

*The Supreme Court of Pennsylvania* }  
Western District } ss:

*The Commonwealth of Pennsylvania*

TO THE JUDGES of the COURT OF QUARTER SESSIONS for the County of CAMBRIA

GREETING: WHEREAS, by virtue of our Writ of Certiorari at No. 143 of March Term, 19 59 of our Court a record in the matter of the appeal of MELVIN R. STRONG AND EDNA M. STRONG (otherwise Melvin R. Strong and Edna Mae Strong)

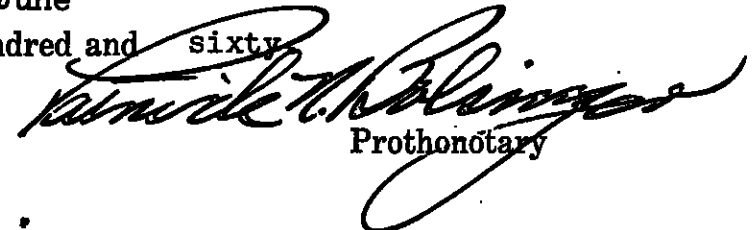
from the order of your said Court at No. 13 of June Session ~~Term~~ A. D. 19 55 was brought into our Supreme Court and the said cause was there so proceeded in that on the 3rd day of June A. D. 19 60 the following decision was rendered, viz:

Order reversed and record remanded for further proceedings consonant with this opinion.

BOK, J.

WHEREFORE, We hereby remit you the record aforesaid with the proceedings thereon and all things touching the same so far as in this Court they remain, for the purpose of execution as to justice shall appertain in accordance with the decision of our said Supreme Court as aforesaid.

Witness the Honorable CHARLES ALVIN JONES Chief Justice of our Supreme Court, the 15th day of June in the year of our Lord one thousand nine hundred and sixty

  
Prothonotary

Q. S. Cambria

No. 13 June Sessions ~~1955~~ 19 55

No. 143 March Term, 19 59

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## Supreme Court

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IN THE MATTER OF THE CHANGE OF  
LOCATION AND LINES OF THE HIGHWAY  
KNOWN AS STATE HIGHWAY ROUTE 222,  
IN THE TOWNSHIP OF STONYCREEK, COUNTY  
OF CAMBRIA AND STATE OF PENNSYLVANIA

APPEAL OF MELVIN R. STRONG AND EDNA  
M. STRONG (otherwise Melvin R. Strong  
and Edna Mae Strong)

REMITTITUR

Filed June 16, 1960  
A. T. Gagan

1 copy

IN THE COURT OF QUARTER SESSIONS OF GAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF THE CHANGE OF LOCATION AND LINES OF THE HIGHWAY KNOWN AS STATE HIGHWAY ROUTE NO. 222, IN THE TOWNSHIP OF STONYGREEK, COUNTY OF GAMBRIA AND STATE OF PENNSYLVANIA.

No. 13 June Sessions, 1955

STIPULATION OF SETTLEMENT

4/2  
J  
G  
W  
P  
1/10/61

AND NOW, January 23, 1961, it is hereby stipulated and agreed by and between counsel for the Department of Highways of the Commonwealth of Pennsylvania and counsel for Melvin R. Strong and Edna Mae Strong, husband and wife, as follows:

Edward F. Peduzzi  
1/23/61

1. That the Department of Highways has agreed to pay to Melvin R. Strong and Edna Mae Strong, husband and wife, the sum of \$8,800.00 as damages for the taking of their property as a result of the change in the existing lines and location of the aforesaid highway in 1950, and Melvin R. Strong and Edna Mae Strong, husband and wife, have agreed to accept the said sum in full settlement for said damages, including interest and/or detention damages.

2. That Melvin R. Strong and Edna Mae Strong, husband and wife, upon the payment of the said sum of \$8,800.00 to them by the Department of Highways, will cause the record in the above captioned proceedings to be marked settled, discontinued and ended, and/or, if necessary, secure or consent to the securing of an order of court dismissing the viewers heretofore appointed in the above captioned proceedings and the termination thereof, and they will not thereafter present any further or additional claims or demands for damages, in law, equity or otherwise.

EDWARD F. PEDUZZI

Edward F. Peduzzi  
Attorney for Department of Highways

EDWARD J. HARKINS  
GERALD K. GIBSON

by Gerald K. Gibson  
Attorneys for Melvin R. Strong and Edna Mae Strong

Filed  
Jan. 23, 1961



IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF THE CHANGE OF )  
LOCATION AND LINES OF THE HIGH- )  
WAY KNOWN AS STATE HIGHWAY )  
ROUTE NO. 222, IN THE TOWNSHIP )  
OF STONYCREEK, IN SAID COUNTY )  
AND STATE. )

No. 13 June Sessions, 1955  
Road Docket

Appeal of Melvin R. Strong and )  
Edna Mae Strong, husband and )  
wife. )

BILL OF COSTS ON APPEAL

I hereby certify that the following costs on appeal  
were incurred in the above stated case:

1. Share of printing Brief and Record \$37.21.
2. Filing Appeal in Supreme Court.....\$12.00.

Total.....\$49.21

  
\_\_\_\_\_  
Attorney for Appellants

No. 13 June Sessions, 1955  
Road Docket

IN THE COURT OF QUARTER  
SESSIONS OF CAMBRIA COUNTY,  
PENNSYLVANIA

IN THE MATTER OF THE CHANGE OF  
LOCATION AND LINES OF THE HIGH-  
WAY KNOWN AS STATE HIGHWAY  
ROUTE NO 222, IN THE TOWNSHIP  
OF STONYCREEK, IN SAID COUNTY  
AND STATE.

Appeal of Melvin R Strong and  
Edna Mae Strong, husband and  
wife.

*Filed - 2-20-61*

BILL OF COSTS ON APPEAL

EDWARD J. HARKINS  
ATTORNEY AT LAW  
FIRST NATIONAL BANK BUILDING  
JOHNSTOWN PA

*The Supreme Court of Pennsylvania,* }  
*Western District* } SS

*The Commonwealth of Pennsylvania*

TO THE JUDGES of the COURT OF QUARTER SESSIONS

for the County of CAMBRIA

GREETING We being willing for certain causes to be certified of the matter of the appeal of

MELVIN R. STRONG and EDNA M. STRONG  
(otherwise Melvin R. Strong and Edna Mae Strong)

from the Order of your said Court at No. 13 June Sessions, 1955, IN THE  
MATTER OF THE CHANGE OF LOCATION AND LINES OF THE HIGHWAY KNOWN AS STATE  
HIGHWAY ROUTE 222, IN THE TOWNSHIP OF STONYCREEK, COUNTY OF CAMBRIA AND  
STATE OF PENNSYLVANIA

before you, or some of you, depending, DO COMMAND YOU that the record and proceedings aforesaid, with all things touching the same, before the Justices of our Supreme Court of Pennsylvania, at Pittsburgh, in and for the Western District, on the last Monday of September 19 59, so full and entire as in your Court before you they remain, you certify and send, together with this Writ, that we may further cause to be done thereupon that which of right and according to the laws of the said State ought

Witness HON. CHARLES ALVIN JONES, Doctor of Laws, Chief Justice of our said Supreme Court, the 23rd day of April in the Year of our Lord one thousand nine hundred and fifty-nine.

*Thomas M. Binger*  
PROTHONOTARY

To the Honorable the Justices of the Supreme Court of the Commonwealth of Pennsylvania, sitting in and for the Western District

The record and process, and all things touching the same, so full and entire as before us they remain, we certify and send, as within we are commanded

*Walter J. Starnes*  
*Justice* [L S]  
*Justice* [L S]

*e*  
No 143

*F 2*  
March Term, 19 59

**Supreme Court**  
WESTERN DISTRICT

IN THE MATTER OF THE CHANGE OF LOCATION AND LINES OF THE HIGHWAY KNOWN AS STATE HIGHWAY ROUTE 222, IN THE TOWNSHIP OF STONYCREEK, COUNTY OF CAMBRIA AND STATE OF PENNSYLVANIA

Appeal of MELVIN R. STRONG and EDNA M. STRONG (otherwise Melvin R. Strong and Edna Mae Strong)

CERTIORARI to the

COURT OF QUARTER SESSIONS

for the County of CAMBRIA

Returnable the last Monday  
of September A D 19 59.

**FILED**

SEP 14 1959

**SUPREME COURT**  
**WESTERN DISTRICT**

Edward J. Harkins  
Gerald K. Gibson

Attorneys for Appellant

*Filed: Apr 27, 1959*  
*J/O Starnes*

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNA.

In re: In the matter of change  
of location and lines of the highway  
known as State Highway Route No. 222,  
in the Township of Stonycreek in  
Cambria County, Pennsylvania

No. Road Docket 13 June  
Sessions, 1955

Petition of Melvin R. Strong and Edna  
Mae Strong, husband and wife

DOCKET ENTRIES

May 31, 1955	Petition for appointment of viewers filed.
May 31, 1955	Order appointing viewers filed.
June 3, 1955	Order to view issued.
June 23, 1955	Date of view filed.
June 23, 1955	Petition for Rule to show cause filed by Edward F. Peduzzi, Esq.
June 23, 1955	Rule filed.
June 24, 1955	Certified copy of Rule mailed to Robert S. Mayer, Viewer.
November 28, 1955	Agreement of counsel as to time within with an answer to Rule heretofore granted is to be filed, extended.
November 28, 1955	Answer to petition for rule and to rule to show cause heretofore granted filed.
December 6, 1957	Petition for rule to show cause filed.
December 6, 1957	Order granting rule filed.
January 16, 1958	Answer of Cambria County to Petition for rule to show cause filed.
July 17, 1958	Brief on behalf of Pa. Dept. of Highways, Petitioner, filed.
February 6, 1959	Brief on behalf of Petitioners filed.
March 13, 1959	Order of Court dismissing the petition and vacating order thereon and making absolute the rule to show cause why the petition for the appointment of viewers should not be dismissed filed.
April 27, 1959	Certiorari from Supreme Court filed.

Page — 2

No. Road Docket 13 June Sessions, 1955

April 27, 1959

Notice of appeal and acceptance  
of service filed.

April 27, 1959

Certificate of amount in  
controversy filed.

August 24, 1959

Exception to opinion and order  
filed.

IN THE COURT OF QUARTER SESSIONS  
OF CAMBRIA COUNTY, PA.

IN THE MATTER OF THE CHANGE  
OF LOCATION AND LINES OF  
THE HIGHWAY KNOWN AS STATE  
HIGHWAY ROUTE NO. 222, in  
the Township of Stonycreek,  
in Cambria County, Pa.

PETITION OF MELVIN R. STRONG  
AND EDNA MAE STRONG, HUSBAND  
AND WIFE, FOR THE APPOINT-  
MENT OF VIEWERS.

LAW OFFICES  
**HARKINS AND WHARTON**  
ELEVENTH FLOOR FIRST NATIONAL BANK BLDG.  
JOHNSTOWN, PA.

*Filed - June 1, 1955*

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PA.

IN THE MATTER OF THE CHANGE OF LOCATION  
AND LINES OF THE HIGHWAY KNOWN AS STATE  
HIGHWAY ROUTE NO. 222, IN THE TOWNSHIP  
OF STONYCREEK, IN SAID COUNTY AND STATE.

Y  
I No. 13-Road Docket  
I June SESSIONS,  
I 1955

PETITION OF MELVIN R. STRONG AND EDNA MAE STRONG,  
HUSBAND AND WIFE, FOR THE APPOINTMENT OF VIEWERS.

TO THE HONORABLE, THE JUDGES OF THE ABOVE NAMED COURT:

The petition of Melvin R. Strong and Edna Mae Strong,  
husband and wife, respectfully represents:

1. Your Petitioners are residents of the Township of  
Stonycreek, in Cambria County, Pennsylvania; their residence  
address being 1705-1707 Bedford Street, Johnstown, Pennsylvania.  
Melvin R. Strong and Edna Mae Strong, husband and wife, are also  
the owners of property situate at 1717 Bedford Street, Johnstown,  
Pennsylvania.

2. The frontage of the property situate at 1705-1707  
Bedford Street is approximately 65 feet; and the frontage of  
the property situate at 1717 Bedford Street is approximately  
40 feet. The above mentioned property is in the Township of  
Stonycreek, County of Cambria and State of Pennsylvania.

3. The Department of Highways of the Commonwealth of  
Pennsylvania, in changing the location and grade of the public  
highway leading from the City of Johnstown, Cambria County, Pennsyl-  
vania, to the Borough of Windber, in Somerset County, Pennsylvania,  
made certain changes which affected the land owned by your  
Petitioners in that the new highway known as Highway Route No. 222  
was extended over and above part of the land owned by your  
Petitioners, and above described, whereby the Commonwealth of Penn-  
sylvania condemned a portion of the land of your Petitioners, said  
portion being a strip of land approximately 14 feet in width and  
extending from the Westerly line of said above mentioned land to

the Easterly line of said land.

4. Your Petitioners aver that they were the owners of the land hereinabove mentioned at the time of said condemnation, and therefore, they are the only persons entitled to recover damages for the taking thereof.

5. The Secretary of Highways of the Commonwealth of Pennsylvania, under authority of law, has caused changes in existing lines and location of the highway above referred to as State Highway Route No. 222 to be made at a point on said Highway where the same now passes along and above the real estate owned by your Petitioners and hereinabove described. Such change, insofar as that portion of said Highway Route No. 222 is concerned, makes a change therein whereby said Highway has been converted into a three lane highway upon a new location which extends over and above part of Petitioners' land. As the result of said changes, the land as owned by your Petitioners has been condemned and taken for public use in connection with the changes in lines and location above referred to.

6. Petitioners are advised, believe and therefore aver that a strip of land approximately 14 feet in width and 65 feet in length, comprising approximately  $910 \frac{\text{square}}{\text{feet}}$  was taken for highway purposes with respect to property situate at 1705-1707 Bedford Street; and that a strip of land approximately 14 feet in width and 40 feet in length, comprising approximately 560 square feet of land was taken for highway purposes with respect to property situate at 1717 Bedford Street, Johnstown, Pennsylvania.

7. The changes in said highway so made by the Secretary of Highways have not only taken a large part of the real estate of your Petitioners as above set forth, but did cause injury and damage to the remainder thereof.

8. Petitioners, with respect to property situate at 1705-1707 Bedford Street, aver that prior to the change in the Highway above mentioned, the land in question was landscaped and protected by a stone wall with cut stone coping, and with proper stone steps and side walks leading to the dwellings. The change in the Highway above mentioned resulted in the total destruction of said stone wall and steps and side walks and the taking of certain portions of land and leaving the appearance of the buildings from the front in a more or less dilapidated condition, which will be expensive to remodel and repair. Petitioners also aver, with respect to property situate at 1717 Bedford Street, that the property was landscaped and protected by a stone wall with field stone coping and with cut stone steps and side walk; the said property being landscaped and walled to correspond with the other properties in the immediate vicinity.

9. The Commonwealth of Pennsylvania, under the provisions of the Act of Assembly in such case made and provided, is required to assume all damages in connection with the aforesaid changes of the existing lines and location of said highway known as State Highway Route No. 222.

10. By the provisions of Article III, Section 303 of the Act of Assembly of the 1st day of June, 1945, P. L. 1242, it is provided that, if an agreement cannot be made between the owner of property damaged and the Secretary of Highways, said owner or the Commonwealth may present their or its petition to the Court of Quarter Sessions for the appointment of Viewers to ascertain and assess such damages, as well as any benefits accruing to the land owner by reason of the appropriation or taking of the same, or a part thereof by the Secretary of Highways in connection with the change in lines and location of State Highway Routes. Said act

further provides that such petition shall be presented within 6 years from the date of the approval by the Governor of the plan making the change, but not thereafter. The approval of the plan making the change, in the present case, was dated in the year 1950. While the Viewers to be appointed must take into consideration not only the damages suffered by your Petitioners by reason of the appropriation hereinabove mentioned, but must take into consideration also any benefits which may have accrued to said property by reason of the fact that the highway now passes through and over the land of petitioners; nevertheless, petitioners believe that no benefits have been derived by petitioners thereby.

11. The Petitioners allege that the fair market value of the land owned by your petitioners at the time of the condemnation was decreased by reason of the condemnation, and by reason of the fact that a certain portion of their land was actually taken for public use, but in addition thereto, they claim that the fair market value immediately after the condemnation, and as affected by the condemnation, was less than the amount of the fair market value immediately before the condemnation.

12. Until this date, Petitioners have not been able to complete an agreement between Petitioners and the Secretary of Highways.

WHEREFORE, your Petitioners pray the Court to appoint Viewers to ascertain and assess the damages which have been suffered by the property of Petitioners by reason of the acts of the Secretary of Highways as hereinabove recited, as well as any benefits derived therefrom.

And they will ever pray, etc.

Melvin R. Strong

Edna Mae Strong

STATE OF PENNSYLVANIA

COUNTY OF CAMBRIA

SS:

Personally appeared before me, the undersigned authority,  
a Notary Public in and for said County and State, MELVIN R.  
STRONG AND EDNA MAE STRONG, husband and wife, who being by me first  
duly sworn, depose and say that the matters set forth in the fore-  
going petition are true and correct to the best of their knowledge,  
information and belief.

Melvin R. Strong

Edna Mae Strong

Sworn and subscribed to before me  
this 31<sup>st</sup> day of May, A. D. 1955.

Helen Keisinger  
Notary Public

My Comm. Cambria County, Pa.  
My Commission Expires March 7, 1959

O R D E R

NOW, May 3<sup>rd</sup>, 1955, at 12 15 o'clock P. M., the foregoing petition having been read and presented to the Court, the Court does hereby appoint Robert S. Mayer  
Fred Claplin AND Therese Hunt,  
to view the property described in the within petition and to report to the Court their findings with respect to the damages suffered by the Petitioner by reason of the appropriation, injury or destruction of certain property in the change of lines and location of State Highway Route No. 222, taking into consideration any benefits which may have accrued to said property by said change of lines and location. It is hereby directed that the above named viewers in assessing the damages shall take into consideration the advantages derived from such road passing through the land of the complainants, if any. Said viewers are directed to make their report in writing to the Court of Quarter Sessions on or before the 1st Monday of August, 1955. The viewers above appointed are hereby directed to give at least ten days' notice in writing to the Secretary of Highways and the Petitioners of the day and hour on which they will view the premises within described and conduct their hearing under this appointment.

BY THE COURT:

Dr. J. J. [Signature]  
7.

IN THE MATTER OF THE CHANGE IN LOCATION  
AND LINES OF THE HIGHWAY KNOWN AS STATE  
HIGHWAY ROUTE NO. 222, IN THE TOWNSHIP  
OF STONYCREEK, COUNTY OF CAMBRIA AND  
STATE OF PENNSYLVANIA.

Ø IN THE COURT OF QUARTER  
Ø SESSIONS OF CAMBRIA COUNTY  
Ø NO. 13 JUNE SESSIONS, 1955.  
Ø  
Ø ROAD DOCKET

NOTICE TO VIEW

We, the undersigned Viewers, appointed by the above Court to View and Inspect the land and premises of Melvin R. Strong and Edna Mae Strong, husband and wife, in Stonycreek Township, Cambria County, Pennsylvania fronting at #1705-#1707 Bedford Street, 65 feet and at #1717 Bedford Street, 40 feet, in the Township aforesaid, and to determine and estimate the damages or benefits that have resulted or that may seem likely to result by reason of the change in location and lines of a highway known as State Highway Route No. 222, in the Township of Stonycreek, said County and State, affecting their property in said Township.

The Board of Viewers will meet upon the premises on the 7th day of July, 1955 at 10 o'clock A.M. D.S.T. as per order of the court for the purpose of performing the duties of our appointment.

Robert G. Mayer

Fred Claflin

Theodore Hunt

Viewers

June 23, 1955.

filed June 23, 1955

RECEIVED

JUN 23 1955

FEDERAL BUREAU OF INVESTIGATION

100-100000

IN THE COURT OF QUARTER  
SESSIONS OF CAMBRIA COUNTY-  
PENNSYLVANIA

IN THE MATTER OF THE CHANGE  
OF LOCATION AND LINES OF THE  
HIGHWAY KNOWN AS STATE  
HIGHWAY ROUTE NO. 222, IN  
THE TOWNSHIP OF STONYCREEK,  
IN SAID COUNTY AND STATE.

22

PETITION FOR  
RULE TO SHOW CAUSE

EDWARD F. PEDUZZI  
LAW OFFICES  
~~KOONIKSCHICK & KRUSZAK~~  
418 LINCOLN STREET  
JOHNSTOWN, PA.

*filed - June 23, 1955*

AND NOW, this 22nd day of June, 1955, service of the within  
petition together with a true copy thereof is hereby accepted.

*[Signature]*  
TARRONS & WHARTON  
Attorneys for Respondents

IN THE MATTER OF THE CHANGE OF : IN THE COURT OF QUARTER SESSIONS  
LOCATION AND LINES OF THE HIGH- : OF CAMBRIA COUNTY, PENNSYLVANIA  
WAY KNOWN AS STATE HIGHWAY :  
ROUTE NO. 222, IN THE TOWNSHIP : No. 13 June Sessions, 1955  
OF STONYCREEK, IN SAID COUNTY :  
AND STATE. : Road Docket

PETITION FOR RULE TO SHOW CAUSE

TO THE HONORABLE, THE JUDGES OF THE ABOVE NAMED COURT:

The petition of the Department of Highways of the Commonwealth of Pennsylvania respectfully represents:

1. That on June 1, 1955, Melvin R. Strong and Edna Mae Strong, husband and wife, filed a petition in your Honorable Court, entered to the above number and term, praying for the appointment of viewers to ascertain and assess the damages caused to the property of the said petitioners by reason of the change in existing lines and location of the above mentioned State Highway Route No. 222, and in pursuance thereof a board of viewers was duly appointed.

2. That your petitioner, the Department of Highways of the Commonwealth of Pennsylvania, contends that the property of the said Melvin R. Strong and Edna Mae Strong, husband and wife, was not affected by the alleged changes in the existing lines and location of said State Highway Route No. 222, and that their petition for the appointment of viewers should therefore be dismissed.

3. That in support of its contention, your petitioner offers the following reasons:

a. There was no taking of any land or property, or any part thereof, belonging to the above named petitioners by reason of the alleged changes in existing lines and location of the said State Highway.

b. All changes made to the said highway in recent years were made strictly within the legal right of way thereof as established by Section Two of the plan for State Highway Route No. 222, which plan was approved by the Governor on March 19, 1924.

c. The property in question was condemned by the Commonwealth at or near the time that the legal right of way of the said highway was established, as set forth in the preceding sub-paragraph, and consequently all claims for damages are now barred by the Statute of Limitations as prescribed by the Act of Assembly.

d. The above mentioned petition for the appointment of viewers does not allege the date on which the alleged changes in existing lines and location of said highway were made.

e. The Court, for the reasons above stated, is without jurisdiction to grant the prayer of the petition of the above named individuals for the appointment of viewers.

WHEREFORE, for the reasons stated above and for such other and further reasons as may be advanced at the hearing on this matter, your petitioner prays your Honorable Court for a rule on Melvin R. Strong and Edna Mae Strong, husband and wife, to show cause why their petition for the appointment of viewers to ascertain and assess the damages caused to their property by reason of the alleged changes in existing lines and location of the said State Highway Route No. 222, should not be dismissed. Your petitioner further prays your Honorable Court to stay all proceedings pending the determination of this matter.

DEPARTMENT OF HIGHWAYS OF THE  
COMMONWEALTH OF PENNSYLVANIA

by *V. B. Sigolf*  
District Engineer

COMMONWEALTH OF PENNSYLVANIA

SS:

COUNTY OF BLAIR

Personally appeared before me, a notary public in and for said County and State, V. B. Leopold, who being duly sworn according to law, deposes and says that he is the District Engineer for the Department of Highways of the Commonwealth of Pennsylvania and that the matters set forth in the foregoing petition are true and correct to the best of his knowledge, information and belief.

  
V. B. Leopold

Sworn and subscribed before me  
this 21 day of June, 1955.

  
Notary Public

My Commission expires

NOTARY PUBLIC  
My Commission Expires December 12, 1955

RULE

AND NOW, this 22nd day of June, 1955, upon consideration of the foregoing petition and on motion of Edward F. Peduzzi, Attorney for the petitioner, a Rule is granted upon Melvin R. Strong and Edna Mae Strong, husband and wife, to show cause why their petition for the appointment of viewers to ascertain and assess damages to their property caused by the changes in existing lines and location of State Highway Route No. 222 should not be dismissed. Rule returnable the 5<sup>th</sup> day of July, 1955.

It is further ordered that the Clerk of Courts notify the board of viewers appointed in this matter to stay all proceedings pending the final determination of this proceeding.

BY THE COURT:

W. Kennedy  
C.

IN THE COURT OF QUARTER SESSIONS OF CAMBERIA COUNTY, PENNA.

IN THE MATTER OF THE CHANGE OF  
LOCATION AND LINES OF THE HIGH-  
WAY KNOWN AS STATE HIGHWAY  
ROUTE NO. 222, IN THE TOWNSHIP  
OF STONYCREEK, IN SAID COUNTY  
AND STATE.

No. 13 June Sessions, 1955

ROAD DOCKET

AGREEMENT OF COUNSEL

NOW JULY 5, 1955, it is agreed by and between the  
Counsel for the parties in the above entitled case that the time  
within which an Answer to Rule heretofore Granted is to be filed,  
is extended until the 28th day of November, 1955.

Edward F. Peduzzi  
Arthur G. W. [unclear]  
By [unclear]

*Filed  
11-28-55*

No. 13 June Sessions, 1955.  
ROAD DOCKET

IN THE COURT OF QUARTER  
SESSIONS OF CAMBRIA COUNTY,  
PENNA.

IN THE MATTER OF THE CHANGE  
OF LOCATION AND LINES OF THE  
HIGHWAY KNOWN AS STATE HIGH-  
WAY ROUTE NO. 222, IN THE  
TOWNSHIP OF STONYPARK, IN  
SAID COUNTY AND STATE.

*Johnston*

ANSWER TO PETITION FOR RULE  
AND TO RULE TO SHOW CAUSE.  
HERETOFORE GRANTED.

LAW OFFICES

**HARKINS AND WHARTON**

ELEVENTH FLOOR FIRST NATIONAL BANK BLDG.

JOHNSTOWN, PA.

*Filed 11-28-55*

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNA.

IN THE MATTER OF THE CHANGE OF  
LOCATION AND LINES OF THE HIGH-  
WAY KNOWN AS STATE HIGHWAY  
ROUTE NO. 222, IN THE TOWNSHIP  
OF STONYCREEK, IN SAID COUNTY  
AND STATE.

No. 13 June Sessions, 1955.

ROAD DOCKET

ANSWER TO PETITION FOR RULE AND TO RULE TO  
SHOW CAUSE HERETOFORE GRANTED.

TO THE HONORABLE, THE JUDGES OF THE ABOVE NAMED COURT:

MELVIN R. STRONG and EDNA MAE STRONG, husband and wife,  
file the following answer to the Petition for Rule and the  
Rule to Show Cause heretofore granted in the above entitled case,  
and answer the petition of the Department of Highways of the Common-  
wealth of Pennsylvania, as follows:

1. Admitted.
2. The contention of the Department of Highways of the  
Commonwealth of Pennsylvania, as set forth in the second numbered  
paragraph of the petition, is denied, and on the contrary, it is  
averred that the land described in the petition heretofore filed,  
was affected by the changes in the existing lines and locations  
of Highway Route No. 222. It is further averred that Petitioners  
herein received no just compensation for the difference in fair  
market value of the land as affected by the changes in the lines  
and locations of said State Highway Route No. 222, and therefore,  
the Board of Viewers should make an award to the Petitioners.
3. (a) Denied.  
(b) Immaterial. No payment has ever been made for  
the taking of land or the effect of such taking.  
(c) It is denied that the property in question  
was condemned prior to June 7, 1950, and it is contended that

therefore all claims for damages may now be enforced.

(d) Denied. The petition states, "The approval of the plan making the change, in the present taking, was dated in the year 1950."

(e) It is denied that the Court is without jurisdiction to grant the prayer of the Petition for the appointment of Viewers.

4. And further answer to the petition and rule, Petitioners aver that the taking of land and the effect of such taking upon the market value of the land affected thereby was accomplished since 1950 under a plan which was approved by the Governor of the Commonwealth of Pennsylvania on June 7, 1950. That plan is of record in Book No. 2<sup>A</sup> of the State Highway Right of Way of record in the Office of the Recorder of Deeds, in and for Cambria County, Pennsylvania, where the drawings were designated as drawings for construction and condemnation of a Right of Way of Route No. 222.

5. Petitioners further contend that the establishment of an ultimate width of a State Highway was of no force and effect unless the same was filed of record in the Office of the Recorder of Deeds, in and for Cambria County, Pennsylvania. Petitioners further contend that even though an ultimate Right of Way has been established, the condemnation relates to the time of the taking, and not the time of establishing the ultimate Right of Way. It is the contention of the Petitioners in this case, that the condemnation of the property mentioned in the petition heretofore filed, was effective on and after June 7, 1950, and at no time prior thereto.

WHEREFORE, your Petitioners respectfully request your Honorable Court to discharge the rule granted on the 22nd day of June, 1955, so that the Viewers heretofore appointed, may proceed.

to award just compensation to the Petitioners for the difference in the fair market value of the property of your Petitioners immediately before the taking; and the fair market value of the same immediately after the taking, and as affected thereby.

Melvin R Strong

Edna Mae Strong

STATE OF PENNSYLVANIA

SS:

COUNTY OF CAMBRIA

Personally appeared before me, the undersigned authority, a Notary Public, in and for said County and State, MELVIN R. STRONG and EDNA MAE STRONG, husband and wife, who being by me first duly sworn, depose and say that the facts set forth in the foregoing Answer to Petition for Rule and to Rule to Show Cause heretofore granted, are true and correct to the best of their knowledge, information and belief.

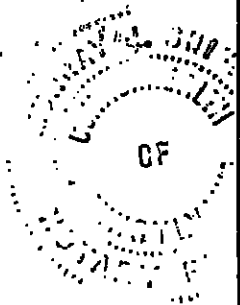
Melvin R. Strong

Edna Mae Strong

Sworn and subscribed to before me  
this 7<sup>th</sup> day of July, A. D. 1955.

Murray J. Shiffer  
Notary Public

My Comm. Expires: February 17, 1957



No. 13 June Sessions, 1955,  
Road Docket.

IN THE COURT OF QUARTER  
SESSIONS OF CAMBRIA COUNTY, PA.

IN THE MATTER OF THE CHANGE  
OF LOCATION AND LINES OF THE  
HIGHWAY KNOWN AS STATE  
HIGHWAY ROUTE NO. 222, IN  
THE TOWNSHIP OF STONYCREEK,  
IN CAMBRIA COUNTY, PA.

*Filed: Mar. 13, 1959*

ORDER.

**FRANCIS J. LEAHEY,**  
OFFICIAL STENOGRAPHER FOR THE  
FORTY-SEVENTH JUDICIAL  
DISTRICT

*Hesperus*

IN THE MATTER OF THE CHANGE : IN THE COURT OF QUARTER SESSIONS  
OF LOCATION AND LINES OF THE : OF CAMBRIA COUNTY, PENNA.  
HIGHWAY KNOWN AS STATE :  
HIGHWAY ROUTE NO. 222, IN :  
THE TOWNSHIP OF STONYCREEK, : No. 13 June Sessions, 1955, Road  
IN CAMBRIA COUNTY, PA. : Docket.

ORDER

NOW, March 15, 1959, in accordance with the Opinion of this Court entered to No. 6 June Sessions, 1955, Road Docket, the rule to show cause why the petition of Melvin R. Strong and Edna Mae Strong, husband and wife, for the appointment of Viewers should not be dismissed is made absolute and said petition is dismissed and the Order thereon vacated.

The rule to show cause why the County of Cambria should not be joined as an additional defendant is hereby dismissed.

BY THE COURT:

*McDonald*

PJ.

NOTE—Rule 43 requires appellant, immediately upon entering his appeal, to serve notice thereof on the opposite party or his counsel and to file promptly in the Court below proof of the service of such notice.

IN THE MATTER OF THE CHANGE OF  
LOCATION AND LINES OF THE HIGHWAY  
KNOWN AS STATE HIGHWAY ROUTE 222,  
IN THE TOWNSHIP OF STONYCREEK,  
COUNTY OF CAMBRIA AND STATE OF  
PENNSYLVANIA

No. 13 June Term, 19 55  
(Number in court below)

To Appellee or his Counsel:

You are hereby notified that on April 23, 1959

an appeal was taken to the Supreme Court of Pennsylvania in the above  
entitled case at No. 143 March Term, 19 59 by Melvin R. Strong and Edna  
M. Strong (otherwise Melvin R. Strong and Edna Mae Strong) and that this appeal will be on the  
list for the Week of September 28, 1959, at Pittsburgh.

Gerald T. Babson  
Attorneys for Appellant.

April 27 1959, Service of the foregoing notice is  
hereby accepted.

Edward F. Paduzzi  
atty for Commonwealth  
Shelby, Snyper & Sheltig  
By: Thomas A. Snyper  
Attorneys for Cambria County

No. 13 June, 1955  
(Number in court below)

Notice of Appeal and  
Acceptance of Service.

Filed Apr. 27, 1959  
J.C. Kew

No. 13 June Sessions, 1955

IN THE COURT OF QUARTER SESSIONS  
OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF THE CHANGE OF  
LOCATION AND LINES OF THE HIGH-  
WAY KNOWN AS STATE HIGHWAY ROUTE  
222, IN THE TOWNSHIP OF STONY-  
CREEK, COUNTY OF CAMBRIA AND  
STATE OF PENNSYLVANIA.

CERTIFICATE OF AMOUNT IN CON-  
TROVERSY

*Filed Apr. 27, 1959*  
*J. V. [Signature]*


IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN THE MATTER OF THE CHANGE OF  
LOCATION AND LINES OF THE HIGH-  
WAY KNOWN AS STATE HIGHWAY ROUTE  
222, IN THE TOWNSHIP OF STONY-  
CREEK, COUNTY OF CAMBRIA AND  
STATE OF PENNSYLVANIA.

No. 13          June Sessions, 1955

Case of Melvin R. Strong and  
Edna Mae Strong

I hereby certify that the value of the property and the  
amount in controversy in the above case tried before me is greater  
than \$5,000.00.

  
\_\_\_\_\_  
Judge

*Filed August 24, 1959 - J.C.H.*

IN THE MATTER OF THE CHANGE OF : IN THE COURT OF QUARTER SESSIONS  
LOCATION AND LINES OF THE : OF CAMBRIA COUNTY, PA.  
HIGHWAY ROUTE 222, IN THE :  
TOWNSHIP OF STONYCREEK, COUNTY :  
OF CAMBRIA AND STATE OF :  
PENNSYLVANIA. : No. 13 June Sessions, 1955.

EXCEPTION TO OPINION AND ORDER

To all of which counsel for petitioner excepts and prays that an exception be noted and bill sealed; all of which is, the day and year aforesaid, accordingly done.

ALTON A. McDONALD, J. (SEAL)

*send  
to Ed  
Harkins*