TESTIMONY TAKEN BEFORE THE COURT, HON. PATRICK M. SCHNAUFFER, August 14, 1947.

JOHN J. SCHMIDT, one of the Defendants, being first duly sworn, deposes and says:

By Mr. Bowers:

Q. Will you give the Court your name? A. John J. Schmidt.

Q Mr. Schmidt, what is your wife's name? A. Adele B.

Q Mr. Schmidt, you now are residing in Waynesboro, Pennsylvania, are you not? A. I am.

Q Prior to going up there where did you reside?

A 1406 North Market Street, Frederick.

Q Mr. Schmidt, will you tell His Honor there what connection or transaction you had with the four lots known as 3, 4, 5 and 6 in Block B on the Wallace Development of the Northern Part of Frederick?

A Your Honor, I purchased this back about 1927 at a public sale, and I obtained a deed at that time, but unfortunately I neglected to record it here in the Court House, and I had the deed in the safe deposit box here in Frederick, and late, here about three or four years ago, I transferred the title - sold the lots to Aubrey Nicodemus and he in turn deeded them back right to me. About a year ago Mr. Oden and his brother purchased those lots and turned over to him a deed, and late on he came back and advised me that there was no record here in the Court House of the transfer of title to me, and I looked it up to see if I could find the old deed so I could record it, and unfortunately it was lost or mislaid possibly, in moving from Frederick to Waynesboro.

Q You definitely did receive the deed?

A Oh I definitely did receive the deed.

Q And it became lost?

A Oh yes, I saw that deed up as late as probaly two or three years ago. Every time I would go down to the box I would see the deed, and there has been no lien or anything against it. There is no question in mind about having a clear title.

Q You are perfectly willing at this time to execute such deeds, releases and so forth? A. I am.

Q And remove the cloud on the title? A. I am.

Q As a matter of fact you and your wife did join in that confirmatory deed?

A Yes, everything was done.

Q As of July 2, 1947? A. Yes.

Q And you have already testified as far as your observation has gone, there has been no liens or judgments?

A Absolutely nothing against it.

Q On the records in this County. Will you tell his Honor whether or not since the time you bought it up to the time you sold it to Odens, except during the time you sold it to Aubrey Nicodemus, you held possession of it?

A I did. I held possession of it all during the period it was in the box.

Q Did you pay the taxes too?

A I did. All through the years I paid these taxes. The records will show.

SHERMAN P. BOWERS, being first duly sworn, deposes and says:

By Mr. Mathias:

Q Mr. Bowers, in the course of your connection with this matter that is now before the Court did you examine the title to the lots which is the subject matter of this proceeding?

A I did, your Honor, and while the examination was being made Mr. William M. Storm, attorney for the Farmers & Mechanics National Bank, together - we are together somewhat - and we ran across this title and break in the title there, and we discussed it, and looked