I began at the beginning of Rich Level and run round to the end of the last line of the said tracts to the Beginning of Lot No 312 and run thro Lot around to the end of its second line and then casting the end of the 2d line of Lot No 312 as the beginning of Lot 3905 run said Lot 3905 according to its meets and bounds courses and distances.

The plaintiff on cross examination asks the Witness to explain what was the object of the two parallel black lines running across possession No 1 on the Plots. The witness said he was walking with Mr Shaw along the lines of possession No 1. Witness was pointing out to Mr Shaw the lines of possession No 1. Mr Shaw as we passed the end of the first line said here or some place here the old road left the State road and passed through possession No 1 as I pointed out to him. I said the road down on the plat as to pointed out to me. The defendants then further examined the Witness and he then stated that William Shaw was not present on the ground at the survey, and that the time when he pointed out the lines of possession No 1 to Shaw and when Shaw pointed out the location of the road was afterwards and the defendants were not there present it was several days after the survey and after the return I made no measurement of the location of said road and only located it as an approximation upon the plats. The defendants then objected to the admissibility of said evidence and the plaintiff then stated that he only purposed to prove by this witness in regard to the road as laid down by when and by whom direction he had made the corrections on the plats. The Court then overruled said objection and permitted said evidence to be given to the Jury for that purpose to which ruling the defendant excepted and prayed the Court to sign and seal this their first bill of exceptions which is accordingly done this 16th day of January 1866.

Reverdy Johnson Seal
Special Judge

The plaintiff further proved by James Chisholm in examination that the Witness further stated that the time at which Wm Shaw pointed out the beginning of the tract called Rich Level was on the first day of April for the survey of which day so appointed notice had been given to the Counsel of the respective parties. Josiah Yates

April Term 1867

Gordon defendants Counsel was present after Shaw pointed out the beginning of Rich Level, we adjourned an second day to make the survey was afterwards appointed. On the second day adjourned and some days afterwards to 3d day was appointed and Notice given to Counsel of respective parties, On the 3d day I began to make survey at the time pointed out by Wm Shaw as the first day of the beginning of Rich Level. None of the Witnesses were sworn on the Jury either for the plaintiff or defendants. The length of the blue line No 3 on possession No 1 is 15 pr. I think. I did not measure the blue lines No 2 and 3 of said possession No 1 on the ground but took its bearing so as to locate it afterwards if it was deemed necessary and measured from the end of the third and fourth red lines on the plats to the place where the 3d blue line intersects the 4th red line but took its bearings from the end of the 2d blue line and laid it down accordingly. On being examined Witness stated that on the day of first appointed for the survey Mr Shaw pointed out to me the beginning of Rich Level We went up to the beginning of Rich Level not with the intention of making a survey as the Witnesses were not present. When I say we adjourned on that day I mean that we separated each going his own way. On the first day of which I speak nothing was said to me in regard to the possession of the defendant John Shaw did not attempt to point out to me anything in regard to them. Iran the first below line of possession No 1 and then I took the bearings from the end of the second red line to the corner of the fence at the end of the second red line to the end of the 2d blue, and then took the bearings of the 3d below line from the corner of the fence at the end of the 2d blue line, and located it accordingly.

The third day on which the survey was made was fixed by me and Notice given to the Counsel of the respective parties and they assented to it. The defendant then further proved by Uriah Duckworth that he is 60 years of age, was born near Westernport in this County about 12 miles from the property in dispute went to Westernport in 1852 to live have been there a number of times before I went to reside there I knew Mr James Morrison the grandfather of one of the defendants when I was 8 or 10 years old when I first knew