where said fence was erected, and the other locations that by course and distance would place said line considerably to the Eastward of the place where the fence was erected,

The plaintiff then further proved by Mrs Weeks a competent Witness that she is the Widow of Thomas Weeks, that she lives on the land adjoining where the fence was erected, the plaintiff erected it with the permission of Witness that sometime after the new fence was put down, Neither fence was moved in some three feet from the side of the Wood,

The Defendant then to support the issue on his part proved by Ishmael Day a competent Witness that he is 65 years old and a native of Md that he was born in the Neighborhood and has lived there ever since recollects the Court house, Church and Jail at Joppa there was no ferry at that time that recollect, when the Joppa road struck the Water the Red Lion road passes was about one Mile below Joppa, the old Stage road as used with recollection of Witness passed by the Red Lion, thence to the Gunpowder River at Pattersons always heard the road to Defendants house called the old Joppa Road always travelled it and never knew any obstructions for 40 years and upwards except above - Knew Ford near the present turnpike, Carriages cannot pass very well between J Bennetts and the Red Lion Witness has travelled it on horse back, there are between J Bennetts and the Red Lion trees overhanging the road, which obstruct in some degree the passage of Vehicles, but if the trees were trimmed carriages could get along Witness would take this road if he desired to go the nearest way of Defendants to Baltimore, Have always seen this road travelled Don't remember the plaintiffs private road for more than six or eight years. There were always for more than twenty years old tracks across the fields before was enclosed but no direct road that Witness knows across there,

On Cross Examination Witness testified that stages use to run on the old road which crosses the Gunpowder at Pattersons that road is called the old Philadelphia road, thinks the old Joppa Road was changed to this but does not know if the old Phila road and the old Joppa are the same from where they fork - Witness does not know of any public House on the Joppa road between the old Philadelphia road and Joppa - There used to be a tavern at the fork of the Joppa and the old Philadelphia road near Red Lion, there was a short ferry at Pattersons on the old Philadelphia road, The Gunpowder was fordable there at times, the bridge on the Philadelphia Turnpike was the first bridge on the Gunpowder in that Neighborhood, Never knew the road where the fence was put by plaintiff to be called the old Philadelphia Road it was called the Joppa Road and Witness never knew it to be part of the route to Philadelphia, The end of the old Joppa Road nearest the Gunpowder terminates in one of defendants fields which is enclosed. There were four farm holdings owning lands over which the old Joppa Road passed between the Gunpowder River and the Red Lion Road - the defendant - John Bennett then and the plaintiff then had obstructed it by a pair of bars, John Bennett has also obstructed it at one point for a short time,

The defendant then proved by John A Day that he is the son of Defendant that the defendant usually went to Baltimore by leaving the old Joppa Road and going along by John J Bennetts to the Philadelphia Turnpike at the Eleventh Mile Stone, thereby the old Philadelphia Road at

the Red Lion thinks there is a public road it is about a third of a Mile from there gate to Red Lion, this is the nearest Road to Baltimore and always drove carriages there was very dark there are small gullies on it, after John J Bennett took down the obstruction which he had put across the Old Joppa Road the defendant had from the limbs of the trees could get along this road with a Buggy but not with hay, On the 24 of April 1854 Esta came down to defendants place and told us that there was a fence across the road the hay Wagon was about starting for Baltimore - defendant and Witness went of and cut down the fence, the Wagon then went along the Joppa Road to plaintiffs private road and then over the private Road to the Philadelphia Turnpike defendant and Witness went as far as plaintiffs private road with the fence was close up to Weeks fence on the one side and Neither on the other never knew this road to be obstructed before the ditch was dug close up to the fence from corner to corner the ditch is twenty four feet long - four or five Weeks after the ditch was dug the fence between Neith and plaintiffs was moved in to permit carriages to pass which then passed around on Dr Allenders land - defendant destroyed the posts and rails so that they could not be used again as such,

Direct examination resumed,

Defendant cannot get to Baltimore by any public road of this road is shut up, that by Hutchins is a bad one and is also a private road,

The Defendant then proved by Thomas Weems that he has lived in this Neighborhood for 20 years and has travelled this Road frequently and never knew any obstruction before, The road supervisor in the 11th Dis has been down to Days from the Red Lion by the old Joppa Road and found no obstructions, has been along it very little has readen along it twice, but no other occasions, has not driven along it, never worked the road as supervisor and never knew it to be worked by the County for the best road from Day's to the 14 Mile Stone on the Philadelphia Turnpike usual go by the Joppa Road and Dr Allenders private road, but the shortest way is by McNabbs, the best and shortest way to Baltimore from Defendants is by the old Joppa and plaintiffs private road the difference in distance to Baltimore from Defendants between the McNabb road and the old Joppa Road is one and a half to two Miles,

The defendant further proved by Rebecca Knight formerly J Bennett that she lives in the Neighborhood but does not use the Joppa Road much now because she does not now live on the line of it - she uses the road by McNabbs front of plaintiffs private road - used the Joppa Road when she lived at John Day's place from 1835 to 1842 has known this road for thirty five years, it was always used by the Neighbors and there resided there - the first time she travelled the road was with her father when she was a small child she went to Baltimore by the Red Lion in a Carriage, any body could go that way who chose, there was no obstructions and if there were intended claimed to be the best way.

Cross Examined, When she went to Baltimore by the old Joppa Road she struck the Red Lion Road at Jenny's Branch, near the Red Lion" in going to Jenny's Branch by the Joppa Road she left its bed a short distance before reaching the Red Lion Road and went across the old