

Table with 2 columns: Description of advertising rates and corresponding prices.

THE TURNPIKE CASE.

Supreme Court Refuses Appeal.

JUDGE ORLADY'S OPINION.

The following is the opinion of the Superior Court in the proceedings to condemn that portion of the Chambersburg and Bedford Turnpike Road in Bedford county.

The history of the Chambersburg and Bedford Turnpike Road began in an act of assembly of February 24, 1806, by which the Governor of the commonwealth was authorized to incorporate a company for making an artificial road from the bank of the river Susquehanna opposite the borough of Harrisburg to Pittsburg, which act was supplemented by one of March 9, 1814, by which the incorporation of five companies was provided for, and the section of which the turnpike in controversy is a part, was styled the Chambersburg and Bedford Turnpike.

The present proceedings were begun October 8, 1900, under authority of the act of June 2, 1887, P. L. 306, by a petition signed by 228 taxpayers of Bedford county, setting forth that the said turnpike, from the intersection of Juliana and Pitt streets, near the Grand Central Hotel, in the borough of Bedford, eastward to the Fulton county line, a distance of nineteen miles, was in bad condition, and that its bridges were of a dangerous character, and that for other reasons, it was for the best interest of the people of Bedford county that the portion of the turnpike road described should become a public road free from toll and toll-gates, and the signers thereof prayed the court to appoint a jury of view, etc., to view and condemn said turnpike road, between the points named, and assess the damages to which the owner or owners of said road might be entitled.

The testimony taken is printed on 320 pages of appellant's paper book, and the first thirty assignments of error are filed to the action of the master in admitting evidence by the petitioners. (The court then construes the provisions of the act of 1887 as to the matter of this character and holds that no exceptions lie to the admissibility of testimony and thus disposes of the thirty assignments of error.)

The assignments of error from thirty-one to forty-six inclusive are founded upon exceptions taken to the instructions of the masters given to the viewers on matters of law. The measure of damages in a turnpike condemnation proceeding has been considered by this court in Somerton Turnpike 16 Pa. Supreme Court

400, in which case the recent decisions of the Supreme Court are reviewed and followed. In that case we hold that all that is taken from the company should be paid for, no more and no less, and all that is taken, not may, but must, be considered by the jury of viewers in determining the reasonable damages for which the county should pay in taking the property of the Turnpike Company for public use. It is clearly decided that the fair value of the road bed and the fair value of the franchises at the time of the condemnation are to be determined from the physical condition of the property, its substructure and superstructure and approaches to bridges, together with the right or privilege of the company to collect toll from the travelers, the entire corporate rights of the Turnpike Company are taken and it is the value of the property to the owner and not to the county taking it that is to be determined. Montgomery vs. Schuykill Bridge Co. 110 Pa. 54.

The physical tangible property and the right to collect tolls on the part of the Turnpike Company exclusive of this section of nineteen miles is not affected by this proceeding except as its value is depreciated by this condemnation. The part in Fulton county must necessarily be considered as an element of profit and loss. The character of the travel on this turnpike was properly before the jury for consideration. The affairs of the corporation were managed with reference to the entire length of the road. The value of its stock, its annual gross and net earnings, expenses, and the structural condition of the road were shown by evidence adduced by the company and the petitioners. The master rightly held that the original cost of construction is not material except as to the bearing it may have on the question of value. "It is a question of value. What is the road worth? Not what did it cost?"

The jury should have taken into consideration the road as they found it, its road bed, culverts, and bridges together with the evidence relative thereto as these are elements to be considered by the jury in ascertaining the true value of the road. This instruction followed the rule laid down in Milfin Bridge Co. vs. Juniata Co. 144 Pa. 565, and other cases cited. The effort on the one side was to make the property a very valuable one, and on the other to show that it was of but little value. The jury decided that it was for the best interests of the people of Bedford county that the designated part should be made free from tolls and toll-gates and assessed the damages sustained by the company at \$5,087.50.

The character and productiveness of the whole road and of the part affected by these proceedings were shown in order to assist the jury in determining the value of the part condemned as compared with the whole road. It was not conclusive proof but was for the consideration of the jury along with the other evidence in the case, and as submitted by the master was not in conflict with Turnpike Road vs. Berks county, 196 Pa. 21.

The returns made by the Turnpike Company to the auditor general for ten years preceding this condemnation were competent evidence to show the value the Turnpike Company placed upon its own stock, a valuation made under oath by its own officers.

The property and the franchises are represented by its stock and the market value of the stock may be said to represent the market value of the property as nearly as it can be ascertained.

It was clearly shown by the evidence that the toll-houses were not within the right of way secured to it by the State and this condemnation does not affect the title of the company to these properties. They are not only outside of the strip of ground fifty feet wide, on which the road was built, but little to them was acquired by the company for its convenience by independent purchase. The depreciation in value of these properties by reason of the condemnation was properly submitted to the jury and passed upon by the learned trial judge below in overruling the exceptions filed to the report of the jury of view. But these properties were not procured by the aid of the State as incident to the franchises conferred on the company.

They were obtained by means altogether independent of any governmental authority and the title to them as related to the turnpike is no more subject, in this case, to the sovereign power of the commonwealth, than that of any farm lying along its way. In making these private purchases, the company, was not limited as to the extent of its holdings. If it could hold one and a half acres in a body, we see no legal reason why it might not hold ten or twenty. In either case it must all lie outside of the roadway and the corporate privileges bestowed by the commonwealth. As already shown, the toll-houses could have been built within the fifty feet dedicated to the public use, but on the score of mere convenience and comfort and not from necessity, lots of larger dimensions were preferred outside. The makers of the act of 1887 certainly never contemplated that it should effect anything but the mere highway, and it only in order that its use might be transferred from the corporation to the public. Every permanent structure standing upon the road would, of course, pass with it. This proceeding is a mere withdrawal of the privileges derived from the State and operates only on the company's franchises and the property acquired thereunder through the State's authority, but if we would assume, as the company does, that the lots in question might be taken under the act of 1887, what would then become of them? The legislature cannot authorize the taking of private property or public property for that matter, for any other than a public use. Waddell's Appeal, 84 Pa. 90.

What public use would be made of these lots and dwellings and where would the title rest? The county pays the damages under the act of assembly. Could it take title to and hold them? The turnpike itself passes by the 11th section of the statute to the townships and boroughs in which it lies.

Upon consideration of the whole record the assignments of error are all overruled and the decree of the court in confirming the report of the jury of view is affirmed.

The Supreme Court has refused the application on behalf of the Turnpike Company for the allowance of an appeal from this decision.

Traveling Is Dangerous.

Constant motion jars the kidneys which are kept in place in the body by delicate attachments. This is the reason that travelers, trainmen, street car men, teamsters, and all who drive very much, suffer from kidney disease in some form. Foley's Kidney Cure strengthens the kidneys and cures all forms of kidney and bladder disease. Geo. H. Hausan, locomotive engineer, Lima, O., writes, "Constant vibration of the engine caused me a great deal of trouble with my kidneys, and I got no relief until I used Foley's Kidney Cure." All dealers.

Foley's Honey and Tar is peculiarly adapted for asthma, bronchitis and hoarseness. All dealers.

Balked at the Rhinoceros.

A five-year-old boy who had for several months been a regular attendant at Sunday school had many questions to ask of his mother as the recent circus parade passed. When the wagon containing the rhinoceros came along the beast opened its mouth and he observed: "Mamma, did God make that?" "Yes, dear," was the reply. "Well, I ain't going to Sunday school any more."

Like A Drowning Man.

"Five years ago a disease the doctors called dyspepsia took such hold of me that I could scarcely go," writes Geo. S. Marsh, a well known attorney of Nocona, Tex. "I took quantities of pepsin and other medicines but nothing helped me. As a drowning man grabs at a straw I grabbed at Kodol. I felt an improvement at once and after a few bottles an sound and well." Kodol is the only preparation which exactly reproduces the natural digestive juices and consequently is the only one which digests any good food and cures any form of stomach trouble.

Burglars, presumably boys,

broke into the store of David A. Sharrar, near the Western Maryland depot in Waynesboro on Saturday night and stole several dollars from the cash drawer. Some tobacco and candy were taken also. There are no clues to the robbers.

BANNER SALVE the most healing salve in the world.

Your Column.

To show our appreciation of the way in which the Fulton County News is being adopted into the homes of the people of this county, we have set apart this column for the FREE use of our subscribers for advertising purposes, subject to the following conditions: 1. It is free only to those who are paid-up subscribers. 2. Only personal property can be advertised. 3. Notices must not exceed 20 words. 4. All "legal" notices excluded. 5. Not free to merchants, or any one to advertise goods sold under a mercantile license. The primary object of this column is to afford farmers, and folk who are not in public business, an opportunity to bring to public attention products or stocks they may have to sell, or may want to buy. Now, this space is yours. If you want to buy a horse, if you want hired help, if you want to borrow money, if you want to sell a pig, a bear, some hay, a goose, or if you want to advertise for a wife, this column is yours. The News is read widely by eight thousand people and is the best advertising medium in the county.

A Lesson in Health.

Healthy kidneys filter the impurities from the blood, and unless they do this, good health is impossible. Foley's Kidney Cure makes sound kidneys and will positively cure all forms of kidney and bladder disease. It strengthens the whole system. All dealers.

Dussey's Queer Family.

In a barn of W. H. Bunch, at Plainville, Ind., a maltese cat is raising a family of three of her own kittens, two black kittens, two fox squirrels and a wild rabbit. The mother of the family is impartial in her devotion to the young ones. The two squirrels are the "black sheep" of the family and they give the old cat considerable trouble by their friskiness.

If you have any papering to be done this spring, it will be to your interest to consult Thompson and Steach.

An Appreciative Listener.

"Yes," said the eminent professor at a social gathering, addressing his remarks to a small man to whom he had been introduced, "I flatter myself that I rarely fail to read a face correctly."

"So?" queried the small man. "Yes. Now there is a lady," continued the professor, pointing to a 200 pound specimen of the fair sex, "the lines of whose countenance are as clear as print to me. The chin shows firmness of disposition, amounting to obstinacy; the pointed nose, a vicious temperament; the capacious mouth volubility; the square chin denotes trouble for those who oppose her wishes; her eyes show a hardness of heart."

"Wonderful, truly wonderful professor," interrupted the small man. "You evidently know something of the lady, then?" said the professor. "Sure," replied the small man; "She is my wife."

Wants Others to Know.

"I have used DeWitt's Little Early Risers for constipation and torpid liver and they are all right. I am glad to endorse them for I think when we find a good thing we ought to let others know it," writes Alfred Heinze, Quincy, Ill. They never gripe or distress. Sure, safe pills.

There is a Difference.

An exchange hits the truth when it says: "The young man who knows how to lay off corn and potato rows and to regulate the distance of the same so as to get the largest crops, is worth a cow pen full of kid glove fellows who wants to know how to lead a fashionable waltz. Setting a plow right and adjusting the gears so that the harness will not injure the horses, is worth a thousand fold more to the country than to know how to pose in the parlor: Yes, a girl who can bake a loaf of bread and cook the meat and potatoes just right is worth a whole seminary full of these soft headed silly headed angels who sit in the 'palat' and let ma do the work in the kitchen."

Will Cure Consumption.

A.A. Herren, Finch, Ark., writes "Foley's Honey and Tar is the best preparation for coughs, colds and lung trouble. I know that it has cured consumption in the first stages." All dealers.

MAY BARGAINS AT JOHNSTON'S Beautiful Lawns, 6c., Pretty Dimities, 10 to 14c. Handsome Batistes, 6 to 10c., White Lawns, 8, 10, 12, and up to 25c. White Swiss, plain or figured Dress Gingham and Percalés—all patterns—from 6 to 12 1-2 cents. MADRAS and SILK GINGHAMS. An Elegant Line of Wash Silks at 50c. Come and see our line of MEN'S SHIRTS and shirtwaists also CLOTHING to SUIT at PRICES that FIT. M'CONNELLSBURG

SEE OUR OPENING spring and summer 1902. T. J. WIENER, Hancock, - - Maryland.

Large Fees For Doctors.

Dr. W. C. Browning asked \$190,000 for twenty-one months' attendance on the late State Senator Christopher L. Magee. Payment was resisted by the executor of the estate.

Samuel J. Tilden's physicians charged \$143,000 for seven years' service. The sum of \$14,800 was the fee for a post-mortem examination of the body of Vice President Wheeler, who died in 1887.

Jay Gould, who died in 1893, leaving an estate valued at \$72,000,000, paid his doctor a regular salary of \$15,000 a year, whether sick or well. For two months' attendance upon his daughter Mr. Gould paid \$87,000.

Emperor Frederick of Germany paid \$100,000 for medical attendance. A millionaire of Nice paid a doctors fee of \$25,000.

Sir William Jenner, Dr. Coull and Dr. Clark, famous London physicians, had an average yearly professional income each of \$60,000.

Three New York doctors made more than \$100,000 yearly each: five more than \$50,000, fifty more than \$20,000. But the majority of medical men make less than \$100 a month.

Dr. Emma Wayne wants \$100,000 for attending Francis Wheeler of Chicago, who is worth \$3,000,000.

In all the cases mentioned, except those of President Garfield and Vice President Wheeler, the patients were millionaires.

President Garfield's physicians received \$27,500 for service rendered the distinguished patient at Elberon, N. J.

In 1768, when the Empress of Russia was stricken with small-pox, her physician received \$60,000.

When Edward VII was ill with fever he paid his doctor \$50,000 for four weeks' service.

The Czar of Russia paid \$50,000 for only two days' attendance from physicians.

Nawab Rampin paid \$150,000 to an Anglo Indian surgeon for three months' treatment for rheumatism.

Will Cure Consumption.

A.A. Herren, Finch, Ark., writes "Foley's Honey and Tar is the best preparation for coughs, colds and lung trouble. I know that it has cured consumption in the first stages." All dealers.

Business Directory. BARBERS, R. M. DOWNES, TONSORIAL ARTIST, McCONNELLSBURG, PA. ISAAC N. WATSON, Tonsorial Artist. LAWYERS, M. R. SHAFFNER, ATTORNEY AT LAW, Office on Square, McConnellsburg, Pa. HOTELS, BARTON HOUSE, EDWIN BUSHONG, PROP., HANCOCK, MD. PRESBYTERIAN, Rev. W. A. West, D. D., Pastor. METHODIST EPISCOPAL, Rev. A. D. McCloskey, Pastor. UNITED PRESBYTERIAN, Rev. J. L. Grove, Pastor. EVANGELICAL LUTHERAN, Rev. A. G. Wolf, Pastor. REFORMED, Rev. C. M. Smith, Pastor. TERMS OF COURT. BOROUGH OFFICERS. GENERAL DIRECTORY. SOCIETIES.

Honor Dear Old Mother.

Honor your dear old mother. Time has scattered the snowy flakes on her brow, but is she not sweet and beautiful yet? The lips are thin and shrunken but those are the lips which have kissed many a hot tear from the childish cheeks, and they are the sweetest lips in the world. Her eyes are dim, yet they glow with the soft radiance of holy love, which can never fade. The sands of life are nearly run out, but feeble as she is, she will go farther and reach down lower for you than any other upon life. You cannot walk into a midnight where she cannot see you; you cannot mount a scaffold too high for her to reach that she may kiss and bless you in evidence of her deathless love. When the world shall despise and forsake you, when you are left by the wayside to die unnoticed, that dear old mother will gather you in her feeble arm, and soothe you until you almost forget that your souls are disfigured with vices. Love her tenderly and cheer her declining years, that dear old mother.

Don't Start Wrong.

Don't start the summer with a lingering cough or cold. We all know what a "summer cold" is. It's the hardest kind to cure. Often it "hangs on" through the entire season. Take it in hand right now. A few doses of One Minute Cough Cure will set you right. Sure cure for coughs, colds, croup, grip, bronchitis, all throat and lung troubles. Absolutely safe. Acts at once. Children like it. "One Minute Cough Cure is the best cough medicine I ever used," says J. H. Bowles, Groveton, N.H. "I never found anything else that acted so safely and quickly."

Venango county's youngest couple was married in Franklin Saturday. They were Edgar T. Young, of Reno, aged 14, and Winifred Y. Hunter, of Emlement, aged 13. The ceremony was performed by Rev. Mr. Hunter, a brother of the bride. The parents of the couple believe in early marriages. The groom's father and mother were married at the ages of 14 and 15 respectively, while the parents of the bride were married at the ages of 15 and 16. You never heard of any one using Foley's Honey and Tar and not being satisfied. All dealers.