

when it overturned and fell upon the said two men, causing the immediate death of both of them.

“Considering that the said road on which the said two men were travelling, at the time of the accident, was the main road leading from Nicolet Falls to Danville, and at the place of the accident there were two small hills, the road leading down one of these hills across a brook, where there was a culvert covered with earth, then some little distance on the level, and up the next hill; the hollow between the hills was filled in with earth, making an embankment about twelve feet higher than the ground on each side of the road.

“Considering that the auto left the road shortly after crossing the culvert on its way to Danville, and went a short distance in a slanting direction, then over the embankment the car rolling over and crushing the two men underneath it.

“Considering that the road at the place of the accident was only $19\frac{1}{2}$ in width from fence to fence, and the level portion of the road was $10\frac{1}{2}$ or 11 feet in width, each side gradually sloping toward the fence. [The following considerants consist in examining the witness deposition on the condition of the road.]

“Considering that although the road was not as wide as the law required, yet it apparently had been in the same condition as to width from the time it was built, and one of the witnesses states that he was acquainted with the road for 50 years. And, further, those fences were not in as good condition as they should have been. The road otherwise was a good road.

“Considering that the condition of the road was not the immediate contributing cause of the said accident.

“Considering that the proximate, or determining cause