

No. 13157

Supreme Court of Illinois

Warne et al

vs.

Baker

71641  7

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division.

No. 202.

Warner
vs

Baker

Hans ital
vs
Baker

Precedence

10157

STATE OF ILLINOIS, SUPREME COURT,

THIRD GRAND DIVISION.

APRIL TERM, 1860.

HENRY WARM and DAVID BOWNE, }
202 vs.
LAWRENCE M. BAKER. }

THE only question in the case is, was there a legally laid out highway.

That question turns upon the question whether an appeal may be taken to three supervisors from the decision of the commissioners of two towns, in laying out, or refusing to lay out, a public highway upon the town line.

Commissioners may lay out roads, Laws of 1851, page 71, Art. 24, Sec. 1; manner of doing so, Township Organization Law 1851, page 71 and 72, Art. 24, Sec. 2, 3, 4, 5 and 6.

Appeal by persons aggrieved by action of commissioners of highways, Laws '51, page 73, Art. 24, Sec. 8 and 9.

Petitioner may appeal from refusal of commissioners to lay out road, Laws 1851, page 74, Art. 24, Sec. 15.

Mode of laying road on town line, same act, page 75, Art. 24, Sec. 19 and 20.

Mode of taking appeals; Changed Law of 1857, page 185, Sec. 9, 10 and 11.

Sec. 1 of this act provides that commissioners may lay out, alter, or discontinue road when petitioned by any number of legal voters not less than 12, &c.

Sec. 20 provides that whenever commissioners receive a petition praying location of new road on town line, &c.

Sec. 14 provides that appeal may be taken from the refusal of commissioners to discontinue or lay out any new road petitioned for as provided for, as in Sec. 1; an appeal may be taken.

The only mode of petitioning for road on town line is under Sec. one.

The three sections must be construed together.

B. C. COOK.

22 Dec. 478-

202

~~Lawrence M.~~
Henry Warner
et al vs
Lawrence M. Baker

Plff's Brief

13157

Filed May 10, 1860
L. Leland
Clerk

United States of America }
State of Illinois }
Kane County }

Came before the Honorable Isaac
G. Wilson Judge of the Thirtieth
Judicial Circuit and presiding
Judge of the circuit court of Kane
County in the State of Illinois
at a term of said court begun
held at the Court House in Gen
oa in said County on the third
Monday of November in the year
of Our Lord One Thousand
Eight Hundred Fifty Nine and of the Inde
pendence of the United States of America the
Eighty Fourth

Present Hon. Isaac G. Wilson Judge
Edward S. Gaslyn State attorney
Ethan J. Allen Sheriff

Attort Paul B. Knight - clerk

Be it remembered that heretofore to wit: on
the Twenty Third day of March A.D. 1859
a summons was issued by the clerk of
said Court which was in the words and figures
following to wit

State of Illinois }
Kane County } The People of the state of

Illinois to the Sheriff of said county Greeting.
We command you that you summon Henry
Warne & David Bowne if they shall be found in
your county personally to be and appear before
the circuit court of said county on the first
day of the next term thereof to be holden at
the Court House in Genoa in said county
on the third Monday of May next to answer
unto Lawrence W. Baker in a Plea of Trespass
to the damage of said plaintiff as he says
in the sum of One Hundred Dollars
And have you then and then this writ with
an endorsement thereon in what manner
you shall have executed the same

{ Seal of
Court }

Witness Paul R. Wright clerk of our
said court and the seal thereof at
Genoa in said county this 29th
day of March A.D. 1859

P. R. Wright - clerk

Which summons was returned on the 6th day of
May 1859 and endorsed as follows

Served by reading to David Bowne and
Henry Warne this 4 day of May 1859

Elmer J. Allen Sheriff
By W. W. Clark Deputy

And afterwards Do wit on the 6th day of
May 1857 was filed in the office of the clerk
of said court a Declaration in the words
and ^{figures} following to wit-

Lawrence M. Baker

or
Henry Warm and
David Boone

} Kane County circuit
court of the May Term
A.D. 1857

Lawrence M. Baker plaintiff

in this suit complains of Henry Warm and
David Boone defendants in this suit of a plea
of Trespass: For that whereas the said defendants
on the first day of February in the year of
Our Lord One Thousand Eight Hundred and
fifty Nine and on divers other days and times
between that day and the day before the com-
mencement of this suit with force and arms
&c broke and entered the close of the said plain-
tiff situate and being in the town of Plato and
Campton in the county of Kane and state of
Illinois and known and described as follows
To wit: The east half of the South east quarter
of section six, one in Township Forty one N. E. of
Range Seven east of the third principal
Meridian in the district of lands subject to
sale at Chicago Illinois containing Eighty acres
And also the east half of Lot Number Two of
the North East Quarter of section Six in Township

4.

forty of range Seven in the district of lands
 subject to sale in Chicago Illinois containing
 thirty nine acres and thirty six hundredths
 of an acre and then and then forced and
 broke down the fences then and then stand-
 ing in upon and around said close and
 broke to pieces damaged and spoiled dimes
 Do not give standard fence rails of great
 value to wit: of the value of three Hundred
 Dollars then standing and being in upon
 and around said close and with feet in
 walking tread down trampled upon con-
 sumed and spoiled the grass and herbage
 of the said plaintiff of great value to wit
 of the value of Three Hundred Dollars then then
 growing and being; and with cattle to wit:
 Horses Mares geldings cows oxen & Sheep and
 also with the wheels of dimes carts wagons and
 other carriages crushed damaged and
 spoiled other grass and herbage of the said
 plaintiff of great value to wit: of the value of
 three Hundred Dollars then then also growing
 and being and with the feet of the said
 horses Mares and geldings and with the
 wheels of the said carts wagons and other
 carriages run up subverted damaged and
 spoiled the earth and soil of the said
 close and also then and then broke down

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frustrated and destroyed a great part of ^{some} fifty acres of the fences of the said plaintiff of and belonging to the said close and hindered and prevented the said plaintiff from having the use benefit and enjoyment of said close in so large and ample a measure as he might and otherwise would have done. Do wit at the county of Kane oforsaid and other wrongs to the said plaintiff there and there did to the great damage of the said plaintiff. And also for that the said defendant on the tenth day of February in the year of our Lord One Thousand Eight Hundred and Fifty Nine and on divers other days and times between that day and the day before the commencement of this Suit with force and arms broke and entered one other close of the said plaintiff situate lying and being in the county of Kane and State of Illinois and known and described as the East Half of the ^{East} East Quarter of section Thirty one in Township Forty one north of Range Seven east of the third Principal Meridian in the district of lands subject to sale at Chicago Illinois and there ~~then~~ threw down tore down ~~and~~ broke and destroyed a great part of ^{some} fifty rods of the said fences of the said plaintiff of and belonging to said close.

and then and there broke to pieces and
damaged destroyed and spoiled divers
Go out to out. Five Hundred fence rails
of great value to wit of the value of
Three Hundred Dollars then standing and
being in the fence in said in and upon said
close and with fat in walking trod down
trampled upon consumed and spoiled the
grass and herbage of the said plaintiff
of great value to wit of the value of three Hundred
Dollars then then growing and being and
with cattle to wit: Horses Mares geldings cows
oxen and Sheep and also with the wheels of
divers carts wagons and other carriages crushed
damaged and spoiled other grass and
herbage of the said plaintiff of great value
to wit: of the value of Three Hundred
Dollars then then also growing and being
and with the feet of the said Horses Mares
and geldings and with the wheels of the
said carts wagons and other carriages
torn up subverted damaged and spoiled
the earth and the soil of the said close
and also then and there broke down prostrated
and destroyed a great part to wit fifty
perches of the fences of the said hedges
and fifty perches of the fences of the said
plaintiff of and belonging to the said close

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and hindered and prevented the said plaintiff from having the use benefit and enjoyment of said close in so large and ample a manner as he might and otherwise would have done. Do wit: at the county of Kane aforesaid and other wrongs to the said plaintiff there & there did to the great damage of the said plaintiff. And also for that the said defendants on the Fifth day of February in the year of Our Lord One thousand Eight Hundred and Fifty Nine and on divers other days and times between that day and the day before the commencement of this suit with force and arms &c broke and entered the close of the said plaintiff situate and being in the county of Kane and State of Illinois and known as the East half of lot Number Two of the north east quarter of Section Six in Township Forty of Range Seven in the district of lands subject to sale at Chicago Illinois and then and there threw down tore down and broke down a great part thereof Do wit: Fifty rods of the fences of the said plaintiff in and upon said close and broke to pieces damaged spoiled and destroyed divers Do wit: Five Hundred Fence rails of great value Do wit: of the value of three Hundred Dollars

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then standing and being in the fence in and
 upon said close and with feet in walking
 trod down trampled upon consumed and
 spoiled the grass and herbage of the said
 plaintiff of great value to wit of the value
 of three Hundred dollars then then growing
 and being and with horses Mans gelding
 cows oxen and Sheep and also with the
 wheels of divers carts wagons and other
 carriages crushed damaged and
 spoiled other grass and herbage of the
 said plaintiff of great value to wit of
 the value of Three Hundred Dollars then
 then also growing and being and with
 the feet of the said horses Mans and gel-
 dings and with the wheels of the said carts
 wagons and other carriages tore up
 subverted damaged and spoiled the
 earth and soil of the said close and also
 then and there broke down prostrated and
 destroyed a great part to wit fifty perches
 of the hedges and fifty perches of the fences of
 the said plaintiff of and belonging to the
 said close and hindered and prevented
 the said plaintiff from having the use
 benefit and enjoyment of said close in
 so large and ample a manner as he
 might and otherwise would have done

Do wit at the county of Kane aforesaid and
other wrongs to the Said plaintiff then and
there did to the great damage of the said
plaintiff

9 And also for that the said defend-
ants on the Twenty Sixth day of February
in the year of Our Lord One Thousand Eight
Hundred & Fifty Nine with force and
arms &c. broke and entered on other
close of the Said plaintiff Situate & being
in the county of Kane and state of Illinois
and known and described as the east
Half of the South East quarter of Section
Thirty one in Township Forty One North
Range Seven east of the third Principal
Meridian and the east half of lot Kan-
be Two of the north East quarter of
Section Six in Township forty of Range Seven
all in the district of lands subject to sale
at Chicago Illinois and then and there
threw down broke and tore down
prostrated and destroyed a great
part to wit: fifty rods of the fence of
the Said plaintiff of and belonging to
said close and then and there broke
to pieces damaged spoiled and destroyed
to wit: Two Hundred Fence rails
of great value to wit: of the value of three

Hundred Dollars then and then standing
and being in the fence of the said plaintiff
and upon the said close and with feet
in walking trod down trampled upon
consumed and spoiled the grass and
herbage of the said plaintiff of great
value to wit of the value of Three Hundred
Dollars then then growing and being and
with cattle & with Horses Mans geldings
Cows oxen and sheep eat up and depas-
tured the grass & herbage of the said plain-
tiff of great value to wit: the value of
Three Hundred Dollars then growing &
being in said close and with divers other
Horses Mans geldings Sheep and cattle
and also with the wheels of divers carts
wagons and other carriages crushed
damaged and spoiled other grass and
herbage of the said plaintiff of great
value to wit: of the value of Three Hundred
Dollars then then also growing and being
and with the feet of the said Horses Mans and
geldings and with the wheels of the said
carts wagons and other carriages
trod up & trampled damaged and destroy-
ed spoiled the earth and the soil of
the said close and also then and
then broke down prostrated and

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destroyed a great portion do wit: fifty
pieces of the hedge and fifty pieces of
the other fences of said plaintiff of and
belonging to the said close and other
things to the said plaintiff then and there
did to the great damage of the said
plaintiff

Wherefore the said plaintiff saith
that he is injured and hath sustained
damages to the amount of Three Hundred
Dollars and therefore he brings his suit
&c. W. D. Barry - Atty. for Plff

And afterwards do wit: on the 18th day
May was filed in the office of the clerk
of the said court a plea in the words
and figures following do wit

State of Illinois }
Kane County } Kane county cir. Court
May Term A.D. 1839

Henry Warner
David Bown

vs
Lawrence W. Baker

Trespass

And the said defendant
by Plato and Harney their attorneys come
and defend the force and injury when &c.

and say that they are not guilty of the said
 supposed trespasses above laid to their charge or
 any or either of them or any part thereof in
 manner and form as the said plaintiff hath above
 therein complained ^{against them} and of this the said defendants
 put themselves upon the country &c.

And the Plaintiff with the like
 Cary & Eastman atty. for Plt.

Plato & Harrow
 for Defts.

And for a further Plea in
 this behalf the said defendants by leave &c. say
Actio non because they say that the said defend-
 ants before and at the several times when &c. were
 and still are commissioners of high ways
 in and for the town of Campton in said County
 and that before and at the said several times
 when &c. a public high way had been duly
 laid out recorded and ordered to be opened
 on the town line between the town of Plato
 and Campton in said county and running upon
 and across the said closes of the Plaintiff in
 the said declaration mentioned and that after
 such public high way had been duly located
 and ordered to be opened as aforesaid that por-
 tion of the same running upon and across
 the said closes of the plaintiff in the declaration
 mentioned was duly allotted and partitioned
 to the said town of Campton as a road distinct
 to open keep in repair &c. according to the

Statute in such case made and provided
 And the said defendants aver that after the said
 highway had been located and ordered to be
 opened the said plaintiff was duly notified
 in writing to remove ~~his~~ his fences out of
 and from said public highway And
 Sixty days having elapsed since the serving
 of said notice and the said plaintiff
 neglecting and refusing to comply with
 such notice and open the said public
 highway the said defendants as commissioners
 of highways as aforesaid afterwards
 do wit. at the said time when ~~we~~ entered
 upon the said closes ~~in~~ which we and
 took and carried away the said fences
 &c to a convenient distance and out
 of said public highway & then left the
 same for the use of said plaintiff doing
 no unnecessary damage to the said plaintiff
 on those occasions which are the same
 supposed trespasses in the said plaintiff's
 declaration mentioned and whereof the
 said plaintiff hath above complained
 against them And this the said defend-
 ants are ready to verify wherefore they
 pray Judgment &c.

Plato & Aaron
 attys. for Defts

And afterwards Do wit on the 13th day of June 1859 the same being one of the days of the May Term of said court. The following among other proceedings was had and entered of Record

Lawrence M. Baker
 v
 Henry Warner
 David Bowne } Excess

This day on motion of the defendants leave is given them to file additional Special Pleas

And afterward Do wit on the 25th day of November 1859 was filed in the office of the said clerk of the said court a plea in the words and figures following Do wit

State of Illinois } Kane county circuit -
 Kane county } ss court - November Term 1859
 Henry Warner Ed
 David Bowne }
 at } Excess
 Lawrence M. Baker }

And for a further plea in this behalf the said defendants as to the breaking over &c in this behalf the

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said defendants by leave say actio non
 because they say that before and at the said
 several times when &c. there was and of
 right ought to have been a certain com-
 mon and public highway into through
 over and along the said close in which
 &c. for all people to go pass and repass on
 foot and with carriages at all times at
 their free will and pleasure wherefore the
 said defendants having occasion to use the
 same way at the said several times when &c.
 went and passed into through and over
 the said close in which &c. and along the
 said highway then using the same as he
 lawfully might for the cause aforesaid
 and in so doing the said defendants with
 his feet in walking and the said cattle &
 carriages unavoidably a little trod down
 &c. the grass & herbage then growing & being
 in the said close in which &c. & ^{also} subverted
 damaged &c. the soil of same close at
 the said several times when &c. and because
 the said fences and fence rails in the dis-
 laration mentioned before the said several
 times &c. had been wrongfully erected &
 were then standing in and across the
 said highway and obstructing the same
 so ^{that} the said defendants could not then

pass and repass through and over the
 said close in which &c in the said high
 way there as they ought to have done
 The said defendants at the said several
 times when &c. in order to remove said
 obstructions forced and broke down the
 said fences and rails in the declaration
 mentioned and took and carried the said
 fence rails to a small and convenient
 distance and then left the same for
 use of said plaintiff doing no unreason-
 able damage to said plaintiff on those
 occasions which are the same supposed
 trespasses in the said plaintiffs declar-
 ation mentioned and whereof the said
 plaintiff hath above complained against
 them and thus the said defendants are
 ready to verify wherefore they pray judgment ^{re}
 thereon. Plate & Harvey attys for defts

Upon which there was the
 following endorsement }
 Filed Nov 25 1859
 P.R. Wright clerk }

And afterwards Do wit on the 30th day of
 November 1859 was filed in the office of the
 clerk of said court a petition for a change
 of venue in the words & figures following Do wit

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Samuel M. Baker

Harry Warner &
David Borne }

State of Illinois }
Kane county }
Kane county }
Kane county circuit court
November Term 1857
Do the Honorable Isaac
G. Wilson Judge of the 13th Judicial circuit

The Petition of the under-
signed Harry Warner & David Borne respec-
tfully sheweth that they are defendants in
the above entitled suit that they fear they
will not receive a fair and impartial
trial in the circuit court of Kane county where
said suit is ~~now~~ pending for the reason
that the Judge presiding in said court is
prejudiced against them as they believe so
that they cannot expect a fair and impar-
tial trial that the fact of such prejudice
has come to their knowledge since the last
term of this court and within the last
ten days Do wit on the 21st day of Nov 1857
They therefore pray a change of venue in said
cause to some circuit where said causes
do not exist dated this

Dated this 29th day of November }
A.D. 1857 } Harry Warner
David Borne

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State of Illinois }
Kaul County }

Henry Warne and
David Boone being first duly sworn depose
and say that they are the persons named in
and who signed the foregoing petition
that the matters therein stated they
believe to be true

Henry Warne
Subscribed and sworn to }
before me this 29th day of Nov }
1859 - Daniel Eastman J.P. }
David Boone

Which Petition was endorsed as follows Do not
bind Nov. 30 1859
P. R. Wright - clerk

And afterwards Do not on the 30th day of
November A.D. 1859, the following among
other proceedings was had and entered of
record in said court

Lawrence M. Baker

Henry Warne and
David Boone

vs
Dresspass

This day comes the defend-
ants by Plato & Harry their
attorneys and file their Petition and move the
court for a change of venue herein

And afterwards Do it: on the 5th day of
December A.D. 1859 the same being one of the
days of the November Term of said court the
following among other proceedings was had
and intend of record in said court-

Lamorne M. Baker

v.
Henry Harne and
David Bonne

} Excess

This day came the parties
by their attorneys and the defendants motion
for change of Venue herein coming on to
be heard after the argument of counsel
the court being fully advised overrule said
motion to which ruling of the court the
defendants by Plato their attorney except

And afterwards Do it: on the 7th day of
December A.D. 1859 the same being one of
the days of the November Term of said court
the following among other proceedings was
had and intend of record in said court-

Lamorne M. Baker

v.
Henry Harne and
David Bonne

} Excess

This day comes the plain-
tiff by Bany his attorney

and having filed his demurrer to the defendants special pleas therein the defendants by Plato and Harvey their attorneys also come and join in Demurrer - after argument of counsel the court being fully advised overrules said demurrer. It is therefore considered by the court that the defendants have judgment and execution against the Plaintiff for their costs about said demurrer expended.

And afterwards do wit on the 8th day of December A.D. 1857 was filed in the office of the clerk of said court a replication in the words and figures following do wit:

State of Illinois } Pending in the Kanaw county circuit
Kanaw County } court November Term A.D. 1857

Lawrence M. Baker

^{vs}
Henry Wame & Co
David Bowne }

And the said plaintiff as to the said plea by the said defendants secondly above pleaded says precluding now because he says that before and at the said several times & he &c. referred to in said plea no public highway had been ^{deftly} laid recorded and agreed to be opened on the down line between

the Towns of Plato and Carleton in said County and running upon and across the said close of the said plaintiff and of this he puts himself upon the country &c.

And the said plaintiff by leave &c as to the said plea by the said defendants thirdly above pleaded says Preclude now because he says that before and at the said several times when &c in said plea referred to there was not and of no right ought to have been a certain common and public highway into through over and along the said close in which &c referred to in said plea for all people to go pass and repass on foot and with carriages at all times at their will and pleasure and of this he puts himself upon the country &c

Barry & Eastman
attys for Plff.

Which Replication was endorsed as follows do Evis
Filed Dec. 4th 1859 - P.R. Wright clerk
" " " "

And afterwards do sit on the 8th day of December A.D. 1859 the same being one of the days of the November Term of the said Court the following among other proceedings was had and entered of record

Simmons M. Baker

Henry Harwood } Disposes
David Downer }

This day comes the plaintiff
by Eastman & Barry his attorney and of the
defendants by Plato this attorney also come and
on Motion of the Plaintiff it is ordered by
the court that a jury come whereupon come
a jury of good and lawful men of the county
to wit: Caleb Kipp John Red Gasparash
Nathan John J. Chambers James Wilson Henry
Sym R. Lee James E. Percott John McCalland
John C. Wilson E. S. Smith Jacob Grimes who
being severally sworn and elected are sworn to
try the issues between the Parties and to render
a true verdict herein according to the evi-
dence and after hearing a portion of the
evidence the jury are allowed by the Court
to disperse until the meeting of the court
tomorrow morning

And afterwards do sit on the 9th day of
December A.D. 1859 the same being one of the
days of the said November Term of said court
The following among other proceedings
was had and entered of record

Lawrence M. Baker

Henry Harne Ed

David Bowne

} Trespass

This day came the again the parties by their respective attorneys and the jury heretofore empaneled herein also came and after listening to the remainder of the evidence the arguments of counsel and instructions of the court the jury retire under the charge of a sworn officer of this court to consider of their verdict and by consent of parties it is ordered by the court that when the jury agree they have leave to seal their verdict and disperse and quit the court tomorrow morning at 9 o'clock

And afterwards do sit on the 10th day of December 1859 the same being one of the days of the term of said court. The following among other proceedings was had and entered of record

Lawrence M. Baker

Henry Harne Ed

David Bowne

} Trespass

This day came again the parties to this suit by their respective attorneys and the jury heretofore

impaneled him also came and for a verdict upon their oaths do say that the Jury find the defendant Guilty and assess the Plaintiffs damages at the sum of Five Dollars which is ordered by the court to be entered of record and thereupon the defendant by Plato their attorney moves for a New Trial

And afterwards Do sit on the 17th day of Dec. 1857 the same being one of the days of the November term of said Court. The following among other proceedings was had and entered of record

Lawrence M. Baker

Henry Warme Esq

David Boone

Excess

This day came again the parties in this suit by their respective attorneys and the defendants motion for a new Trial heretofore entered herein coming on to be heard after argument of counsel the court being fully advised overrule said motion and order Judgment on the verdict of the Jury herein

It is therefore considered by the Court that the Plaintiff have and recover of the defendant the sum of Five Dollars damages and also his costs in this suit expended and have

execution therefor — And on motion of
defendants it is ordered that they have ten
days to file their bill of exceptions herein

And afterwards do wit on the 19th day of
December A.D. 1857 was filed in the office
of the clerk of the circuit court of said
county a bill of exceptions in the words
and figures ^{following} to wit:

Lawrence W. Baser	}	Kane county circuit court Nov. Term 1857 Ex parte
Or		
Henry Warner David Browne		

Be it remembered that
on the trial of this cause the Plaintiff proved
that he was the owner and in possession of
the premises described and at the time
mentioned in the declaration and that
the defendants entered upon the same and
removed about four rods of fence at two
points on the town line between the towns of
Campton & Plato in Kane county but wholly
in the town of Plato in Kane county
that they were acting highway commis-
sioners for the town of Campton and claimed
that said fences which they removed
were within the line of a public road

which they claimed had been regularly laid out upon the town line between the said Towns of Campton and Plato — The Plaintiff then asked the defendant then offered as evidence the following certified copies from the files and records of the respective Towns clerk's offices of said Town of Campton & Plato the authenticity of which were duly proven

To the Commissioners of Highways of the Towns of Campton and Plato The undersigned legal voters residing within three miles of the following proposed road alteration would represent that it is necessary and proper and your petitioners ask that all that part of the road commonly known as the Elgin & Spearman road in the town of Plato and west of the St Charles & Genoa road be vacated and relocated as follows Commencing at the North west corner of the town of Campton from thence eastward on the line dividing Plato and Campton until it intersects the St Charles & Genoa road or as near said line as the location of W^m Brophy's House and door yard will justify — Said relocation will pass over lands owned by W^m Brophy L. M. Baker Daniel Playholds and thus over known J. H. Seaton C. C. Ellisthorne A. Nichols J. I.

Minster J. Jackson L. S. Allen A. J. Jackson
 Jason Nichols Daniel M^c Dermid C. O. Croft
 William Arnold Calvin Shurtliff Daniel Seaton
 John D. Madley Gilbert Ellis George Jennings
 Jan 18.4 1858

J. C. Elithorpe being duly sworn
 doth depose say that he posted three copies
 of the within written petitions as follows
 Nelson Walters Shed Gilberts Shop Canada
 comes in the Town of Campton being then
 of the most public places in said Town
 Subscribed and sworn } J. C. Elithorpe
 to before me this 22 day of
 January 1858
 A. R. M^c Wayne J. P. }

The undersigned Commissioners of Highways of the town of Campton met the Commissioners of Plato on the 20th of Oct. 1858 & examined the within proposed road alteration and are of the opinion that the road should be altered as asked for in the within petition but the Commissioners of Plato disagreeing with us as to the practicability of altering the same on account of the damage it would cause the town to pay. We return this petition to the town clerk with this as our refusal to alter the road as asked for

Henry Warmy commissioner
S. M. Cook J of highways
of Campton

Petition to alter town line Road between Plato &
Campton Filed March 12th 1858 at 2 o'clock P.M.

A. Currier

Town Clerk

I Charles D. Cone Town Clerk of Campton
in the county of Kane do hereby certify that
foregoing is a true and perfect copy of the
original on file in my office

Dated this 7th day of June A.D. 1857

Charles D. Cone

Town Clerk of
Campton

To the
Town Clerks of Campton & Plato

Whereas the commissioners of highways of the
towns of campton and Plato in the county of
Kane having upon the application of D. C.
Ellithorpe and others refused to do alter that
portion of the Elgin & Sycamore road which
lays between the St Charles and Genoa & the
Blackberry road as to cause the same to
run from the Northwest corner of the
town of Campton east on or near the line
dividing Plato & Campton until it intersects
the St Charles and Genoa and the undersigned

feeling himself aggrieved by the refusal of said
 Commissioners to make said alteration to wit:
 To so alter said road as to establish the
 same on or near said Town of line between the
 St Charles & Blackberry roads as petitioned
 for by the undersigned and others appeals
 from said determination and order & refusal
 of said Commissioners and assigns the following
 reasons for his: 1st That the commissioners
 by their refusal did not consult the convenience
 of the community or traveling public
 2^d Because the present location of the said
 road has caused me one hundred miles
 extra travel within twelve and will cause
 me the same extra travel every 12 months
 as long as I reside where I now do
 3^d Because it causes one mile extra
 travel to all persons living on the north side
 of Virgil or the south side of said Burlington
 and many persons in the interior of
 Burlington every time they travel to St. Charles
 Genoa Batavia Aurora &c and they present
 this appeal for the purpose of reversing the
 determination of said Commissioners in their
 refusal to locate as above specified He therefore
 prays for a further hearing in the matter
 and for such other order & such further
 proceedings as is by law in such cases

made and provided

~~This~~ ^{said} refusal was filed in
the town clerk's office in Campton on the 12th
day of March 1858 Petition and refusal
filed in Town Clerk's office in Plato on the
13th day of March 1858 April 6th 1858 J.C.
Ellithorpe J.I. Minkler A. Nichols Jasen
Nichols Franklin Jackson Thomas Solomon
Spencer Allen William Demison
Filed April 6th 1858

A. Currier Town clerk of
Campton

I Charles D. Com Town clerk of the town
of Campton in the county of Ramo do
hereby certify that the foregoing is a true
and correct copy of the original on file
in my office Charles D. Com Town

Dated this 7th day of June of Campton
June A.D. 1859

To J. H. Bowman J. Joy Andrew Prigge
Superior of St. Charles Virgil & Rutland
Sirs You will take notice that J.C.
Ellithorpe J.I. Minkler A. Nichols J. Nichols
Franklin Jackson D. Solomon S. Allen & others
have taken an appeal from the decision
of the commissioners of the town of Plato

and Campton in refusing to so alter that part of the Elgin & Sycamore road which lays between the St Charles and Genoa road & Blackberry road as to cause the same to run on or near the line dividing Plato & Campton from the Blackberry to the St Charles road which appeal is made to J. H. Bowman of St Charles D. Joy of Virgil & A. Pinney of Rutland and bears date April 6th 1858 The grounds upon which the appeal is made is the refusal of said commissioners to alter as asked for by said Ellithorpe and others in a petition now filed in my office on the 12th day of March 1858 and said appeal is brought to reverse the determination of said Commissioners

Dated this 6th day of } Honor Curran
April A.D. 1858 } Town Clerk of Campton

Wm. Hanson
Town Clerk of Plato

I Charles D. Come Town Clerk of the town of Campton in the county of Kane do hereby certify that the foregoing is a true and correct copy of the original on file in my office

Dated this 7th day of } Charles D. Come
June A.D. 1859 } Town Clerk of the town of Campton

State of Illinois }
 Kane County } Thomas S. C. Ellithorpe J. C.
 Minister A. Nichols Frank
 Jackson Thomas Solomon of the town of Burlington
 & Jacob Nichols Spencer Allen and
 William Dunison of the town of Virgil in said
 County did on the 6th day of April 1858
 appeal to us from an order and determination
 of the commissioners of Highways of the towns
 of Plato and Campton. Contained in the order
 of said Commissioners deposited with the
 Town Clerks of said Towns & filed in Campton
 on the 12th day of March in Plato on the 13th
 day of March 1858 a copy of which order as
 well as all the papers before us in said appeal
 are hereto annexed & A. Ringue & D. Joy
 having met on the first day of May 1858
 at one o'clock P.M. at the house of Wm.
 Brophy in Campton to hear the proofs and
 allegations of the parties being the time and
 place agreed upon by us when & where we
 would meet to consider said appeal & A. H.
 Bowman one of the supervisors appointed
 by the town clerks of Campton & Plato to hear
 and determine said appeal not attending
 whereupon said Andrew Ringue & D. Joy
 proceeded to fill the vacancy with A. H. Barlow

Supervisor of Kamoville in said county &
 then adjourned to meet at the house of said
 Brophy aforesaid on the 6th day of May 1858
 at ten o'clock A.M. at which place we met
 as per adjournment & it appearing that
 said commissioners of Highways & three of the
 petitioners in said case had been duly notified
 of which meeting as required by law we
 did proceed to hear the proofs & allegations of
 the Parties & to consider said appeal & we being
 now fully advised in the premises are of the
 opinion that said road is necessary & proper
 & that the Public interest will be promoted
 thereby we do therefore order that the order and
 determination of said commissioners of high
 ways be and the same is hereby in all
 things reversed & do order and determine
 that the said road be and the same is hereby
 laid out and established on and near
 the line between the towns of Plato & Campton
 agreeable to the prayer of the petitioners &
 also of that of those of the petitioners who have
 taken this appeal as may be seen by the papers
 herewith connected more particularly described
 as follows to wit: Commencing in the center
 of the St Charles & Lenox road exactly on
 the line between Plato & Campton near Wm.
 Walker residence and running thence

in a westerly direction across the lands of
 the aforesaid W^m G Walker & D. Reynolds
 or or near the line between about them about
 twenty two rods thence in the same direction
 wholly on D. Reynolds land about eighty rods
 Thence in the same direction wholly on
 L. M. Bakero land about eighty rods more or
 less to the middle of the Blackburn road & to a
 point exactly two rods north of the line
 between the ^{paid} towns of Leamington and Plato & that
 the said line above described by the center
 of said road and the same is hereby declared
 to be a public highway four rods wide in width
 for a more definite description of the same
 above newly laid or altered road see the
 accompanying map of the survey which we
 have ordered & caused to be made and it
 is further ordered & determined in consequence
 of the laying out of the above described road
 that all of that part of the road commonly
 known as the Elgin & Sycamore road which
 lays in the town of Plato from the St. Charles
 & Geneva road to the Blackburn road be and
 the same is hereby vacated. The following is a
 more particular description of the vacated
 part of the Elgin & Sycamore road to wit:
 commencing with its intersection with Black-
 burn road running thence north 70° east

35

16¹⁰⁰ chains Thence north 79 1/2° east 16 chains
to the St Charles & Geneva Road more or less
and the undersigned Supervisors further
report that Wm G Walker across whose land
the above described road crosses for the dis-
tance of Twenty Two rods nearly has not
set up any claim for damages & that in our
assessment of damages on said road - we
have estimated the advantages to the said
Walker to be equal to the damages inasmuch
as the laying & opening of said road opens to
him a direct & feasible route to Blackberry
Station and to the Southern and central portions
of our county And in relation to dam-
ages claimed by D. Reynolds across the whose
land the said road passes for the distance
of eighty rods we the undersigned having
applied to him with a view of agreeing with
him upon the subject & totally failing to do
so we proceeded to assess the same at what
we deemed just & right taking into account
the advantages as well the disadvantages &
have assessed the damages to the said
Reynolds by crossing his land on
Section No 32 in the town of Plato ^{& section} No 5
in the town of Campton at being inclosed
improved land at Two Hundred and
fifty Dollars

And in relation to damages claimed by L. M. Baker across whose land the said road passes for the distance of Eighty rods more or less on Section No 31 of the town of Plato and Section No 6 of Campton we have proceeded to assess the damages at what we deemed just & right & taking into the account & estimating the advantages & benefits as well as the disadvantages and we have estimated the advantages of said road equal to the any and all his damages in as much as the vacation of the above section of the Elgin & Sycamore road which lays wholly on the said Baker's land saves him one acre & twenty hundredths of land and about twenty six rods of fence

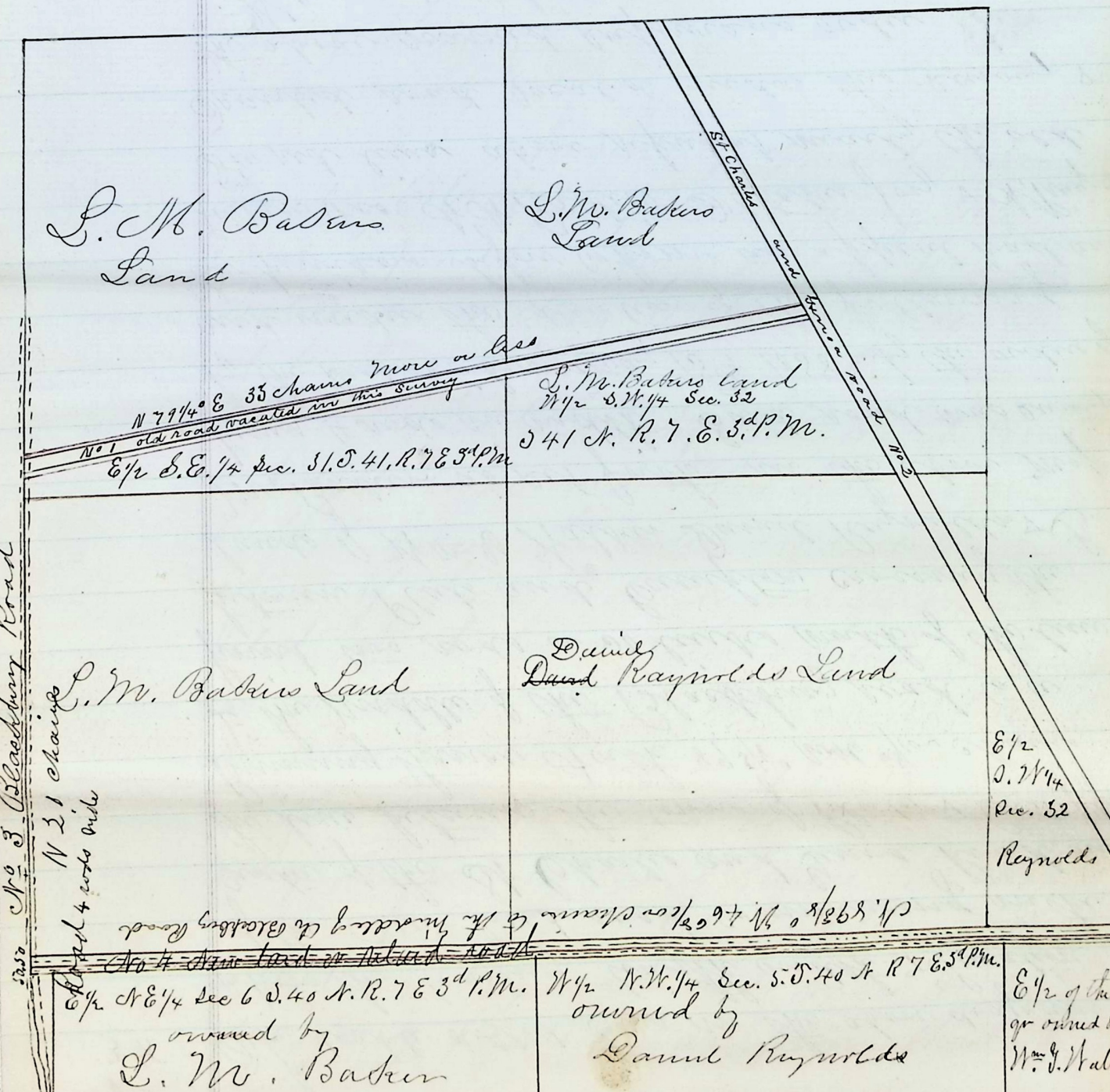
And it is further ordered and determined that the Town of Campton pay one hundred & twenty five Dollars and the Town of Plato pay the same amount to D. Reynolds making a sum total of Two Hundred & Fifty Dollars the same being for damages expressed in the above order —

And also that the town of Campton pay H. H. Rawlin \$1.50 & J. J. J. \$2.25 & A. P. J. \$2.25 and that the town of Plato

pay A. H. Ravlin \$1.50 & H. Joy \$2.25 and
A. Piquet \$2.50 these amounts making
\$12.00 it being the expenses of the appeal for
Superior services &c

In witness whereof we have hereunto
set our hands this 6th day of May A.D. 1858

Audun Piquet Supervisor of the town of Rutland
D. Joy Supervisor of the town of Vergennes
A. H. Ravlin Supervisor of the town of Kauwille



The double dotted lines in the above diagram show the bearing length width & Location of the New laid road commencing in the center of the St Charles and Genoa Road on the line between the towns of Plato & Crompton Running thence North $89\frac{5}{8}^{\circ}$ W 46 $\frac{1}{2}$ Nos chains to the middle of the Blackberry road to a point two rods or 50 links north of the line between Plato and Crompton crossing the lands of W^m G Halber Daniel Reynolds & L. M. Baker as set forth in the above map being 4 rods in width. Said road was surveyed by the Subscriber May 15th 1858 by the order of and under the direction of the following Supervisors before whom an appeal had been taken viz A. St. Paulin Ditcher Joy & A. Pingree. The red lines above represent nearly the old traveled road vacated under this survey & the above named Supervisors order.

Witness my hand and seal

Andrew Pingree - deputy
County Surveyor in Kane County
Illinois under Adin Maurer
Surveyor of the county aforesaid

Expenses of Crompton on within

Daniel Reynolds \$125.00 A. St. Paulin \$1.50.

D. Joy \$2.25 & A. Pingree \$2.25

Filed This 17th day of May 1858

E. Miller Town clerk of
Crompton

I Charles St. Come Town Clerk of Campton
in the County of Kane do hereby certify that
the foregoing is a true and correct copy of
the original on file in my office

Dated this 7th day of Jan^y

A.D. 1857

Charles St. Come

Town clerk of the
Town of Campton

State of Illinois }
Kane county }

Personally appeared before me
this day J. C. Ellithorpe and being duly
sworn upon his - says that he has given
notice in writing to the Commissioners
of high ways of the towns of Campton &
Plato in said county that he the said
J. C. Ellithorpe and others have taken an
appeal from the order and determin-
ation of the said Commissioners
filed in the town clerk's office in Camp-
ton on the 12th day of March 1858 and
in Plato on the 13th day of March
A.D. 1858 refusing to so alter the Eggle
& Sycamore road as to cause the same
to run from the St. Charles & Genoa Road
to the Blackburn road on or near the line
dividing Plato & Campton that the

Notices were given to the commissioners
in the town of Plato on the 12th day of April
1858 & that said notices stated that S. H.
Borman of St. Charles & J. J. of Virgil &
A. Vinque of Rutland would meet at
the house of Wm Brophy in the town of
Campton on the first day of May 1858 to
hear and determine said appeal which
was taken to reverse the determination
of said commissioners - That like notices
were given to the commissioners of high
ways of the town of Campton and also
to three of the petitioners for said road
on the 13th & 14th day of April 1858
E. C. Elthake

Subscribed & sworn to
before me the first day
of May 1858
S. W. Cook
Justice of the Peace

I Charles A. Cone Down Clerk of
Campton in the county of Kane & State
of Illinois do hereby certify that the within
is a true and perfect copy of the original
on file in my office

Dated this 7th day of June 1859

Charles A. Cone

Down Clerk of
Campton

State of Illinois }
 Kane County }

Whereas a public highway
 has been laid out on and near the line
 dividing Plato & Campton from the north
 west corner of the Town of Campton
 nearly east on ~~to~~ near the line aforesaid
 for the distance of Three Hundred & Sixty
 Three rods or thereabouts It is therefore
 ordered that the said highway be divided
 into two road districts as follows To wit:
 That part thereof from the South West
 corner of the Plato to the East line of the
 South West quarter of Section 31 in Plato
 shall be one of said road districts and is
 hereby allotted to the town of Plato That the
 residui of said Highway shall be the other
 road district and is hereby allotted to the
 Town of Campton

In witness whereof the said Commissioners
 have hereunto subscribed their names this 16th
 day of December A.D. 1858

Henry Kame } Commissioners of Kane
 David Brown } County of Campton

W. M. Morehouse } Commissioners of
 Smith Jamison } Kane County of Plato

Filed & Recorded Dec. 16th 1858 W. M. Hanson Town Clerk
 of Plato

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Filed in My Office
Dec 18th 1858

E. Miller Town Clerk of Campton

I Charles F. Com Town Clerk of the town
of Campton in the county of Rara in
State of ~~Massachusetts~~ do hereby certify that the
within is a true ^{perfect} copy of the original, file
in my office

Dated this 7th day of June 1858

Charles F. Com
of Town of Campton

J. Lawrence M. Baker

To Lawrence M. Baker You will take notice that a high way four rods in width has been located in pursuance of Law Do. Cr. by three supervisors of Kane County namely A. Prigue Supervisor of Rutland J. Joy Supervisor of Argill & H. H. Rodin Supervisor of Kauville. Said road was located by said Supervisors upon an appeal taken from the determination of the commissioners of highways of Campton & Plato in refusing to locate which highway is laid out agreeable to an order of said Supervisors bearing date the Sixth day of May A.D. 1858 which highway passes through certain enclosed lands owned & occupied by you as follows Beginning at the center of the St Charles & Geneva road on the line between Plato & Campton and running thence North 89° West 46 $\frac{1}{2}$ chains to the middle of the Blackberry road to a point two rods north of the line between Plato & Campton You are therefore hereby notified & required to remove your fences from within the bounds of said high way within Sixty days after the Service of this notice

Henry Warner & Commissioners
David Bonney Highways of Campton

Personally appeared before me this day of
 Jacob S. Minkler who being duly sworn
 upon his oath says that the within is
 a true copy of a notice given to Sumner
 W. Baker at his residence in the town of
 Plato on the 18th day of December 1858

Subscribed & Sworn to } Jacob S. Minkler
 before me this 21st day of }
 February 1859

Samuel M. Cook, P. Secy

Filed in my office

this 26th day of Feb.
 1859 at 6 o'clock P.M.

E. Muller Town Clerk

The original of which
 this is a true copy was handed to the said
 Baker on the 18th day of December 1858 by
 J. S. Minkler

I Charles D. Cow Town Clerk of the Town
 of Campton Kane County State of Illinois
 do hereby certify that the within is a true
 & perfect copy of the original on file in
 my office

Dated this 7th day } Charles D. Cow
 of Jan A.D. 1858 } Town Clerk of Campton

To the Commissioners of highways of the
 towns of Plato & Campton The undersigned
 legal voters residing within three miles of the
 following proposed road alteration would
 represent that it is necessary & proper &
 your Petitioners would respectfully ask that
 all that part of the road commonly known
 as the Elgin & Syracuse road which lays
 in the town of Plato and west of the St. Charles
 & Genoa Road be vacated & relocated as
 follows Commencing at the North west
 Corner of Campton from thence eastward
 on the line dividing the towns of Plato &
 Campton or as near thereto as practicable
 until it intersects the St. Charles and
 Genoa Road said relocation will pass
 over lands owned by Wm Profy L. M. Baker
 Daniel Reynolds and others not known

J. H. Seaton J. C. Ellithorpe A. Nichols
 J. E. Munster ^{Deputy Justice} J. S. Allen A. S. Jackson
 Jason Nichols C. D. Craft Daniel W. Dennis
 William Arnold Calvin Shulliff Daniel Seaton
 John D. Hadley Gilbert Ellis George Cummings
 State of Illinois }
 Kauai County } I William Hanson Town Clerk

of the town of Plato do hereby
 certify that the above is a true copy of the original
 petition filed in my office by the road

Commissioners of the town of Plato on the 13th day
March 1858

William Hanson Town Clerk of
Plato

J. C. Ellithorpe being duly sworn doth depose
and say that he posted three copies of the
written petition as follows Plato 4 corners 4
corners near W. P. Harveys farm 4 corners at S. M.
Bakers in the town of Plato being three of
the most public places in said Town

Subscribed & Sworn to before

me this 22^d day of Jan. 1858

A. R. M^c Wain J. P.

Not granted filed March 18th 1858

Wm Hanson Town Clerk

State of Illinois
Kane County

I William Hanson Town
Clerk of the town of Plato
do hereby certify that the above is a true
copy of the endorsement on the back of
the original petition filed in my office by the
Commissioners of the town of Plato
on the 13th day of March 1858

Wm Hanson Town Clerk of
Plato

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To J. H. Bowman J. Joy Andrew Pingree
 Supervisors of St Charles Virgil & Rutland
 Sirs you will take notice that D. C. Ellithorpe
 J. I. Minkler A. Nichols J. Nichols Frank
 Jackson D. Solomon S. Allen & others have
 taken an appeal from the decision of the
 Commissioners of the Towns of Plato & Campton
 in refusing to alter that part of the Elgin
 & Sycamore road which lays between the
 St Charles & Genoa road and Blackberry road
 as to cause the same to run on or near the
 line dividing Plato & Campton from the Black-
 berry to the St Charles Road which appeal is
 made to J. H. Bowman of St Charles J. Joy
 of Virgil & A. Pingree of Rutland & bears
 date April 6th 1858 The grounds upon which
 the appeal is made is the refusal of said
 Commissioners to alter as asked for by said
 Ellithorpe & others in a petition now filed in
 my office on the 12th day of March 1858
 & said appeal is brought to reverse the
 determination of said Commissioners
 Dated the 6th day of April A.D. 1858.

Abner Garrison Town Clerk of Campton
 Wm. Hanson Town Clerk of Plato

State of Illinois }
 Kane County } I William Hanson Town
 Clerk of the town of Plato

do hereby certify that the above is a true copy of the original certificate of Selection of Supervisors to hear and determine the appeal therein mentioned now on file in my office in connection with the other papers in relation thereto

William Hanson Town Clerk, Plato

State of Illinois }
Kane County }

Whereas Timothy C. Ellithorpe J. I. Musker A. Nichols Frank Lee Jackson & Thomas Solomon of the town of Burlington in said county & Jason Nichols Spencer Allen & William Quinson of the town of Virgil in said county did on the 6th day of April A.D. 1858 appeal to us from an order & determination of the Commissioners of high ways of the towns of Plato & Campton contained in the order of said Commissioners deposited with the town clerks of Plato and Campton respectively To wit: in Plato on the 18th day of March A.D. 1858 and in Campton — the 12th day of March A.D. 1858 a copy of which said order as well as all the papers before us in said appeal are herewith ^{annexed} and we Andrew Ringier & Ellithorpe having met on the

first day of May 1858 at one o'clock P.M.
 at the house of William Brofy in the town
 of Campton to hear the proofs and allega-
 tions of the Parties being the time and place
 agreed upon by us when and where we
 would meet to consider said appeal &
 finding that J. H. Bowman the St. Charles
 Supervisor did not attend (who had been
 appointed by the respective town Clarks of
 Campton & Plato as one of the Supervisors
 before whom the appeal had been taken
 whereupon we proceeded to fill the vacancy
 with N. St. Paulin Supervisor of the town of
 Vergil Kanville and then adjourned
 to meet at the house of the aforesaid Wm.
 Brofy on the 6th day of May 1858 at 10 o'clock
 A.M. at which place we met as for
 adjournment and it appearing that said
 Commissioners of highways and three of the
 Petitioners in said case had been duly no-
 tified of which meeting as required by law
 we did proceed to hear the proofs and allegations
 of the parties and to consider the appeal &
 we being now fully advised in the premises
 are of the opinion that said road is necessary
 and proper and that the public interest
 would be promoted thereby We do
 therefore order that the road and determin-

ation of said Commissioners of highways
 be and the same is hereby in all things
 reversed and do order and determine that
 the road be and the same is hereby laid
 out and established on and near the line
 between the Towns of Campton and Plato
 agreeable to the prayer of the Petitioners &
 also of that of the Persons who took the
 appeal as may be seen by the Papers
 herunto connected more particularly
 described as follows To wit: Commencing
 in the center of the St Charles and Genoa
 road exactly on the line between Plato
 & Campton near William G Walbers
 residence and running thence in a
 westerly direction across the lands of the
 aforesaid Walber & D. Reynolds on or
 near the line between them about twenty
 two rods thence in the same direction
 wholly on D. Reynolds land about eight-
 ty rods thence in the same direction wholly
 on S. Mr. Bakers land about eighty rods
 more or less to the middle of the Black
 berry road and to a point exactly two
 rods north of the line between the said
 Towns Campton & Plato & that said
 line above described be the center of said
 road and the same is hereby declared

to be a public High way four rods in width
 For a more definite description of the above
 newly laid or altered road see the accom-
 panying Map of the Survey which we have
 ordered and caused to be made

And it is further ordered and determin-
 ed in consequence of the laying of the
 above described road that all of that part
 of the road commonly known as the Elgin
 & Spearman Road which lays in the town of
 Plato from the St Charles & Geneva Road to
 the Blackberry road be and the same is
 hereby vacated The following is a more
 particular description of the vacated
 part of the Elgin & Spearman road
 To wit- Commencing at its intersection
 with the Blackberry road and running
 thence north 70° East- $16\frac{1}{2}$ rods thence
 North $77\frac{1}{2}^{\circ}$ East- 16 chs to the St Charles
 & Geneva road more or less And we
 the undersigned Supervisors further report
 that W^m G. Walker across whose land
 the above described road passes for the
 distance of twenty rods nearly has not
 set up any claim for damages and that
 in our assessment of damages on said
 road we have estimated the advantages
 to the said Walker to be equal to the

damages was much as the laying and opening of said road opens to him a direct and feasible route to Blackburn Station and to the Southern & Central portion of our County - And in relation to damages claimed by D. Reynolds across whose land the said road passes for the distance of Eighty rods we the undersigned having applied to him with a view of agreeing with him upon the Subject and totally failing to do so we proceeded to assess the same at what we deemed just and right taking into the account the advantages as well the disadvantages and have assessed the damage to the Said D. Reynolds by crossing his land on Section No 32 in the town of Plato & Section No 5 in the town of Campton it being enclosed and improved lands at Two Hundred & fifty Dollars -

And in relation to the damages claimed by L. M. Baber across whose land the said road passes for the distance of Eighty rods more or less on Section 31 of the town of Plato and Section No 6 of the town of Campton we have proceeded to assess the damages at what we deemed just and right and taking into the account and estimating

the advantages and benefits as well as the disadvantages we have estimated the advantages of said road equal to ~~the~~ any and all his damages inasmuch as the above vacation of the above section of the Edgim & Sycamore road which lay wholly on said Babers land gave him one acre & twenty hundredths of land and about ninety six rods of fence And it is further ordered and determined that the town of Campton pay one hundred & twenty five dollars and the town of Plato pay the same amount to D. Reynolds making a sum total of Two Hundred & fifty Dollars this being for damages expressed in the above order And also that the town of Campton pay A. St. Paulin \$1.50 and Plato pay him \$1.50 and the town of Campton pay J. J. J. \$2.25 and Plato pay him \$2.25 and that the town of Campton pay A. Ringer \$2.25 & Plato \$2.25 These several sums equaling \$2.00 it being for expenses of the appeal for supervisors services In witness whereof we have hereunto set our hands this 6th day of May A.D. 1858.

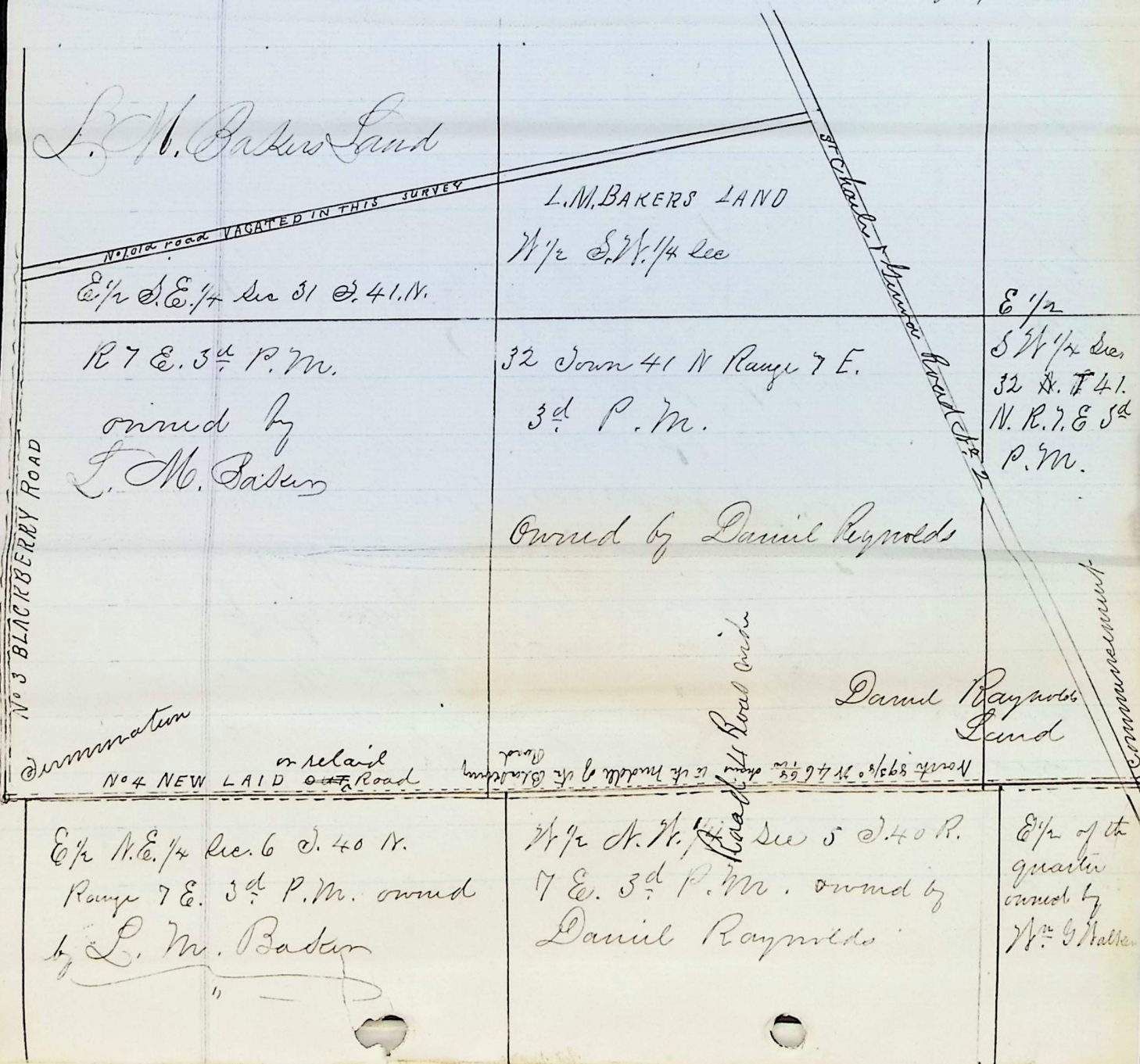
Andrew Ringree Supervisor of the town
of Rutland
J. J. J. Supervisor of the town of Virgil
A. St. Paulin Supervisor of the town of Plamond

54 : State of Illinois }
Kane County }

J. William Hanson Town

Clerk of the Town of Plato do hereby certify that
the foregoing is a true copy of the original
report of the Surveyors whose names are
hereunto attached which was filed in my
office on the 20th day of August-1858 D.
that the following is a true copy of the
original map and survey attached to said
report

Wm Hanson Town Clerk
of Plato



55 The double dotted lines in the above diagram show the bearing length width & location of the new land road commencing in the center of the St Charles & Genoa road on the line between the towns of Plato & Campton and running thence N. $89\frac{3}{8}^{\circ}$ W. $46\frac{28}{100}$ chains to the middle of the Blackberry road to a point 2 rods or fifty links north of the line between Campton and Plato crossing the lands of Mrs. Walker Dunal Reynolds & S. M. Baker as set forth in the foregoing map being 4 rods in width said road was surveyed by the Subscriber May 15th 1858 by the order of and under the direction of the following Supervisors before whom an appeal had been taken viz. N. N. Ravlin Fletcher Jay & A. Pinque the red lines ^{above} nearly represent nearly the old locality travelled road vacated under this survey and the above named Supervisors order

Witness my hand and seal

A. Pinque (Seal)

deputy county surveyor under
Edwin Mann Co Surveyor of
Kane County Illinois

State of Illinois }
Kane County, } J. William Hansen Sec. of the

Do the introduction of which as evidence
 to the jury the Plaintiff by his counsel objected.
 The court sustained the objection and refused
 to allow the same to be given in evidence to
 which ruling & decision of the court in
 refusing to allow said papers to be read as
 evidence to the jury the depts. by their coun-
 sel at the time excepted the Plaintiff then
 asked the court to instruct the jury as follows
 1st. That if the jury believe from the evidence
 that the Plaintiff Baber owned and possessed
 the closes in question and that the defendants
 while said Baber owned the same & was in
 the possession thereof in February last entered
 upon said premises and tore down the fences
 or fences erected thereon and passed across
 said closes on foot or in a wagon against
 the wish of said Baber such acts as thus
 tearing down said fences or thus entering
 into his closes and passing upon his soil are
 in law Trespases and under such a state
 of facts the plaintiff is by law entitled to
 nominal damages unless the jury further
 believe there was a legal highway across the
 closes where the supposed Trespases were
 committed and along which highway they
 passed while crossing the premises in question
 and the burden of proof is upon the defendants
 to establish such highway

That if the Jury believe from the evidence that the defendants passed over the closes in question without the permission of Baker and that ^{he} at such time was possessed thereof even if the Jury should believe that the next fence in controversy was within the limits of the Blackburn Road Still in Law the men passing over the land in question is a trespass and will allow the Plaintiff to sue therefor.

That the records offered in evidence of the county commissioners Court on part of the defendants do not establish a road over the closes in question.

Which was done by the court to the giving of which said instructions by the court the defendant by their counsel at the time excepted - The jury found a verdict of ~~Five~~ Dollars for the plaintiff the defendants then entered their motion for a new trial for the reasons that the verdict was contrary to law and the evidence. The Court erred in excluding the evidence offered by the defendants. The court overruled said motion for a new trial and ordered judgment on the verdict to which decision of the court in refusing the defendants motion for a new trial and

rendering a judgment on the verdict
The defendants by their counsel at the time
accepted and pray that this that bill of
exceptions may be signed which is
done &c

Isaac G. Wilson *(Seal)*

State of Illinois
Kane County ss

I Paul R. Knight
Clerk of the Circuit Court
of said county do hereby certify that
the foregoing is a true and correct trans-
cript of the record and files in my
office in a suit in which Lawrence M.
Baker is plaintiff & Henry Warner Ed
David Bowne are defendants of the
following papers viz Summons & the
officers return thereon Declaration Pleas
Petition for change of Venue Replication &
bill of Exceptions and all the orders of
court entered of record in said cause



Witness my name and the seal of
said court at Genoa in said
county this 14th day of March A.D. 1860
P. R. Knight - Clerk

and now comes the said Army Nurse
and said Borne plaintiffs in error
by their atty W.B. Plato, and assign for
errors the following

- 1st the Circuit Court erred in refusing
to allow the evidence offered by the depts
to be given to the jury
- 2^d the Circuit Court erred in giving the
instructions to the jury as asked by the
plaintiffs below

Plato, for, plff in error

and now comes the said L. M. Buller
defendant in error by W. B. Plato's attys
and says there is no such error in the
Record and proceedings as above assigned &c

Lawrence M. Baker

Henry Harn et al.

Lawrence M. Baker } State of Illinois
~~vs~~ } Supreme Court April
Henry Wame & } Term AD 1860
David Bowne }

And the said Lawrence M. Baker by
D. Barry his attorney comes and says that there is
no error either in the record and proceedings
aforesaid or in giving the judgment aforesaid and
therefore he prays that the said judgment may be
affirmed &c

By W. D. Barry
His attorney

Lawrence M. Baker }
~~vs~~ }
Henry Wame & } Supreme Court April Term
David Bowne } AD 1860

It is agreed by and between the parties
to the above entitled suit that no order is to be
taken but said suit is to stand continued until
Tuesday of the second week of said court

W. D. Barry
Attorney for Defendant
N. B. Plato for plaintiff

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Mam & Brown
L N Baker