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PUBLIC UTILITY COM.

- Before The -

PENNSYLVANIA PUBLIC UTILITY COMMISSION

C. 14290- Township of Upper Chichester v. Baltimore and Ohio Railroad Company, Department of Highways of the Commonwealth of Pennsylvania and the County of Delaware, etc.,

T R A N S C R I P T

HEARING HELD AT MEDIA, PENNSYLVANIA,

TUESDAY, JUNE 8, 1948

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C.A.*

DOCUMENTED
COMPLAINT DOCKET
JUN 27 1948
ENTRY No. _____

COURT REPORTERS, INC.
123 SOUTH BROAD STREET
PHILADELPHIA 9, PA.

I N D E X

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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C. 14290 - Township of Upper Chichester v. Baltimore and Ohio Railroad Company, Department of Highways of the Commonwealth of Pennsylvania and the County of Delaware - Alleging dangerous and inadequate conditions existing at bridge carrying State Highway Route #599 and State Application Route #1136 over the tracks of the Baltimore and Ohio Railroad Company in Boothwyn, Delaware County, due to the absence of sidewalk on Easterly side of the bridge.

BEFORE: EXAMINER HERMAN LIEBERMAN, ESQ.,
Presiding.

APPEARANCES: ALBERT SMITH, ESQ., (29 East Fifth Street,
Chester, Pennsylvania)
For the Township of Upper Chichester,
Complainant.

G. H. WARD HINKSON, ESQ., (19 West Fifth Street,
Chester, Pennsylvania) and
G. C. DOERING, ESQ., (Baltimore and Ohio Building,
Baltimore, Maryland)
For the Baltimore and Ohio Railroad
Company, Respondent.

EDWARD H. P. FRONFIELD, ESQ., (11 South Olive
Street, Media, Pennsylvania)
For the County of Delaware,
Respondent.

THOMAS L. EVANS, ESQ., (Harrisburg, Pennsylvania)
For the Department of Highways,
Respondent.

INITIAL HEARING held in the Courthouse Building, Media,
Pennsylvania, on Tuesday, June 8, 1948, commencing at 10:00
a.m.

MR. SMITH: Mr. Examiner, I wish to present
proof of publication of notice and compliance with the Com-
mission's instructions.

COLONEL CHARLES J. GALLAGHER, Larkin and Bethel
Roads, Boothwyn, Pennsylvania, called on behalf of the com-
plainant, having been duly sworn; was examined and testified
as follows:

DIRECT EXAMINATION

BY MR. SMITH:

Q What is your full name, please?

A Charles J. Gallagher.

Q Where do you reside?

A Larkin and Bethel Roads, Boothwyn.

Q That is in Upper Chichester Township?

A That is right.

Q What position, if any, do you hold in that township, Mr.
Gallagher?

A I am Commissioner.

Q How long have you lived there in the township?

A Thirteen years.

Q Do you know where the bridge in Boothwyn is located, which

is involved in this present complaint to the Commission?

1 A Yes, I do, very well.

2 Q Where is that located?

3 A It is located on the main highway there, I believe the
4 number is 599, if I am not mistaken, Route 599, I believe, and
5 it is at the junction of Chichester Road, which is that route,
6 State Highway, and the Bethel Road coming in there.

7 THE EXAMINER: Just a moment. Off the record.

8 (Discussion off the record.)

9 BY MR. SMITH:

10 Q In what general direction does that bridge extend?

11 A General direction north to south, I'd say.

12 Q And over what railroad?

13 A The Baltimore and Ohio.

14 THE EXAMINER: Again off the record.

15 (Discussion off the record.)

16 BY MR. SMITH:

17 Q I hand you a Commission Questionnaire dated May 4th, 1948,
18 and direct your attention to Question No. 1 which reads as
19 follows: Complainant submit testimony as to the name and
20 location of the existing crossing, above grade, involved in
21 this proceeding. What is your answer to that question?
22

23 A I am sorry, I haven't any dated May 4th.

24 Q That is May 3rd; it was May 3rd.

25 A I have already given that information, or do you want

that again?

1 A I direct your attention to Question No. 3 which reads as
2 follows: Complainant submit of record the results of a recent
3 traffic survey at the site of the existing crossing, above
4 grade; said survey to show the volume of vehicular and pedes-
5 trian traffic using the bridge during the period of the survey.
6 What is your answer to that question?

7 A I can quote the figures of the pedestrians going -- first,
8 may I ask a question? Do you want the two? We made two dif-
9 ferent surveys, one in March and one in May.

10 Q Yes, the result of both surveys.

11 A The one in March: March 22nd, 1948.

12 MR. DOERING: Excuse me. Do you have it pre-
13 pared in exhibit form, the traffic count?

14 MR. SMITH: We have it prepared according to the
15 count that was taken at that time, the summary of both vehicular
16 and pedestrian traffic.

17 MR. DOERING: You don't have a summary in
18 exhibit form?
19

20 MR. SMITH: No, we don't.

21 MR. DOERING: All right. May I object until
22 it is qualified?
23

24 THE EXAMINER: Object to the question?

25 MR. DOERING: Yes, sir. I don't know what he
is reading.

THE EXAMINER: The objection is overruled at this time; exception granted.

THE WITNESS: Pedestrians going north, 435; going south, 336, or a total of 771 people crossing this span in a twelve-hour period.

Vehicles going north, 1285; south, 1310; total vehicles of 2595, also in a twelve-hour period. That was from 6:00 in the morning until 6:00 in the evening on March 22nd.

And then our next count was made on May 14th, 1948. Pedestrians going north, 379, and going south, 374, making a total of 753.

The vehicles going north, 1666; going south, 1625; making a total of 3291 vehicles.

Bicycles, going north there were 46, and going south, 45. This was also taken from 6:00 a.m. in the morning until 9:00 p.m.

BY MR. SMITH:

Q. Colonel Gallagher, the testimony which you have just given pertaining to vehicular and pedestrian traffic, in answer to Question No. 3, by what reason was that survey made?

A. At the Commissioners' Meeting we discussed all the various angles and information that the Public Utility Commission here would require, and it was decided that we would make this count on the bridge to give you the added information

as to the number of people crossing that bridge.

1 Q Were you directed to make this count?

2 A I was, by the other Commissioners, and I supervised the
3 taking of the count. I was not present at the count but the
4 Chief of Police was.

5 Q Was it conducted under your direction and supervision?

6 A That is correct.

7 Q I draw your attention to Question No. 4 which reads as
8 follows: Complainant submit testimony describing fully the
9 general conditions presently existing at this location which,
10 in its opinion, tend to render the crossing, above grade,
11 inadequate and dangerous. And I ask you to answer that ques-
12 tion, if you can.

13
14 A A few months back three stores were built within twenty
15 feet of the end of the bridge; parking is limited to one side
16 of the street along there due to the narrowness of the highway,
17 and the people must cross the highway in order to get from the
18 post office, the grocery store, and the dry cleaners to the
19 sidewalk in order to go over the bridge.

20
21 As they cross from the post office they can't
22 see anything due to the elevation of the bridge itself, coming
23 from the north. The post office is on the south side of this
24 bridge.

25 The bridge has had to be elevated in order to
permit the trains to pass underneath. So the pedestrian, it

1 is impossible for him to see anything coming up, and at the
2 legal speed limit of thirty-five miles an hour, why, traffic
3 is on the pedestrian before he knows it.

4 Q Will you describe the highway system there, Colonel
5 Gallagher, the location of the highways and their approaches
6 to the bridge, together with the present sidewalk which is on
7 the bridge?

8 A Well, the present sidewalk is on the west side of the
9 bridge and it is inside of the supports, in other words, right
10 next to the road itself. The road is not quite wide enough
11 for the size of the present vehicles that are crossing there.
12 We have large tankers with trailers, and the bus company have
13 their busses, and two of them to pass there partly overhang
14 the sidewalk many times. It is a very hazardous place to try
15 to walk on there.

16 There should be, in my estimation, this side-
17 walk in question on the opposite side so coming out of the
18 post office they can cross the bridge.

19 There are houses going up in that area there
20 across the bridge; in fact, there is quite a development in
21 there, and those people walk over to the post office but they
22 must cross the highway twice in order to go into the post
23 office, once on the north side to get over to the sidewalk,
24 and then back again to the east, or on the south side they
25 must cross over again to the east side of the bridge again.

1 Q Would you explain the change, if any, in population in
2 the residential district north of the bridge since the con-
3 structing of the existing bridge?

4 A The population is increasing very rapidly above the bridge,
5 on the north side of the bridge. As the best proof of that
6 we have requested the courts to make a new ward above the
7 bridge there due to the increased population there.

8 MR. SMITH: I don't want to go completely out-
9 side the realm of these questions exactly, Mr. Examiner, but I
10 do have other testimony which we do feel is relevant here and
11 should be considered by you. The questions here are quite
12 limited, and I am wondering whether or not you wish us to
13 answer directly these questions and then afterwards present
14 additional information or testimony.

15 THE EXAMINER: Off the record.

16 (Discussion off the record.)

17 BY MR. SMITH:

18 Q Colonel Gallagher, will you describe what places of in-
19 terest and places -- well, churches and so forth -- are north
20 of the tracks at the present time?

21 A Yes. We have one fairly large church there on the north
22 side of the tracks; we also have two very large ball diamonds
23 there that are in continuous play in the afternoons and even-
24 ings, and most of those people coming up from the more thickly
25 populated section of Boothwyn walk because there are very

limited parking facilities over at the ball diamonds, so they usually walk over there and walk back.

1 Q What facilities does the township have for their school-
2 children to play, that is, for their athletic fields?

3 A The school children also use the same field there, known
4 as the Bergdoll Field, which is at the north end of the bridge.
5 The children walk over there from the school in their athletic
6 clothes, and they carry the bats and so on to this field.
7 They must walk across the bridge.
8

9 Q And isn't that true, too, concerning the people going
10 back and forth to church?

11 A That is also true. In fact, at the south end, within a
12 block and a half or two blocks, I should say, at the most,
13 there is also a new church been constructed there, and the
14 people from the north end of the bridge walking to that church,
15 and the people from the south end walking to the other church,
16 it is a real hazard there, and both churches are on the side
17 of the bridge that there is no sidewalk.
18

19 Q Well, now, in the Township of Upper Chichester, with this
20 development proceeding as it is today, where is it naturally,
21 and where is, you might say, the only place--direction--in
22 which that township can develop?
23

24 A It must develop out in this new proposed Fifth Ward.

25 Q And that is in what direction with relationship to the
bridge?

Q How many other Commissioners are there?

1 A Four others.

2 Q How long have you been a Commissioner, sir?

3 A Since the first of the year.

4 Q Did you hold any official position with the county seven
5 years ago, or eight years ago, at the time of the prior pro-
6 ceeding?

7 A No, this is my first official job, as Commissioner.

8 Q Do you purport to state the position of the Township
9 Commissioners with respect to bearing any portion of the cost
10 of the additional sidewalk, or would another witness cover
11 that?
12

13 A I can tell you that our township has no industries in it,
14 and we have very little money. We have to live on the assessed
15 valuation of the houses, and some of them are not assessed
16 very high, due to their condition and so on. And at the pre-
17 sent time we have just had to borrow \$10,000 in order to con-
18 tinue our operation until the tax money comes in. We have no
19 money.
20

21 Q Colonel, you expressed a view that the lack of a side-
22 walk on the easterly side of the highway creates a dangerous
23 condition, particularly to pedestrians, is it not?

24 A It is dangerous, very dangerous.

25 Q Have there been any accidents to pedestrians?

A Yes, there have been.

Q On account of the lack of a sidewalk?

1 A That is right.

2 Q Fatal, or just --

3 A The Chief of Police could answer that better than I could
4 because I was away in the service and I don't know. I was
5 away for six years in the service, so I couldn't answer what
6 happened during that time.

7 Q What steps, other than the filing of this complaint, has
8 the township taken to alleviate the dangerous condition?
9

10 A We have taken many steps. We have taken it up with the
11 Highway, to do something about trying to reduce the speed. We
12 have letters telling us that it cannot be reduced, as we don't
13 have sufficient business houses there to reduce it.

14 Q Doesn't the township have the authority to regulate the
15 speed?
16

17 A Not on that highway; that is a state highway.

18 Q And you have, in the past, taken that phase of the matter
19 up with the State Highway Department?

20 A That is right.

21 Q Have you erected any safety signs or caution signs?

22 A We have everything there, everything that the State will
23 permit us. You see, it is a state highway, and we are only
24 permitted certain leeways.
25

Q You say you have everything. Just what is it that you
are referring to?

1 A. What I refer to is the things that we are permitted to
2 have. In other words, we have our speed signs up at 35 miles,
3 and "Slow," and the various signs that we are permitted. We
4 can't go ahead and stick signs on there that the township is
5 not allowed to put on a State Highway.

6 Q. Other than the speed limit sign of 35 miles an hour, what
7 else do you have?

8 A. Back at Bethel Road there is a crossing sign there that
9 shows a crossing.

10 Q. I mean with regard to the bridge; limit your testimony.

11 A. There is nothing that we can do.

12 Q. You mentioned the school children going to and from
13 Bergdoll Field. What connection has that with the lack of a
14 sidewalk on the easterly side of the bridge? Bergdoll Field
15 and the school are both on the same side of the highway, are
16 they not?

17 A. It is. I think your record will show that I have already
18 made a statement that when two large vehicles try to pass on
19 that bridge, that they overlap a little bit on that sidewalk,
20 it is on the bridge now, on the westerly side; in other words,
21 the bridge itself is narrow, the sidewalk is on the inside of
22 the railing, solid railing there, and the bridge itself is
23 narrow. It was put up narrow.
24

25 That sidewalk, in my estimation, should also be
put on the outside. We have a lot of large carriers, tankers,

1 and they meet there occasionally; the buses meet along with
2 the large tankers, and many times I have noticed there is very
3 little clearance there for people walking on that present side-
4 walk.

5 Q What do you mean "very little clearance?" Do you know
6 how wide the sidewalk is?

7 A I should say that sidewalk is about four and a half to
8 five feet.

9 Q Do you know how wide the road is?

10 A No. I don't believe that road is over 20 feet wide at
11 that point there; I never measured it myself, I am just guess-
12 ing at that.

13 Q Do you know the maximum width for motor vehicles in the
14 State of Pennsylvania?

15 A No. In that I think that some of these vehicles run
16 close to nine feet, especially these tankers.

17 Q Has there ever been an accident on that account, the over-
18 hang on the sidewalk?

19 A I come back again to the original answer I gave on that.
20 I have only been on there since the first of the year; I know
21 of none since then. I know that in bad weather it is very
22 hazardous there. I am speaking of ice and snow conditions.
23 It is very bad there on account of the elevation of that bridge,
24 the vehicles slide all around.
25

MR. DOERING: That is all that I have. Thank

you, Colonel.

1 THE EXAMINER: Any other counsel?

2 REDIRECT EXAMINATION

3 BY MR. SMITH:

4 Q Colonel, north of the bridge there are the two highway
5 approaches to the bridge, are there not?

6 A You mean Bethel Road --

7 Q Bethel Road --

8 A And the highway itself?

9 Q And the other highway itself.

10 A Yes. And then there is a road that comes in there from
11 that new development also.

12 Q These other two -- Bethel Road and the highway itself,
13 No. 599 -- form more or less of a wide intersection north of
14 the bridge, and, particularly, adjacent to the bridge, do they
15 not?
16

17 A That is correct.

18 Q Now on which road is the other baseball field or recreation
19 field which you referred to, and the church?

20 A The church and the baseball field next to it are on route
21 599, that is Chichester Road.

22 Q So that people walking from that baseball field, or from
23 the church, in a southerly direction, and to cross that bridge
24 would have to cross the highway adjacent to the bridge in
25 order to get over to this sidewalk, would they not, on the

westerly side?

1 A. That is correct. The same thing applies to anyone using
2 the other church at Boothwyn.

3 Q. With reference to the Bergdoll Field, which you mentioned,
4 that is more or less directly north of the bridge itself, is
5 it not?

6 A. That is right, on the northwest side, the northwest corner
7 of it.

8 Q. And then to get from that bridge, or from that field,
9 over to the bridge, you have to go in what direction?
10

11 A. You'd have to go south.

12 Q. You'd have to go south, would you not?

13 A. Yes, sir.

14 Q. And you would have, then, to cross the Bethel Road, which
15 you referred to?

16 A. That is right.

17 Q. In order to get to the sidewalk. And what is a pedes-
18 trian's vision of traffic coming up and across that bridge,
19 which may be going to go onto Bethel Road?
20

21 A. He couldn't see that, no. As you know, we took some
22 photographs that will show that very clearly.

23 MR. SMITH: I wanted to identify those photo-
24 graphs by the person who took them, Mr. Examiner, before the
25 presenting of evidence.

That is all I have.

THE EXAMINER: Any further questions?

RECROSS EXAMINATION

1

2 BY MR. DOERING:

3 Q Colonel, I am not sure that I understood. Have you lived
4 in the township, or in the town there, more than the last six
5 months?

6 A I have lived there thirteen years. I live on this Bethel
7 Road that we speak of; I must cross that bridge. I might tell
8 you that my son and daughter travel to Philadelphia and to
9 Wilmington to School, and it means that I go up and down there
10 many times a day, so that I am very familiar with the bridge.

11 Q Now, except for the new houses on the north side of the
12 bridge, the same conditions, of which you speak, existed at
13 the time of the prior proceeding and at the time of the con-
14 struction of the present bridge, did they not?
15

16 A No, that place has expanded; it was all farms. In fact,
17 I live on one out there.

18 Q Was the church there, the church that is on the north side
19 of the bridge?
20

21 A That one was there, yes; the one on the south side was
22 not there.

23 Q And there are some residences, or there were, at the time
24 of the prior proceeding, on the north side of the bridge, weren't
25 there?

A Yes, sir; there were some, but not as many as now.

Q I agree to that. There is a new development.

1 A Yes.

2 Q But weren't there athletic fields on the north side also
3 before?

4 A Yes.

5 Q And weren't there houses on the east side of Route 599,
6 south of the bridge?
7

8 A Oh, yes; but we have several hundred new houses on the
9 north side that we didn't have at the time that they construct-
10 ed this bridge.

11 Q Where was the post office located before?

12 A It was located before at -- across from McKay Avenue on
13 Chichester Road.

14 Q On the east or the west side?

15 A That would be on the south side, on the east.

16 Q The same side as it is on today?

17 A That is right; but it was not located -- McKay Avenue is
18 over two squares away from the bridge, and there was none of
19 the hazards there then as there is now. And in those days
20 parking was permitted on both sides, which is not permitted
21 now.
22

23 MR. DOERING? Thank you.

24 BY MR. SMITH:

25 Q Colonel Gallagher, what distance is the post office from
the bridge at the present time, if you know?

A Not over 50 feet.

MR. SMITH: Thank you, Colonel; that is all.

THE EXAMINER: That is all.

(Witness excused.)

MILLIS W. TART, Bethel and Laurel Street,
Boothwyn, Pennsylvania, called on behalf of the Complainant,
having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SMITH:

Q What is your occupation?

A I work for the Sinclair Company. I do welding part of the
time, and photographic work; and I do photographic work at
home also.

Q How long have you been engaged in photographic work?

A I did some before the war -- I couldn't get the necessary
equipment that I needed, I had some that I got rid of it, and
I bought all new stuff, and I have been engaged in it somewhat
since the war.

Q Did you, at the request of the Township of Upper Chichester,
take certain pictures pertaining to the bridge crossing the
Baltimore and Ohio Railroad on Route No. 599, in that township?

A Yes, sir; Colonel Gallagher asked me to take those.

Q Mr. Tart, in compliance with the request of the township
you did make certain pictures?

A Yes, sir.

1 Q I show you Complainant's Exhibit No. 1 and ask you what
2 that is.

3 A This one here, I made this picture 350 feet looking north
4 from the south side of the bridge. I also stopped this truck
5 and this bus -- I used the camera fast enough that I actually
6 stopped the action of the picture to give actually what was
7 happening on the bridge.

8 Q On what date was the picture taken?

9 A That was made on the 18th of May.
10

11 BY THE EXAMINER:

12 Q Of this year?

13 A Yes, sir; 1948.

14 BY MR. SMITH:

15 Q I show you Complainant's Exhibit No. 2 and ask you what
16 that is.

17 A Well, this is made from the north side of the bridge,
18 looking south, of the vehicles crossing the bridge. This one
19 is also made from the north side, looking south, with the
20 vehicles on the bridge.
21

22 Q On what date were they made?

23 A They were made May 18, 1948, all of them were.

24 Q I show you complainant's Exhibit No. 3 and ask you if you
25 took that picture?

A This was made May 18th, 1948.

1 THE EXAMINER: Well, you have already told us
2 they were all made the same date.

3 THE WITNESS: Yes, sir. This was made from
4 the northwest side of the bridge, looking southeast. That
5 gives full coverage of the bridge and the vehicles that are on
6 it.

7 BY MR. SMITH:

8 Q I show you complainant's Exhibit No. 4 and ask you what
9 that is.

10 A I made this one from 250 feet on the south side of the
11 bridge, looking north, showing the post office and the traffic.
12 The same for this one (indicating.)

13 BY THE EXAMINER:

14 Q And what is "this one?"

15 A That is the same view with just different vehicles on
16 the bridge.

17 Q I mean, is it a different exhibit?

18 MR. SMITH: That could be included as the same
19 exhibit, sir.

20 THE EXAMINER: They are not the same pictures.

21 THE WITNESS: It was two different snaps, sir;
22 it is not the same picture, no, but it is made in the same
23 place, position. The only thing is just at different times.
24

25 THE EXAMINER: All right.

BY MR. SMITH:

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PHONE PENNYPACKER 6-5221

Q I show you Complainant's Exhibit No. 5 and ask you what
1 that is.

2 A This was made from 350 feet, on the north side of the
3 bridge, looking south.

4 Q I show you Complainant's Exhibit NO. 6 -- both of these
5 are identified as Complainant's Exhibit No. 5, -are they both
6 the same?

7 A Yes, sir.

8 Q I show you Complainant's Exhibit No. 6 and ask you what
9 that is.

10 A This was made from the northeast side of the bridge,
11 looking southwest, 350 feet away.

12 Q I show you Complainant's Exhibit No. 7 and ask you what
13 that is?

14 A This was made 250 feet on the west side of the bridge,
15 looking northeast.

16 Q Mr. Tart, do these exhibits show exactly the conditions
17 existing at the bridge from the different positions in which
18 you took the pictures on May 18, 1948?

19 A Positively.

20 MR. SMITH: Are there any questions, sir?

21 THE EXAMINER: Any cross-examination?

22 MR. DOERING: No questions.

23 (Witness excused.)

24 THE EXAMINER: Do you wish to offer these in

evidence?

1 MR. SMITH: Yes, sir.

2 THE EXAMINER: Well, make your motion.

3 MR. SMITH: I wish to offer in evidence, Mr.
4 Examiner, Complainant's Exhibits Nos. 1 to 7, both inclusive.

5 THE EXAMINER: Any objections?

6 MR. EVANS: No objections.

7 THE EXAMINER: They will be admitted for the
8
9 record.

10 (Complainant's Exhibits Nos. 1 to 7, inclusive,
11 received in evidence.)

12
13 CHESTER F. BAKER, Crozer Building, Chester,
14 Pennsylvania, called on behalf of the Complainants, having
15 been duly sworn, was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. SMITH:

18 Q Mr. Baker, what is your occupation?

19 A Engineer for Upper Chichester Township.

20 Q How long have you been an engineer, Mr. Baker?

21 A Associated with engineers over four years, been in the
22 business for 29 years.

23 Q You do surveying, do you not?

24 A That is right.

25 Q Are you acquainted with the bridge crossing the Baltimore
and Ohio Railroad on Route No. 599 in the Township of Upper

Chichester?

1 A I am.

2 Q I draw your attention to question No. 2, which reads as
3 follows: Complainant submit testimony as to the width of
4 vehicular roadway and the number and width of sidewalks on
5 the existing bridge, and the approximate width and grade of
6 the highway approaches thereto. And I ask you to answer that
7 question if you can, sir.

8 A The width of the sidewalk on the west side of the bridge,
9 five feet; width of the roadway between curbs, on bridge,
10 24 feet; the grade of the highway approaching the bridge from
11 the north, at its worst, three and a half percent, and
12 approaching the bridge from the south, at its worst, five and
13 a half per cent.
14

15 Q I draw your attention, Mr. Baker, to Question No. 5,
16 which reads as follows: Complainant submit testimony as to
17 the general nature and extent of all work which, in its opinion,
18 will be required to eliminate the alleged hazardous condition
19 and to provide an adequate and safe crossing at this location.
20 I ask you to answer that question if you can.
21

22 A There are two things that I have in mind. First, the
23 construction of a sidewalk on the easterly side of the bridge,
24 and in a major sense a change in the grades approaching the
25 bridge to increase traffic visibility. They are the two
things answering your question, Mr. Smith.

Q What would you recommend in that regard?

1 A Leaving the second thought as merely an objection, and
2 following the first thought -- to add a sidewalk to the easter-
3 ly side of the bridge for pedestrians.

4 Q What would be the width of that sidewalk, in your opinion?

5 A It shouldn't be less than seven feet.

6 Q Are you acquainted with the standards set up in the town-
7 ship as to width of sidewalks, and width of roadway?

8 A Yes, I am.

9 Q What is the standard set up in the township as to the
10 width of sidewalks?
11

12 A The sidewalk area, eight feet, six inches, but in this
13 particular block, and by consent of the Board of Commissioners,
14 the sidewalk area was reduced, I think, to seven feet.

15 Q What is the standard width of the roadway?

16 A Thirty-three feet.

17 Q Do you know, or you did testify, as to the width of the
18 particular roadway crossing the bridge. What is the width
19 of the roadway approaching the bridge at the present time?

20 A Between curbs, where curbs exist, 33 feet.

21 Q So then that you do have a reduction in width of roadway
22 between the approach and the actual crossing, do you not?
23

24 A That is right; that is on the southerly side. There are
25 no curbs on the northerly side, and there is no standard
adopted on the northerly side.

Q On the northerly side of the bridge?

1 A Yes, sir.

2 MR. SMITH: Does the Examiner have any questions?

3 THE EXAMINER: Any questions?

4 MR. DOERING: Yes, sir.

5 CROSS EXAMINATION

6 BY MR. DOERING:

7 Q Mr. Baker, I call your attention to your Exhibit No. 1
8 and ask for you to state what sidewalks there are on the south
9 side of the bridge.
10

11 A In front of the stores.

12 Q But there are no sidewalks on the east side of the high-
13 way in the last block to the bridge, other than immediately
14 in front of the stores?

15 A No.

16 Q No highway sidewalk?

17 A No, but the width was regulated by township action at the
18 time of the building of the sidewalk last year in front of the
19 stores.
20

21 Q I call your attention to your Exhibit No. 5, which is a
22 view looking south at the bridge. That shows, does it not,
23 that there are no sidewalks whatsoever on the north side of
24 the bridge?

25 A No, there are not.

Q Along the property?

A There are none.

1 Q That is true all the way out this highway 599?

2 A All the way. They are not there and they have not been
3 established or regulated.

4 Q No curblines on the north side either?

5 A No.

6 Q And these pictures show, do they not, obstructions close
7 to the street line, much closer than seven feet clearance,
8 perhaps only about four feet clearance, other than at the
9 bridge?
10

11 A No, I don't think that is true. Now may I ask what you
12 mean by obstructions?

13 Q I am referring to the pole and the base shown in that
14 photograph.

15 A No, they are further than six feet away from the highway
16 itself.
17

18 Q Your estimate is that that is about six feet away?

19 A I even think it is better than that. We have reduced
20 the limit of the sidewalk to make sufficient space for a car
21 to get in between the paved highway and the curb.

22 Q I am referring to the pole, not the sidewalk in front of
23 the post office building; I am referring to the pole.

24 A That is about six feet.

25 Q And the pedal, whatever it is that is shown there --

A That is about six feet from the highway.

Q You couldn't get a car between that and the highway?

1 A Possibly.

2 Q Clear of both of them?

3 A No, you could not.

4 Q Does a situation like that exist in many parts of the
5 town?

6 A No, not south of the railroad where gradually we are
7 moving the poles back and getting the sidewalks and curbs in.

8 Q Mr. Baker, were you the engineer of the township at the
9 time of the prior proceeding?

10 A I think I was. Was that eight years ago did I hear you
11 say?

12 Q Yes.

13 A Yes, I was.

14 Q Did you take part in the complaint before the Commission?

15 A No, sir.

16 Q No part in it whatsoever?

17 A No part whatsoever.

18 Q Were the plans, which, I believe, ^{were} presented at the hearing
19 by the Pennsylvania Department of Highways, approved by you
20 for the township?

21 A I do not recall that they were approved; I had nothing
22 to do with the proceedings.

23 Q Well, as township engineer were any plans referred to you?

24 A I don't recall that they were.

Q Other than the new development on the east side of the
1 highway and north of the bridge, and the new post office, and
2 buildings on the south side, conditions generally there today
3 are the same as they were eight years ago, are they not?

4 A No, there is a change, the additional leased three stores,
5 in which one is the post office.

6 Q I said other than that, the post office and the stores,
7 and the new development.

8 A The conditions are the same other than these improvements.

9 MR. DOERING: I have nothing further, Mr.
10 Examiner.

11 MR. SMITH: Mr. Examiner, I would like to draw
12 Mr. Baker's attention to Question No. 6.

13 THE EXAMINER: Go ahead.
14
15

16
17 REDIRECT EXAMINATION

18 BY MR. SMITH:

19 Q Mr. Baker, I draw your attention to Question No. 6 which
20 reads as follows: Complainant submit testimony as to its pre-
21 sent obligation in respect to the maintenance and reconstruc-
22 tion of the existing bridge and the highway approaches thereto
23 and state what portion, if any, of the actual construction and
24 damage costs of reconstructing the crossing, above grade, in
25 accordance with its recommendations, it will agree to bear in
event the complaint is sustained. I ask you to answer that if

you can.

1 A I really can't answer that, Mr. Smith.

2 Q I have particular attention in Question No. 6 with respect
3 to the present obligation in the maintenance of the highway
4 approaches that the township bears at the present time.

5 A Well the only thing that the township bears is the side-
6 walk construction and the shoulders to some extent; but the
7 highway itself is maintained by the Pennsylvania Department of
8 Highways.

9
10 Q Well, now, does the township have any obligation to the
11 maintenance of the present bridge existing there?

12 A I know nothing about that, sir.

13 MR. SMITH: That is all.

14 THE EXAMINER: That is all, sir.

15 (Witness excused.)

16
17
18 WILLIAM RUSSO, 13 Bethel Road, Boothwyn, Penn-
19 sylvania, called on behalf of the complainant, having been
20 duly sworn, was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. SMITH:

23 Q Officer Russo, have you lived in the Township of Upper
24 Chichester?

25 A Yes, sir.

Q What is your occupation there?

A Chief of Police.

1 Q How long have you been Chief of Police in that township?

2 A About seven years.

3 Q Are you acquainted with the bridge crossing the Baltimore
4 and Ohio Railroad on Route No. 599?

5 A Well, I don't quite get the Route 599 -- it is Pennsyl-
6 vania Route 161, I think it is Highway Route 599; I am not
7 used to that.

8 Q But you are acquainted with that particular bridge cross-
9 ing the Baltimore and Ohio Railroad?
10

11 A Yes, sir.

12 Q In your capacity as Chief of Police of the Township, what
13 accidents, if any, have come to your knowledge in your office
14 since the construction of that bridge? That is, accidents
15 happening on or in the immediate vicinity of the bridge?

16 A There have been twelve accidents, one fatal; seven right
17 near the bridge and five on the bridge.

18 Q Five on the bridge itself?

19 A Five on the bridge itself, seven right near, within a
20 few feet, and one fatal.

21 Q Which of these accidents, if any, were pedestrian, and
22 which were vehicular?
23

24 A The one that was fatal you mean?

25 Q No, as to all of the accidents which you have mentioned,
which ones of those were between vehicles, and which ones were

1 between vehicles, and which ones were between vehicles and
2 pedestrians?

3 A Well, one was fatal -- that was between pedestrian and a
4 vehicle; and the others were all vehicles.

5 Q In what relation to the bridge was this fatal accident?

6 A The child was right at the bridge, and this vehicle was
7 coming, going south, and of course she was struck.

8 Q Which side of the bridge was the child on?

9 A That was on the west side.

10 Q I don't mean of the roadway but of the bridge itself.

11 The bridge, we concede, that runs more generally in a north
12 and south direction.

13 A She was on the south.

14 Q How close to the bridge?

15 A Right off of it, right on the south side here, just at
16 the beginning of the bridge going north.

17 Q In which direction was this vehicle going that struck her?

18 A South.

19 Q When did that accident occur?

20 A May 9, 1945, 3:00 p.m.

21 Q These other accidents which happened, you state, happened
22 between vehicles?
23

24 A That is right.

25 Q Which ones of those happened right on the bridge?

A Well, I would have to pick them out.

Q Well, how many of them did happen on the bridge?

1 A Five on the bridge and seven right near it.

2 Q I draw your attention to a statement made previously that
3 there are athletic and recreation fields north of this bridge.
4 When are those games usually played on those particular fields?

5 A In the afternoon and evenings. The school, as I recall,
6 plays in the afternoon and right after school, and in the even-
7 ings, some of these Oil Works have their games there and they
8 play there also.

9
10 Q What is the traffic condition existant in relation to the
11 bridge on the evenings of those particular games?

12 A Well, the traffic then is very heavy, and I have to have
13 some help to help direct traffic, pedestrians and vehicles.

14 Q Is there any difficulty at all experienced by pedestrians
15 crossing the highway from the field which is up on Route No.
16 599, up in the vicinity of the church, crossing the highway
17 over to the westerly side of the bridge in order to use the
18 footway or sidewalk on the bridge?

19
20 A Yes.

21 Q In what respect?

22 A They have to cross the highway to get on the side where
23 the sidewalk is, and of course the roadway at the bridge is
24 elevated, and you just can't see anything coming over the
25 bridge in order to cross there and cross safely.

Q Do you mean anything coming over the bridge that would be

coming in a northerly direction?

1 A That is right.

2 Q Is that same condition existant for anyone going up to
3 the field in a northerly direction, with respect to traffic
4 coming south over the bridge?

5 A It is.

6 Q I show you Complainant's Exhibit No. 2, and ask you what
7 that is, if you know?

8 A Well, it is what I call the Route 161, looking south,
9 going over the B. & O. Railroad Bridge.
10

11 Q Chief, if you know, how soon can a pedestrian walking
12 across that highway to reach the footway on the westerly side
13 see a vehicle approaching from the south over that bridge?

14 A Well, you would have to get practically on top of that
15 bridge, on top of the sidewalk, to really see anything.

16 Q Before you could see anything coming?

17 A Unless the vehicle is actually on the bridge; then, of
18 course, you can see it ahead of time.
19

20 Q Chief Russo, I show you Complainant's Exhibit No. 3 and
21 ask you if you recognize that view?

22 A Yes. That is looking southeasterly, in a southeasterly
23 direction, on to the bridge, coming from Bethel Road.

24 Q Does that show the elevation and grade of the approaches
25 to the bridge?

A Yes, it does.

Q Does it show any difficulty of vision for pedestrians or
1 vehicles?

2 A It does.

3 Q I show you Complainant's Exhibit No. 4 and ask you what
4 that shows.

5 A This is a picture looking north on what I call Route 161.
6 You have the view of the post office here, and vehicles on the
7 bridge.

8 Q Does that show difficulty of vision for both pedestrians
9 and vehicles?
10

11 A It certainly does.

12 Q Of the vehicles approaching from the north?

13 A It certainly does.

14 Q I show you complainant's Exhibit No. 3 again, sir, and
15 ask you to identify the other roadway entering here. (indicat-
16 ing)
17

18 A The road entering from the main highway you mean?

19 Q Yes.

20 A Well, the road entering there is what we call Bethel
21 Road entering Route 161.

22 Q That is the Bethel Road referred to by the other witnesses,
23 is it not?

24 A That is right.

25 Q With respect to vehicles crossing on this bridge, Chief
Russo, our present day trucks and oil transport trucks, do

they have any difficulty in passing on that bridge?

1 A When large vehicles meet, they do. It is narrow and of
2 course it is pretty hard for two large vehicles to cross the
3 bridge at the same time. They can get through but it is tight.

4 Q Is there, Chief Russo, any overhang of these trucks which
5 you have noticed, as they pass over the bridge?

6 A Well --

7 Q Any overhang over this sidewalk?

8 A I have noticed them, large trucks, when they are meeting,
9 like two oil tankers, I have seen them numbers of time and they
10 do overhang to a certain extent over the sidewalk.

11 Q And there have been, as you did testify, accidents be-
12 tween vehicles on this bridge?

13 A I have seen accidents right on the sidewalk that is there
14 now.

15 Q Do these accidents which happen there constitute any
16 hazard to pedestrians who might be using that sidewalk?

17 A It certainly does. Referring to the accident, particular-
18 ly on that sidewalk, had there been any pedestrians on the
19 sidewalk at the time, I am afraid it would have been very ser-
20 ous for them.

21 MR. SMITH: Do you have any questions of the
22 officer?

23 MR. DOERING: Yes.
24
25

CROSS EXAMINATION

1 BY MR. DOERING:

2 Q What is the period covered by your statement that there
3 were twelve accidents?

4 A Sir?

5 Q What is the period covered by your statement?

6 A You mean the time?

7 Q Yes.

8 A From 1941 up to the present time.

9 Q And in that time there was one accident to a pedestrian?

10 A One fatal accident.

11 Q That was the only accident involving a pedestrian, wasn't
12 it?

13 A Well, as far as pedestrians, yes; that is right. There
14 were other people hurt but it was due to automobiles, vehicle
15 accidents.
16

17 Q And not striking a pedestrian?

18 A That is right.

19 Q Were you familiar with the prior proceeding?

20 A Yes, sir. I wasn't to it -- yes, I was to the hearing
21 in Philadelphia, that is right.
22

23 Q Were you then a police officer of the township?

24 A Yes, sir.

25 Q Did you testify?

A Yes, sir.

Q Do you know why only one sidewalk was built?

1 A No, that is something I don't know.

2 Q Did you request a bridge with a sidewalk on each side?

3 A I didn't request anything; I just testified -- I answered
4 questions.

5 MR. DOERING: I have nothing further.

6 THE EXAMINER: That is all.

7 (Witness excused.)
8

9
10 DAVID A. JOHNSTON, Boothwyn, Pennsylvania,
11 called on behalf of the Complainants, having been duly sworn,
12 was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. SMITH:

15 Q Mr. Johnston, you are the principal of the Boothwyn
16 High School, are you not?
17

18 A I am, sir.

19 Q How long have you held that position?

20 A Five years.

21 Q You have heard testimony pertaining to the athletic
22 field used by the school children, north of this bridge of
23 the B. & O. Railroad?

24 A Yes, sir.

25 Q Would you explain to the Examiner how many children cross
this particular bridge to use that field each day of the week,

that you know?

1 A During the football season there are approximately fifty-
2 five players, including varsity and junior high boys that go
3 daily there to practice after school.

4 We had approximately two home games at the
5 Junior High, with approximately 200 spectators per game. In
6 the spring we have a baseball practice on that field with
7 approximately twenty-five to thirty players who practice five
8 days a week, weather permitting. And we had seven home games
9 and approximately 200 spectators per game.
10

11 Q Do you have any other field which you can use there in
12 the township for your athletics?

13 A No satisfactory field.

14 Q So that you are then limited to the use of what is known
15 as the Bergdoll Tract, are you not?

16 A With the kindness of Mr. Bergdoll; yes, sir.

17 Q Do not a number of your children going to school there in
18 Boothwyn use the bridge to go back and forth from school?
19

20 A Yes, sir.

21 Q That is in walking?

22 A Yes, sir.

23 Q What precautions, if any, do you find it necessary to
24 take with reference to children using the athletic field,
25 that is, going back and forth across the bridge? Do you take
any precautions in that regard?

1 A None more than we take in any of our school-training
program, as far as safety is concerned.

2 Q That is all borne out then on the matter of safety rules
3 and regulations?

4 A That is right.

5 Q Have you, yourself, seen the condition of the bridge with
6 regards to visibility for children who would be coming over
7 from the field to use the sidewalk on the present bridge?
8

9 A Yes, sir.

10 Q What is that visibility, if you could tell me? Is there
11 any difficulty, or not, connected with it for a pedestrian?

12 A It is practically impossible to see the traffic on the
13 other side until they are on top of you.

14 Q Fortunately, however, I don't believe you have been sub-
15 ject to any accidents with the school children, have you,
16 there?
17

18 A Not in the last five years.

19 Q But you do have that number passing back and forth, as
20 you have stated?

21 A Yes. I also offer that there are approximately 200
22 children coming over the bridge to school every day, including
23 approximately 75 children in the first three grades, that have
24 to go south over the bridge.
25

Q What would be the age of those children?

A From six to ten, that is, of the 75; and the 200 that are

from grade one to grade twelve.

1 Q And they of course all walk back up that way in the even-
2 ing, do they not?

3 A That is right, sir.

4 MR. SMITH: Any questions, Mr. Examiner?

5 MR. EXAMINER: Are there any questions, Mr.
6 Doering?

7 MR. DOERING: Yes, sir.
8

9
10 CROSS EXAMINATION

11 BY MR. DOERING:

12 Q So far as children going between the school and the
13 athletic fields, they are both on the same side of the street
14 and therefore use the existing sidewalk?

15 A That is right, sir.
16

17 MR. DOERING: Nothing further.

18 THE EXAMINER: That is all.

19 (Witness excused.)
20

21 CHARLES J. GALLAGHER, Recalled

22 REDIRECT EXAMINATION

23 BY MR. SMITH:

24 Q What part did the township pay in connection with the
25 order of the Commission in 1940?

A The township, back in 1940, paid \$1,000 towards property

damage caused by the new bridge being built.

1 Q What obligation does the township have with respect to the
2 maintenance and reconstruction of the existing bridge?

3 A None whatsoever.

4 Q And with reference to the highway approaches?

5 A That is all state highway and they take care of that.
6

7
8 RECROSS EXAMINATION

9 BY MR. DOERING:

10 Q You will agree, won't you, Colonel Gallagher, that the
11 building of the bridge initially was to accomodate highway
12 traffic?

13 A I believe so.

14 Q Primarily?

15 A Yes.
16

17 Q Whereas the project now proposed, of a new sidewalk on
18 the easterly side of the bridge, is purely of local interest
19 to accomodate local pedestrians?

20 A Well, it would be local pedestrians, that is right.

21 MR. DOERING: That is all.

22 THE EXAMINER: That is all.

23 (Witness excused.)
24

25

EDMUND E. HOLDEN, SR., 1919 Huddle Avenue,

Upper Chichester, Pennsylvania, called on behalf of the

Complainants, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SMITH:

Q Mr. Holden, what is your official capacity in the Township of Upper Chichester?

A Building Inspector.

Q How long have you been building inspector there?

A Five years.

Q With respect to the part or territory of Upper Chichester, north of the bridge, in your capacity do you know of various building which has gone on there within the past seven or eight years?

A Yes, I do.

Q Going down to a more recent time, can you tell us within the last year how many houses have been constructed in the township north of the bridge?

A There have been eighteen permits issued since September of 1947, north of the B. & O. Railroad.

Q And all this has happened since this large development which is known as Boothwyn Highland was put in there?

A That is right.

Q And over the past four or five years, do you have an estimate as to the rate of growth of the township in that particular section, as to the number of houses which have gone

up?

1 A Well, I couldn't say definitely, except 125 in the develop-
2 ment; there is 125 there and there has been a number of others,
3 but I don't know just the exact amount.

4 Q But they have all gone up since the existing bridge was
5 put in, have they not?

6 A Yes, sir.

7 MR. SMITH: Any questions, Mr. Examiner?

8 THE EXAMINER: Are there any questions?

9 MR. DOERING: I have none.

10 THE EXAMINER: Thank you very much.

11 (Witness excused.)

12 THE EXAMINER: The Complainant rests?

13 MR. SMITH: The Complainant rests.

14 THE EXAMINER: Department of Highways.

15
16
17
18 EVIDENCE ON BEHALF OF RESPONDENTS

19
20 EDWIN S. SMITH, Pennsylvania Department of
21 Highways, Harrisburg, Pennsylvania, having been duly sworn,
22 was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. EVANS:

25 Q Mr. Smith, what is your official position with the
Pennsylvania Department of Highways?

A Junior Grade Crossing Engineer.

1 Q Are you familiar with the condition existing at this
2 bridge?

3 A Yes, I am.

4 Q Are you familiar also with the questionnaire which the
5 Commission has submitted in connection with this complaint?

6 A I am.

7 Q Are you authorized to make reply to the questions con-
8 tained in that questionnaire which have been directed to the
9 Department of Highways?
10

11 A I am.

12 Q I refer you now to Question No. 7 which reads as follows:
13 Department of Highways submit testimony describing accurately
14 the location of the involved crossing, above grade, with
15 respect to other principal state highways and local streets.
16 Will you please give the Department's reply to that question?
17

18 A The crossing involved in this proceeding is located in
19 Upper Chichester Township, Delaware County. The highways
20 composing the state route involved in the crossing, above
21 grade, are State Aid Application 1416, State Aid Application
22 1136, and Legislative Route 599.

23 State Aid Application 1416 begins at the inter-
24 section of Legislative Route 132, which is East Tenth Street
25 in the Borough of Marcus Hook. This Legislative Route 132 is
also traffic route 13 and leads to the City of Chester which

1 is four miles distant, and to the City of Wilmington, Delaware,
2 eight miles distant.

3 From its intersection with Traffic Route 13,
4 Application 1416 runs in a generally northerly direction on
5 Market Street in the Borough of Marcus Hook, a distance of 920
6 feet to the Upper Chichester Township Line, then continues in
7 Upper Chichester Township through the Village of Boothwyn, an
8 additional distance of 3400 feet where it ends, and State Aid
9 Application 1136 begins.

10 Application 1136 continues in a general norther-
11 ly direction, a distance of 4762 feet, where it ends in the
12 middle of the bridge over the tracks of the B. & O. Railroad
13 Company, or the crossing above grade.

14 At this point State Highway Legislative Route
15 599 begins and continues to Upper Chichester and Bethel Town-
16 ship, Delaware County, a distance of 3-3/10 miles, to Legis-
17 lative Route 180, which is Traffic Route 322.

18 Therefore, State Aid Applications 1416, 1136,
19 with Legislative Route 599, are a part of Traffic Route 161
20 and is the Highway involved in this proceeding.

21 Two hundred feet from the northerly abutment
22 of the crossing above grade Legislative Route 599 is inter-
23 sected by State Highway Legislative Route 23010.

24 Q And those are the highways that are related to this
25 proceeding?

A That is correct.

1 Q Will you reply now, please, to Question No. 8 which reads
2 as follows: Department of Highways submit testimony as to the
3 date of construction of the existing crossing, above grade,
4 the purpose of its construction and the party or parties
5 responsible for its construction and maintenance.

6 A The date of construction of the existing cross was begun
7 July 21, 1941, and completed January 6, 1942. The purpose of
8 its construction was to replace a dangerous and inadequate
9 bridge which existed at that time over the tracks of the
10 Baltimore and Ohio Railroad Company.

11 The Department of Highways advertised the
12 project, received the bids, and the cost was borne by the
13 Baltimore and Ohio Railroad Company, and the County of Dela-
14 ware, and the Township of Upper Chichester, and the Pennsyl-
15 vania Department of Highways.

16 Q What about the maintenance?

17 A The bridge, the superstructure and substructure, is main-
18 tained by the Baltimore and Ohio Railroad Company, and the
19 highway approaches, and the wearing surface on the bridge are
20 maintained by the Pennsylvania Department of Highways.

21 I might add there is a stairway leading from
22 the bridge down to the tracks of the Baltimore and Ohio rail-
23 road Company, and this is also maintained by the railroad
24 company.

1 Q Were either the township or the county charged with any
responsibility for maintenance?

2 A Not as to the maintenance.

3 Q What is your answer to Question No. 9 which reads as
4 follows: Department of Highways submit testimony describing
5 in detail the type, number of spans, principal dimensions and
6 general physical condition of the substructure and superstruc-
7 ture of the existing crossing, above grade?

8 A The two end spans of the overhead bridge are reinforced
9 concrete type construction, while the center span over the
10 tracks of the Baltimore and Ohio Railroad Company are steel
11 I beams. Spans are 38 feet each in length, and the center
12 span is 43 feet in length. The condition of the bridge is
13 good.
14

15 Q Will you reply now to Question No. 10 which reads as
16 follows: Department of Highways submit testimony as to the
17 type and width of pavement, alignment, grade and general
18 physical condition of the highway approaches to the existing
19 crossing, above grade?
20

21 A The type of pavement on the approaches is reinforced
22 concrete, 20 feet in width, with five-foot earth shoulders on
23 each side. The southerly approaches of the bridge on hori-
24 zontal alignment at seven degree curve. This curve ends
25 approximately 200 feet from the southerly abutment of the
overhead bridge.

1 The horizontal alignment of the northerly
2 approach is on a tangent or straight. The grade of the south-
3 erly approach ascends toward the crossing on a three and
4 twenty-seven hundredths per cent grade, and the northerly
5 approach ascends toward the crossing on a two and ninety-two
6 hundredths per cent grade.

7 The physical condition of the highway approaches,
8 that is, the immediate highway approaches, are good, having
9 been constructed at the same time the bridge was built in the
10 year 1941.

11 Q Mr. Smith, who drew the plans for the construction of
12 this bridge?

13 A The Pennsylvania Department of Highways.

14 Q Were those plans submitted to all the other parties in
15 interest here?

16 A They were submitted to all the parties in interest, also
17 all parties of interest had a chance to appear and were noti-
18 fied of the hearing which was held prior to the construction
19 of the bridge, and either at that time they had an opportunity
20 to approve or disapprove the plans. These plans were then
21 approved by the Public Utility Commission.

22 Q And the plans called for a sidewalk on only one side of
23 the bridge?

24 A That is correct.

25 Q I refer you now to Question No. 11 which reads as follows:

1 Department of Highways state of record whether it agrees with
2 the testimony submitted by the complainant in regard to the
3 alleged hazardous condition presently existing at this loca-
4 tion. What is your answer to that question?

5 First, you heard the testimony which the Com-
6 plainants have submitted in this hearing?

7 A Yes, I have. An extra sidewalk on the bridge would
8 probably assist the alleged hazardous condition presented by
9 the Complainant this morning. However, the fact that no side-
10 walks exist on the northerly approach to the crossing, above
11 grade, and few, if any, sidewalks on the immediate southerly
12 approach, this condition should be remedied by the local --
13 it is a local proposition for the local authorities who are
14 charged with the construction of sidewalks on approaches
15 adjacent to highways or along any street. And it is doubtful
16 if just the construction of an additional sidewalk would be
17 of any great use unless sidewalks are constructed on the
18 immediate approaches to the bridge itself, and this condition
19 does not exist at the present time.

20 Q What is your answer to Question No. 12, Mr. Smith, which
21 reads as follows: Department of Highways state for the record
22 whether it agrees with the testimony submitted by the complain-
23 ant in regard to the nature and extent of all work required to
24 provide an adequate and safe crossing at this location.
25

A I did not hear any witness testify with any authority for

1 the township that they were willing to construct sidewalks on
2 the approaches. Therefore I cannot agree that just the mere
3 construction of a sidewalk on the bridge would be of any great
4 value.

4 Q Was there any concrete suggestion offered by the com-
5 plainant looking toward remedying the conditions complained of?

6 A I believe the engineer for the township suggested that an
7 additional sidewalk be constructed on the bridge itself, on
8 the easterly side, and also a short section of sidewalk on the
9 northerly approach on the east side of the bridge.

10 Q In your opinion, Mr. Smith, the construction of a side-
11 walk on the other side of this bridge would not, of itself,
12 cure the hazardous condition of which complaint is made here
13 today?

14 A No, it would not, not unless sidewalks were constructed
15 on both sides of the highway on the approaches to the bridge
16 and beyond the bridge.

17 Q I refer you now to Question No. 13. What is your answer
18 to Question No. 13 which reads as follows: Department of
19 Highways submit of record an estimate of the approximate cost
20 of constructing an additional sidewalk on the existing bridge
21 and of widening the highway approaches so as to provide proper
22 use of the new sidewalk?

23 A I have discussed this cost of constructing an additional
24 sidewalk on the existing bridge with the bridge engineer in
25

1 the Department of Highways, and he has estimated that this work
2 would cost approximately \$30,000, which would include the con-
3 struction of approximately 200 or 250 feet of sidewalk on the
4 easterly side of the highway on the northerly approach to the
5 bridge.

6 The sidewalk, on the bridge itself, would cost,
7 in his estimation, approximately \$27,500, and the sidewalk
8 would be approximately \$2500. This would necessity additional
9 fill on the northerly approach, and the cost of the sidewalk
10 construction on the bridge itself would require the construc-
11 tion of concrete columns, chipping of piers, in order to
12 attach the new construction with the old, providing anchor
13 bolts, a portion of the existing wings would have to be knocked
14 off and extended.

15 All this work would be more or less detail work
16 and would cost considerably more than if a sidewalk was being
17 built at the same time a highway bridge would be constructed.
18 In other words, it would be more or less of a small job and
19 require a lot of detail, and would be expensive work.

20 Q That is your estimate of the cost of constructing this
21 sidewalk today and properly supporting it to make it serve
22 the purpose safely for which it was intended, that it would
23 approximate \$30,000?
24

25 A That is correct. That sidewalk would be constructed
easterly of the existing parapet and would consist of a new

1 concrete sidewalk with additional parapet beyond the present
2 parapet. This would be necessary in order to prevent pedes-
3 trians who are crossing the bridge to be protected from blasts
4 from the railroad trains, and to protect anybody from falling
5 off or getting off the sidewalk. In other words, an addi-
6 tional parapet would have to be constructed east of the exist-
7 ing parapet.

8 Q Is there any feasible method in constructing that side-
9 walk in any other way?

10 A No, there is not. The dead weight, plus the live weight,
11 could not be supported by any other means, other than con-
12 structing a column, concrete column, adjacent to the present
13 piers. The fact that the two end spans of the existing bridge
14 are constructed of reinforced concrete and not of an I-beam
15 construction makes it impossible to extend the sidewalk on this
16 east side of the bridge without providing sufficient support,
17 which can only be secured by constructing columns adjacent to
18 the existing piers.

20 Q So that, Mr. Smith, in the event the Commission finds
21 that this complaint should be sustained, and finds further
22 that a sidewalk is necessary, it would entail a cost of some
23 \$30,000 to be paid by somebody?

25 A That is correct.

Q Will you please reply to Question No. 14 which reads as
follows: Department of Highways submit of record an estimate

1 of the damages for property that may be taken, injured or
2 destroyed by reason of the construction of a new sidewalk on
3 the existing bridge, and the widening of the highway approaches
4 thereto.

5 A In as far as the Department of Highways, there would be
6 no damages for property that would be taken, injured or des-
7 troyed by reason of the construction of the new sidewalk on
8 existing bridge and the widening of the highway approaches,
9 inasmuch as this major portion of this property, I believe, is
10 owned by the Baltimore and Ohio Railroad Company.

11 MR. EVANS: If it please the Examiner, I think
12 Mr. Smith has given the Department's reply to Question No. 15,
13 in his former testimony.

14 (15. Department of Highways submit testimony
15 full describing the nature and extent of all work which, in
16 its opinion, is necessary to eliminate the alleged hazardous
17 condition and to provide a satisfactory crossing at this loca-
18 tion.)

19 THE EXAMINER: Yes.

20 BY MR. EVANS:

21 Q Will you reply, please, to Question No. 16 which reads
22 as follows: Department of Highways submit testimony as to its
23 present obligation in respect to the maintenance and recon-
24 struction of the existing bridge and the highway approaches
25 thereto and state what portion, if any, of the actual cost of

constructing the improvement it will agree to bear in the event
1 the complaint is sustained.

2 A Well, as I testified previously, the Department of High-
3 ways maintains the highway approaches only to the existing
4 overhead bridge, and also maintains the wearing surface on the
5 bridge itself. The reconstruction of the existing bridge was
6 designed and advertised by the Department of Highways, and, as
7 I stated before, it was paid for by proportional shares of the
8 Department of Highways, the railroad company, and the county
9 and the township.
10

11 The Department of Highways does not agree to
12 bear any of the actual cost of constructing the proposed
13 alleged hazardous condition in the event the complaint is sus-
14 tained inasmuch as it is their position that this is a local
15 proposition to carry pedestrians, and the Department of High-
16 ways is charged with the construction of highways and not side-
17 walks.
18

19 Q The Department, you say, feels that this is a local
20 responsibility?

21 A That is correct.

22 Q In the event that a sidewalk is deemed necessary on this
23 bridge?

24 A Yes.

25 Q Would you please reply to question No. 17 which reads as
follows: Department of Highways state what portion, if any,

of the resulting property damages it will agree to bear in
1 event the complaint is sustained.

2 A As I stated before in answer to Question No. 14, I believe
3 there would be no property damages sustained. However, in
4 the event there would be any, the Department of Highways does
5 not agree to bear any of the property damage costs. The
6 County of Delaware was ordered by the Commission's order to
7 pay the damages in the original construction; therefore the
8 Department of Highways paid no damages in the construction of
9 the approaches and the overhead bridge built in 1941.

10 Q Mr. Smith, Questions 18 to 26, inclusive, are referred to
11 parties other than the Department of Highways.

12 I would direct your attention and ask you to
13 answer Question No. 27 which reads as follows; Query whether
14 any of the interested parties will agree to prepare the neces-
15 sary construction plans and detailed estimates of cost in
16 event the complaint is sustained?
17

18 A The Department of Highways cannot volunteer or agree
19 to prepare, or prepare plans and estimates in event the com-
20 plaint is sustained inasmuch as the Bridge Unit of the Depart-
21 ment of Highways is more than fully taxed and occupied at the
22 present time by designing bridges on roadway projects. In
23 fact a lot of the bridge designing work is advertised and being
24 done by private engineering firms due to conditions existing
25 in the Bridge Unit not having sufficient trained personnel to

do this type of work.

1 MR. EVANS: If the Examiner please, in reply to
2 Question No. 28, I would request that the proceeding docketed
3 at C.11400 should be made a part of this record by reference.

4 THE EXAMINER: Any objection?

5 MR. SMITH: Mr. Examiner, I think the proceed-
6 ings which took place back at that time were entirely separate
7 proceedings.
8

9 THE EXAMINER: Well, then, you object?

10 MR. SMITH: I object to that, sir.

11 THE EXAMINER: The objection is overruled and
12 an exception is granted. It may be made a part of this record
13 by reference.

14 BY MR. EVANS:

15 Q Mr. Smith, in answer to Question No. 29, that inquires
16 whether you have any further information to submit to the
17 Commission.
18

19 A I have nothing further.

20 MR. EVANS: Cross examine.
21

22 CROSS EXAMINATION

23 BY MR. SMITH:

24 Q With reference to the sidewalk across the bridge, and
25 with reference to the sidewalk approaches to it, the sidewalk
approaches would not be of much value without the actual side-

walk across the bridge, would they?

1 A No. Of course there are no sidewalks there at the present
2 time.

3 Q I mean if there were to be, so that to alleviate this
4 entire condition it would be necessary to have sidewalk
5 approaches and sidewalks across the bridge as you stated?
6

7 A That is correct.

8 Q And the present wall which is across the bridge on the
9 east side, that would be left there, would it not?

10 A That is right.

11 Q That would serve to protect on that 24 $\frac{1}{2}$ -foot roadway
12 across there, serve to protect pedestrians using that sidewalk,
13 would it not?

14 A Yes, that is right.

15 Q What is the width of your highways as recommended by the
16 Department of Highways?
17

18 A As recommended?

19 Q Yes.

20 A That is based on the amount of traffic that uses the high-
21 way.

22 Q Well, your highway approach to that bridge is of greater
23 width than that actually across the bridge itself, is it not?
24

25 A No, it is not. The highway on the bridge is 24 feet and
the concrete paving on the approaches is 20 feet.

Q I was under the impression it was wider.

A No.

1 Q But your actual roadway, confirmed roadway, is of what
2 width across there?

3 A The legal right-of-way is 45 feet on Application 1136
4 and Route 599, which was confirmed February 27, 1753, recorded
5 in docket volume A, page 199, volume 6, page 51, in the record
6 in the West Chester Courthouse, Chester County.

7 Q That is the confirmed right-of-way?

8 A That is when the road was originally laid out, in 1753.

9 Q If sidewalks were placed down along this route extending
10 on up to Chelsea, on up this 599, I believe the one which goes
11 on up by the church, the concrete highway -- if sidewalks were
12 put along there and there were no sidewalks across the bridge,
13 it wouldn't help to alleviate that dangerous condition of
14 crossing the bridge, would it?
15

16 A No. Sidewalks should be built on the approaches in the
17 township.
18

19 Q Should be built on the approaches and also across the
20 bridge as well?

21 A That is right, for quite a distance on the approaches I
22 would say in order to take care of the traffic, pedestrian
23 traffic, which witnesses testified used the crossing above
24 grade; in other words, they have no place to walk after they
25 get across the bridge.

Q Have you been acquainted with the Township of Upper Chi-

Chester within the past five or six years?

1 A I have been down there; I am not a native there.

2 Q Have you noticed, on your trips through, any increase in
3 the number of sidewalks laid through that township?

4 A I have not been through that.

5 Q You have not paid attention to that?

6 A No.

7
8 MR. SMITH: That is all; thank you.

9 THE EXAMINER: Do you have any questions, Mr.
10 Doering?

11 MR. DOERING: No, sir.

12 (Witness excused.)

13 THE EXAMINER: The County of Delaware.

14
15
16 A. C. THRONE, Courthouse, Media, Pennsylvania,
17 having been duly sworn, was examined and testified as follows?

18 DIRECT EXAMINATION

19 BY MR. FRONFIELD:

20 Q Mr. Throne, what is your capacity with the County of
21 Delaware?

22 A County Engineer.

23 Q Are you familiar with the application now before the Com-
24 mission in connection with the sidewalk on this bridge?

25 A I am.

Q Are you familiar with the questions submitted by the

Commission?

1 A I am.

2 Q Are you authorized to speak in connection with this on
3 behalf of the county?

4 A I am.

5 Q I direct your attention to Question No. 18, and ask you
6 to reply to that question which reads as follows: County of
7 Delaware state for the record whether it agrees with the
8 testimony submitted by the complainant in regard to the
9 alleged hazardous condition presently existing at this loca-
10 tion.
11 tion.

12 A We have not made any traffic surveys nor detailed study
13 of the Question No. 18, but I personally agree that wherever
14 there is automobile traffic, pedestrian traffic, that side-
15 walks are a necessity.
16

17 BY THE EXAMINER:

18 Q I don't think your answer answers the question. Do you
19 agree with the testimony submitted by the Complainant in re-
20 gard to the alleged hazardous condition presently existing at
21 this location?

22 A Yes, I agree that there is --

23 THE EXAMINER: All right.

24 BY MR. FRONFIELD:

25 Q What is your answer to Question No. 19 which reads as
follows: County of Delaware state whether it agrees with the

1 testimony submitted by the complainant in regard to the nature
2 and extent of all work required to provide a safe and adequate
3 crossing at this location?

4 A The only testimony that I heard was concerning the con-
5 struction of a sidewalk on the easterly side over the overhead
6 crossing. I agree that that would assist in removing the
7 hazardous condition.

8 Q What is your answer to Question No. 20 which reads as
9 follows: County of Delaware submit testimony as to its pre-
10 sent obligation in respect to the maintenance and reconstruc-
11 tion of the existing bridge and the highway approaches thereto
12 and state what portion, if any, of the actual construction
13 and damage costs of the improvement it will agree to bear in
14 event the complaint is sustained?

15 A The County of Delaware does not feel that they should in
16 any way be obligated to pay any of the costs of construction
17 and damages, or any of the maintenance in this proceeding.
18 Our county is in the position -- we have many other grade
19 crossing projects that are now before us where there are no
20 crossings whatsoever, and our money is being spent on those
21 projects.
22

23 BY THE EXAMINER:

24 Q Has the County of Delaware any present application in
25 respect to the maintenance and reconstruction of the existing
bridge?

A Not at the present time.

1 BY MR. FRONFIELD:

2 Q What is your answer to Question No. 27 which reads as
3 follows: Query whether any of the interested parties will
4 agree to prepare the necessary construction plans and detailed
5 estimates of cost in event the complaint is sustained.

6 A As far as the County of Delaware is concerned, we will
7 not agree to prepare any of the necessary construction plans.
8 We are not equipped for that work at the present time.

9 Q Directing your attention to Question No. 29, which reads
10 as follows: Query whether any of the interested parties de-
11 sire to submit any additional relevant testimony. Is there
12 any additional testimony which you have to offer, Mr. Throne?

13 A None.

14 THE EXAMINER: Does anyone have any questions?

15 MR. DOERING: Yes, sir.

16 CROSS EXAMINATION

17 BY MR. DOERING:

18 Q Mr. Throne, the plans for this bridge were submitted to
19 the County of Delaware in the prior proceeding?

20 A Yes, sir; they were.

21 Q And did Delaware Court y make any objection thereto?

22 A No, we approved the plans.

23 MR. DOERING: That is all.

24 THE EXAMINER: That is all; thank you.

(Witness excused.)

1 THE EXAMINER: The Baltimore and Ohio is next.

2
3 JOHN W. PACKMAN, Baltimore and Ohio Annex
4 Building, Baltimore, Maryland, having been duly sworn, was
5 examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. DOERING:

8
9 Q Mr. Packman, what is your position with the Baltimore and
10 Ohio Railroad Company, the respondent here?

11 A Assistant engineer.

12 Q Is the Boothwyn Bridge within your territory, and may it
13 be considered as under your jurisdiction?

14 A Yes, sir.

15 Q Are you familiar with that bridge?

16 A Yes, sir.

17 Q From personal observation?

18 A From personal observation.

19 Q Recently, on several occasions?

20 A Yes.

21 Q Were you involved in the prior proceeding at all, Mr.
22 Packman?

23 A Not that I recall.

24 Q Have you reviewed the record of that proceeding, that is,
25 the Commission's Order and the plans of the bridge?

A Yes, sir.

1 Q Are you prepared and authorized to make response on be-
2 half of the Baltimore and Ohio to the questions of the Com-
3 mission directed to the Baltimore and Ohio?

4 A I am, sir.

5 Q Would you kindly refer to Question No. 21 and state your
6 response to that question which reads as follows: The Baltimore
7 and Ohio Railroad Company submit testimony as to the complete
8 corporate name and termini of the line of railroad involved in
9 this proceeding; the number of tracks located at the site of
10 the existing crossing, above grade, and the volume, class and
11 approximate speed of trains operated daily over these tracks?
12

13 A The corporate is the Baltimore and Philadelphia Railroad
14 Company; termini of the line are Baltimore, Maryland, and
15 Philadelphia, Pennsylvania; number of tracks located at the
16 site of the existing crossing are two; volume, class and approx-
17 imate speed of trains operated daily is: Freight trains, east-
18 bound, 15; westbound, 14; average speed, 45 miles per hour.

19
20 Passenger trains, eastbound, 13, westbound 13;
21 average speed 80 miles per hour.

22 Q What is your answer to Question No. 22 which reads as
23 follows: The Baltimore and Ohio Railroad Company submit testi-
24 mony as to the complete corporate name of the company present-
25 ly operating the line of railroad involved in this proceeding.

A The Baltimore and Ohio Railroad Company is presently

operating the line of railroad involved in this proceeding.

1 Q Mr. Packman, aside from the Commission's question, will
2 you state for the record: Is Boothwyn Station presently an
3 agency station?

4 A No, sir; it is not.

5 Q Is there any passenger service there?

6 A Not that I know of.

7 Q What is your answer to Question No. 23 which reads as
8 follows: The Baltimore and Ohio Railroad Company state for
9 the record whether it agrees with the testimony of the com-
10 plainant in regard to the alleged hazardous and unsatisfactory
11 condition presently existing at the site of the crossing,
12 above grade?

13 A The present crossing is a steel and concrete highway
14 bridge constructed in 1942. The bridge has a roadway width
15 of 24 feet with a five-foot sidewalk located along the west
16 side of the road.

17 Q I am not sure that that is full responsive, Mr. Packman.
18 Does the Baltimore and Ohio agree with the testimony of com-
19 plainants who allege that the public convenience and necessity
20 demand the construction of a sidewalk on the easterly side of
21 this bridge carrying the highway over our tracks at Boothwyn?
22

23 A It appears to my observation.

24 Q What appears?

25 A That the pedestrian traffic, if it is of such volume to

justify a sidewalk should have a sidewalk.

1 Q Is it your opinion that that is a question for the Public
2 Utility Commission to determine?

3 A Yes, sir.

4 Q What is your answer to Question No. 25 which reads as
5 follows: The Baltimore and Ohio Railroad Company submit testi-
6 mony as to its present obligation in respect to the mainten-
7 ance and reconstruction of the existing crossing, above grade,
8 and the highway approaches thereto, and state what portion of
9 the actual construction costs and damages of the improvement
10 it will agree to bear in event the complaint is sustained.

12 A The existing highway bridge was constructed under order
13 of the Pennsylvania Public Utility Commission dated August 28,
14 1940, complaint docket No. 11400. It is the obligation of the
15 railroad, in accordance with the order of the Commission, that
16 upon completion of the improvement herein ordered, and its
17 opening to public use, the Baltimore and Ohio Railroad Company
18 thereafter maintain its altered facilities and in addition
19 maintain the concrete steps leading from the bridge level to
20 the level of the station platforms of the railroad company,
21 and the substructure and superstructure of the new bridge con-
22 structed over its tracks in accordance with this order, exclus-
23 ive of the roadway wearing surface of the superstructure.

24 Q That was a quotation from the Commission's Order, was it
25 not?

A That is right.

1 Q Kindly continue.

2 A In the reconstruction of the bridge the Baltimore and Ohio,
3 at its sole cost and expense, was required to do all the work
4 necessary for alteration of its tracks and facilities, at an
5 estimated cost of \$8,000. And the Pennsylvania State Highway
6 Department was ordered to do all work necessary to complete the
7 structure, at an estimated cost of \$41,240.
8

9 The Baltimore and Ohio Railroad Company is to
10 pay the Highway Department 35 per cent of the expense incurred
11 by the Highway Department. The actual cost of the work by the
12 Highway Department was \$55,397.31. The actual cost of the work
13 by the Baltimore and Ohio was \$5,440.13, making a total cost
14 for the project of \$60,837.44.
15

16 The total cost to the railroad was alteration
17 of its facilities at its expense, \$5,440.13. Thirty-five per
18 cent of the Highway Department's expenditure, \$19,389.06.
19 The total railroad expense comes to \$24,829.19. ✓

20 The statement of construction costs was
21 approved by the Public Utility Commission under date of Sep-
22 tember 21, 1942. The County of Delaware contributed \$5,000
23 toward the cost of the project.
24

25 Q In the event the complaint is sustained, what is the
position, and the Commission orders the construction of a side-
walk on the easterly side of the bridge, what is the position

of the Baltimore and Ohio with respect to how the cost of such construction should be borne?

A The construction of additional sidewalk on this bridge would seem to be wholly a matter of local requirement and, as such, should be paid for by local assessment. The railroad should not bear any portion of the cost.

Q Mr. Packman, have you contacted the bridge engineer of the Baltimore and Ohio in obtaining an estimate from him as to the expense of constructing a sidewalk along the easterly side of the bridge?

A Yes. They made an approximate estimate for informational purposes.

Q And what was that estimate?

A It came to approximately \$12,500, exclusive of the approaches to it.

Q \$12,500 cost then covered solely the sidewalk on the bridge?

A Yes, sir.

Q What was the estimate of the additional sidewalk on the approach?

A My estimate for the approach would be around \$2,000 for the sidewalks at the approach, not counting property damage.

Q Did you ascertain from the bridge engineer his estimate of the additional amount of cost that would have been incurred in the event this requested sidewalk on the easterly side had

been constructed at the time of the initial construction?

1 A I believe that his estimate, if it had been incorporated
2 into the sidewalk, that is, had been incorporated into the
3 structure, that is if the sidewalk had been incorporated into
4 the structure when built, would run about \$3,000 over the cost.

5 Q That is then, \$3,000 over the Department of Highways'
6 \$55,000-odd cost?
7

8 A Yes, sir; at that time.

9 Q I believe I omitted Question No. 24. What is your answer
10 to Question No. 24 which reads as follows: The Baltimore and
11 Ohio Railroad Company state for the record whether it agrees
12 with the testimony of the complainant in regard to the nature
13 and extent of all work required to provide a safe and adequate
14 crossing at this location.
15

16 A Well, if such a sidewalk is constructed on the bridge,
17 it will be necessary also to construct a sidewalk along the
18 approach to the bridge to provide for adequate safety.

19 Q What is your answer to Question No. 26 which reads as
20 follows: The Baltimore and Ohio Railroad Company state
21 whether the construction of the improvement as suggested by
22 the complainant will necessitate any alteration of its facil-
23 ities and, if so, submit testimony describing the general
24 nature, extent and approximate cost of such work.
25

A The construction of the improvement as suggested by the
complainant will not necessitate any alteration of railroad

facilities.

1 Q What is your reply to question No. 27 which reads as
2 follows: Query whether any of the interested parties will
3 agree to prepare the necessary construction plans and detailed
4 estimates of cost in event the complaint is sustained?

5 A The railroad will not agree to prepare the necessary con-
6 struction plans and detailed estimates of cost in the event the
7 complaint is sustained.
8

9 Q Referring to Question No. 28 --

10 THE EXAMINER: Well, that has already been
11 taken care of.

12 MR. DOERING: All right.

13 BY MR. DOERING:

14 Q In the event the Commission orders the construction of a
15 sidewalk, is it the position of the Baltimore and Ohio that a
16 greater portion, that is, that a much greater portion of the
17 cost thereof should be placed on the township and the county
18 than was placed by the prior Commission's order of August,
19 1940?
20

21 A To me it would seem equitable.

22 MR. DOERING: That date is August 28, 1940,
23 for the record.

24 BY MR. DOERING:

25 Q What is the basis, the reason for your statement?

A Well, the bridge was constructed just a few years ago,

1 which was 1942 or 1941. When we have a bridge proposed we
2 have to anticipate -- we, on the railroad, have to anticipate
3 -- our future requirements. If we anticipate another track
4 in there we make provisions for it when we construct the bridge
5 and approve the plans, regardless of whether the state builds
6 it or whether we build it ourselves.

7 Now it is my opinion that the future should
8 have been anticipated also for the traffic on the surface of
9 the bridge at the time of its construction, or prior to the
10 time of its construction.

11 Q And that was to be anticipated primarily by whom? The
12 State and the Railroad, or the local people?

13 A Well, the railroad said they anticipated their needs,
14 and the state anticipated their needs, and the local people
15 should anticipate their local needs and requirements.

16 MR. DOERING: That is all, sir, on direct.
17

18
19 CROSS EXAMINATION

20 BY MR. SMITH:

21 Q At that time, Mr. Packman, don't you think that everyone
22 considered the needs which they thought would arise in the
23 future, they were not to be too speculative? I doubt, too,
24 whether the railroad contemplated all the burdens and needs
25 would be placed on it at that time, did it?

A Well, are you referring to this particular bridge?

Q I mean generally, the township of Upper Chichester at that
1 time didn't contemplate the great amount of increased building
2 and people which came into the vicinity from that time on, it
3 was just something that is out of the ordinary.

4 THE EXAMINER: Are you going to testify, or
5 are you --

6 MR. SMITH: I mean that to be in a question
7 form, sir. If the Township could readily speculate at that
8 time this influx of people which was greater, which, we might
9 say, was greater than it ever experienced, could we say that
10 the township could anticipate that at that time?

12 MR. DOERING: I am afraid we have such a
13 series of questions -- I object.

14 THE EXAMINER: The objection is sustained.

15 MR. SMITH: I have no further questions.

16 BY MR. EVANS:

17 Q Mr. Packman, in your estimate of \$12,500 for this sidewalk
18 in the event the complaint is sustained, what type of sidewalk
19 had you in mind?
20

21 A The Bridge Department, the estimate they worked up was
22 based on carrying the supports for the sidewalk to the ground,
23 because the type of structure that is in there now will not
24 carry brackets for an additional sidewalk.
25

Q The sidewalk that you had in mind, was it a concrete
sidewalk comparable to the bridge itself?

1 A Yes. Now, I am not the detailer; I am field engineer
 2 in construction. I didn't make the detailed estimate myself;
 3 I just took the Bridge Department's word for what they had made.

4 Q Have you any suggestion to the difference between the
 5 estimate made by our engineer and the estimate which your
 6 engineer placed upon the sidewalk?

7 A No, I couldn't say off hand unless I analyzed both estim-
 8 ates.

9 Q They may have in mind two different types?

10 A You may have a different type of construction in mind
 11 than our designer.

12 MR. EVANS: That is all; thank you.

13 (Witness excused.)

14 THE EXAMINER: Do you gentlemen desire to sub-
 15 mit the matter on the record or file briefs?

16 MR. SMITH: Submit it on the record.

17 MR. DOERING: That is satisfactory.

18 THE EXAMINER: Thank you very much, gentlemen;
 19 the hearing is concluded.

20 (Hearing concluded.)

21 I HEREBY CERTIFY that the proceedings and evi-
 22 dence herein are contained fully and accurately in the notes
 23 taken by me at the hearing in the above cause before the Public
 24 Utility Commission of the Commonwealth of Pennsylvania, and
 25 that this copy is a true and correct transcript of the same.
 Reported by:

J. D.

Official Court Reporter.

(cc - Mr. Smith)
 (cc - Mr. Doering)
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J.C.