides, on his East side?
A. What I know and I am an old
farmer for a life time, There is a
great deal of damage on it on the
north side and on the south side
of the track. Q. But taking that section
by its self - only that between the creek
and the east line - Dont you think the

Q.

construction of the road benefits that
march? A. No, sir. That damages it. It
is the best meadow I ever be on. Q. Don't
this road benefit it? A. No it makes
damage. Q. In what respect - How? aside
from what they take? A. I say damage,
first before the filing was on it the
water sometimes in the spring run down
quick and overflow the meadow and
that makes a good meadow and that
is stoped now. Q. Can't it overflow
now just as well as before? A. On the
south side the meadow is only about
two acres. It cant go around the filing.
Q. Say the road crosses the creek on a
wide bridg? Can't it flow up like it
had ben. A. The water comes from the
south side. The water dont run up
hill it runs down hill. Q. Is not
there more meadow on the north side
than on the south? A. No there is a
flat meadow off the north side. You
mean on the east side? Q. No. there
is more meadow on the north side
of the road than on the south side.
A. The water comes from the creek
over the north side. Q. The banks above
the water in the creek on ether side on
the road are only about a foot high.
It can flow back on the north side
just as well as on the south side?
A. Not from the field from the south side.

65 Counsel for defendant offered in
evidence the plat made by Mr. Pflieger
Objected to as incompetent Defendant
ask. James Venderwocker. Called
by plaintiff sworn testified as follows.
Direct Examination. By Mr. McRair.
Q. What is your profession? A. Civil
Engineer, Q. Are you one of the assistant
civil engineers connected with this Hastings
and Dakota road that is being build?
A. Yes, sir. Q. Are you familiar with
this locality in the neighborhood of
Mr. Pflieger's farm? A. Yes, sir. Q.
Had you the personal superintendence
and charge of the work. The
engineering work along and across
that farm there? A. Yes, sir I had.
Q. Wont you describe to the jury this
opening that is placed in the road
that we have tacked about here that
is put there as a drain or a cattle pass?
A. It is two bents of fuling driveway
there 12 feet apart from center to center
leaving nearly eleven feet between
the two banks and the fill there at
that place is about eight feet, that
would leave several feet in the clear
from the ground to the lower stringer.
Q. Was it made that wide for the
sole purpose of a drain or was it to
answer for water purposes? A. I under
stand it was for a drain and cattle pass

Q

also, and I so laid it out. Q. Will you state to the jury what if any chances there are for a crossing for Mr. Pfluger to go from one part of his farm to another. What the physical surface of the country is to permit these crossings and then whatever else in regard to this particular crossing. A. There is three places in the field that there can be a crossing placed. I had the crossing at the east end of the crossing cut because he requested it. Q. Is there another place along there where the surface of the country on either side would not be liable to the objections of its being on the side of a mound, as he speaks of?

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1 of the rail road land, or does it run some ^{way} beyond
2 that between the rail road limits and
3 the marsh, the rail road limit being
4 reduced to twenty five feet, the other
5 place I suppose is a 100, or again more
6 whether the dry land extended west
7 beyond the rail road land or not?
8 A. It is not down the road down
9 at this point. Q. In going up the we have
10 got to cross this same old marsh, they would
11 have to come across if they passed through
12 that cattle pass? A. Yes Sir - Q. What kind
13 marsh is that ~~marsh~~ ^{marsh} marsh, the first
14 one west of the road? A. Yes Sir, between
15 them and the cultivated field where
16 the pass is to be made, across the road?
17 A. It is a ^{new} soft marsh, composed of Mass
18 peat, most of it. Q. Does it run on it?
19 Yes Sir, Q. What if anything was
20 you directed by Mr. Pflieger to do
21 in regard to the ditch east of the
22 creek, between his east line and
23 Canon Creek the ditch, across the
24 road? A. He said he wanted the
25 water down one foot below
26 the surface of the marsh. Q. And you
27 so lay out the ditch? A. Yes Sir, Q.
28 They are not necessary for the road?
29 A. No Sir - Q. No benefit to the road
30 its self when they? A. No Sir
31 Cross Examined by Hon. Secy