

Road dispute put residents against county in 1895

In December of 1895, when there was a dispute between private interests (landowners) and the government, representing the public interest, the decision about which party would win fell to the lot of a jury. Arrayed on one side were James Blair, Hugh and James Marlin and Benjamin Owen and on the other, the Monroe County Commissioners.

It is interesting that the case was heard by an out-of-county judge — Newton Crooke of Bedford — rather than having been moved to an adjoining county court. The reason for bringing in a judge was to avoid any possible charge of conflict of interest.

The Blairs were prominent in the



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By Rose McIlveen

county. In fact, it was in the cabin of one of James Blair's ancestors that a provisional county government was set up to serve until an election could be held in 1818. The Marlins had figured prominently in public debates just prior to the outbreak of the Civil War in 1860. An Owens was among the 1816 land buyers.

Their complaint that the projected road damaged the value of their property in the northwest sector of the county was to be heard by a jury composed of James Skirvin, Michael Kirk, William Prophet, Grant May, Frank Shields, Nicholas Walker, Samuel Brown, Charles Jay, John Duvall, Phil Kerr, F.A. Eller and J.M. Matthews. Eller was elected foreman.

After making such a journalistic to-do over the filing of the case, the *Bloomington Courier* lost interest thereafter, although the decision in the Monroe Circuit Court was not long in coming. The initial report of the newspaper was on Dec. 24, and the case, surprisingly, was decided

between Christmas and New Year's Day. Had any of the *Courier's* readers been holding his breath until hearing about the outcome, there would have been another local funeral.

Fortunately, a glimpse of the jury's thinking can be found in the court records. The case number was 3834.

It is couched in quaint legalese, beginning, "Come again the parties and the arguments of the Counsel is resumed and concluded and now after receiving the instructions of the court in due form of law, the jury retires in charge of their sworn bailiff, Taylor Voss, to consider their

verdict."

Apparently it did not take them all that long. There was no all-night vigil by court watchers in this case.

Their conclusion was, "We, the jury find for the petitioners and that the road mentioned and described in the petition would be of public utility, and we find that Hugh Marlin will sustain damage in the sum of \$214.00; that Benjamin I. Owens will sustain damages in the sum of \$90.00; that James Blair will sustain damages in the sum of \$81.00; that James Marlin will sustain damages in the sum of \$55.00 and that Elizabeth Johnson (not

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