stable door of the barn leading out to the road is the same now as it was before the road was graded, and it can be used with equal facility. The Defendant then further proved by David Smith, a competent witness, that he lived in Sharpsburg fourteen years & has travelled the road from that place to the Potomac over very often, and that the drain on the left hand side of the road below the barn of the Plaintiff is deeper now than formerly, but the point of discharge of the water is the same as before; witness' impression is there was no cutting at the barn, but filling. He further proved that in entering the first gate east of the barn, it was necessary for a wagon to make a turn to the left to get round to the bank and door of the barn floor; and upon the cross examination he proved that he was raised on a farm and worked on one until 19 years of age.

And by John T. Keedy, a competent witness, that he has lived at Keedysville, about three miles east of Sharpsburg on the road of the defendant since the year 1832; that the Plaintiff was the preacher of the German Reformed Congregation at Keedysville of which the witness was a member, and on a visit to the witness on one occasion when he preached there & stayed at the house of the witness, which was in the Spring of 1854, and when the Defendant was working on what is called the Jerry-hill, in that portion of the road which passes through the Plaintiff's land, descending to the river, the Plaintiff had a conversation with the witness relative to said road, when the Plaintiff said he preferred a graded road to a turnpike; that he did not want the road to pass down the ravine in his field back of his barn, where the Company had surveyed for a route & proposed taking it; but that he had no objection to the old road or route and was perfectly satisfied with it and that the road when graded would enhance the value of his estate two thousand dollars.

And by Samuel Frost, a competent witness, that he has lived at Keedysville about thirty years & has known the road upwards of forty years, and that the road as graded is upon the bed of the old road through the Plaintiff's land. That he had conversations with the Plaintiff about the road & inquired of him the value of a graded road, the witness never having seen one; that in the first conversation he had with him Plaintiff said that graded roads were beautiful roads, the best we ever had & explained the mode of making them; witness thought the road would be soft in wet weather, but Plaintiff said after it was travelled it would become solid; that the defendant ought to take the bed of the old road and not go into his fields; that afterwards, & when the Company had selected the old road, Plaintiff then said they had selected the proper road, that that was the true location, & after the road was finished, he always expressed himself satisfied with the road and never complained of anything except the cutting of the trees. That there was a cut on the hill east of

the barn before the graded road was made and that there was a filling up at the barn which was a benefit; and upon the cross examination witness proved that the Plaintiff in all the conversations he had with him, never complained of any injuries to his barn or gates.

And by Henry Piper, a competent witness, that he lived on the farm of William Blackford adjoining the Plaintiff's land, two years, & that he has travelled the road often before and since it has been graded; that the road as graded through the Plaintiff's land is upon the bed of the old road, that there is a drain below the barn, and the water is discharged there now as before, there always was a place to carry the water off between the fence and the road. That the first gate east of the barn was used; that there was always a steep place at it; and that now it is steeper; that there is a better place for said gate 20 or 30 yards to the east of it, the road & field being on a level at that point; that the second gate is also higher than it was formerly; but that all the gates could be placed in better locations; that all the drains on said road are now as formerly; that, after the road had been graded and finished he heard the Plaintiff remark, in a conversation he had with others in Sharpsburg, that he had a very fine road now to travel over

And by Henry Smith, a competent witness, that he has resided in Sharpsburg the last eight years; that the water ran before the road was graded where it does now, and does not know that there is any difference in the flow of the water at the barn; from the barn down towards the river, the water passed off to the left, and so it does now; that there is a deep trench on each side, & he thinks the one on the right is the deepest; that at the first barn gate in the hill there is a rise, then a descent and a rise again to the barn; never saw a loaded wagon go in at it; that the second gate towards Sharpsburg was on a rise and much need the grading of the road has increased the rise; the third gate towards Sharpsburg there is a little rise between the gate and road, but they can go in and out with a loaded wagon; On the cross examination he stated that he was a farmer in Pleasant Valley 12 or 13 years ago, and has travelled the road very frequently with his wagon thought it would be difficult matter to get in and out at the first gate spoken of, and that the drainage along the road is the same now as before; that the Plaintiff's fences along the road have been ragged for years and not sufficient to protect the farm & that he has seen them open at several places; he described the grading, how it was done, and the effect of the flowing of the water; that there was no embankment at the Richard gate, but a few