

LOGAN I. BROWN

VS.

COUNTY OF CAMBRIA

: IN THE COURT OF COMMON PLEAS OF  
: CAMBRIA COUNTY, PENNA.  
: NO. \_\_\_\_\_, DECEMBER TERM, 1935.

AND NOW, 15th November, 1935, LOGAN I. BROWN, Plaintiff, by his attorneys EVANS & EVANS, appeals from the award of Viewers appointed by the Court of Quarter Sessions of Cambria County to assess damages in the above stated proceeding, the report of said Viewers having been filed in the said Court of Sessions Court on the 22nd day of October, 1935.

Evans & Evans  
Attorneys for Plaintiff

STATE OF PENNSYLVANIA :  
: SS.  
COUNTY OF CAMBRIA :

LOGAN I. BROWN, being duly sworn according to law, deposes and says that he is the Plaintiff in the above stated proceeding, and that the appeal in the above stated case is not taken by him for the purpose of delay, but because an injustice has been done to him by award of the Viewers appointed to assess damages in the said proceeding.

Logan I. Brown

Sworn and subscribed before me  
this 12 day of November, A. D.,  
1935.

John L. Hite  
Prothonotary

IN THE COURT OF COMMON PLEAS  
OF CAMBRIA COUNTY, PA.

NO. 4, DECEMBER TERM, 1935.

*gma*  
LOGAN I. BROWN

VS.

CAMBRIA COUNTY

APPEAL OF LOGAN I. BROWN  
from a report of Viewers,  
filed in the Court of Quarter  
Sessions at No. .

December Term, 1935.

*Filed: Nov. 15, 1935*

LAW OFFICES  
EVANS & EVANS  
EBENSBURG, PA.

LOGAN I. BROWN : IN THE COURT OF QUARTER SESSIONS OF CAM-  
 : BRIA COUNTY, PENNSYLVANIA.  
-vs- :  
 :  
COUNTY OF CAMBRIA : NO. 4 <sup>June</sup> ~~SEPTEMBER~~ SESSIONS, 1935.

PETITION FOR APPOINTMENT OF VIEWERS TO ASSESS DAMAGES.

TO THE HONORABLE THE JUDGES OF SAID COURT:

The petition of LOGAN I. BROWN, of the Township of Munster, in said County, respectfully represents:

1. That he is the owner of two certain contiguous tracts of land, situate in Munster Township, Cambria County, Pennsylvania, containing together 102 acres and 101 perches, more or less.

2. That the same was purchased by your petitioner about ten years ago for the purpose of erecting, constructing and operating thereon a swimming pool and recreation center.

3. That shortly after the purchase thereof your petitioner erected upon said premises a concrete swimming pool, bath house, store room, residence, ~~xxx~~, garage, baseball field and camp sites, all of which were occupied and operated as one unit, known as "Eben-Cress Park."

4. That prior to and at all times subsequent to the acquisition of said lands by your petitioner there had been laid out and in use for public travel, along and through said lands, a public highway, known as the "Pittsburgh and Philadelphia Pike", later the "Cresson Pike", and then "Pennsylvania State Highway Route No. 22," known as the "William Penn Highway."

5. That sometime in the year 1934, or thereabouts, the Department of Highways of the Commonwealth of Pennsylvania, by virtue of the power and authority vested in it, re-located said Route No. 22, known as the "William Penn Highway", along and through the land of your petitioner, wherein a change of width and existing lines was

made, and damage resulted to your petitioner's said land.

6. That in re-locating the said William Penn Highway the said Highway Department took and appropriated for highway purposes a part of your petitioner's land, being a strip thereof running in an Easterly and Westerly direction, of approximately 4800 feet in length, and varying from 60 feet to 125 feet in width, and containing about 18.1 acres.

7. That in connection with said swimming pool and recreation center it was necessary to construct a residence for the convenient and necessary operation of the same, all of which were located on the North side of the highway.

8. That the said highway, as re-located and constructed, runs between the residence and the said swimming pool and recreation center, separating the same with a cut immediately North of the rear of the residence of a maximum depth of 40 feet, and a fill of an approximate average of 7 1/2 feet.

9. That in connection with the operation of the recreation center it had been necessary for your petitioner and employees to travel back and forward to and from the residence many times a day, and since the completion of said highway, because of the deep fill and cut, and because of the speed at which the traffic moves, making these necessary trips is extremely dangerous.

10. That prior to the construction of said re-located highway the water from a large and never-failing spring, about 500 feet North of the residence, was piped thereto, and used for domestic purposes, and was also used for drinking water for the bathers and campers. The construction of the cut caused the water from the spring to disappear entirely, except in extremely wet weather, and left the residence and the recreation center without water for drinking and domestic purposes, and since that time your petitioner has been required to haul water from Ebensburg Borough for those purposes.

11. That the re-located highway ran through the truck garden of your petitioner, and also ran through his orchard and certain timber land, and in connection with the construction there were cut down a number of apple trees from the orchard, a lot of locust trees and other timber trees.

12. That the plans of the State Highway Department provided that a fill be made in connection with the approach from the recreation center to the new highway, to afford petitioner's patrons an opportunity of viewing the on-coming traffic before driving onto the new highway, only a part of which has been constructed. This leaves the approach to the new highway very steep and insufficient landing room for said patrons to view the on-coming traffic. Because of the grades and construction of the road bed the traffic passes this point at a high rate of speed, which makes it extremely dangerous to your petitioner's patrons.

13. That the re-located highway ran through the entrance to the recreation center, and made it necessary for your petitioner to remove and re-build the gates and entrance, as well as his advertising signs.

14. That during the period of construction, and since, your petitioner and his family have been unable to occupy the said residence, because of the heavy blasting in the cut at the rear of the residence, and also because the water supply and supply lines had been disconnected and cut off in connection with said improvement, and their inability to occupy said residence has caused your petitioner additional expense by way of rent, transportation, additional employees, etc.

15. That in connection with the construction of said highway there was removed about 3400 lineal feet of fence, which will have to be replaced in order to use the property as heretofore used, and, in addition thereto, a large amount of other new fence will be required where the re-located highway runs through petitioner's property.

16. That prior to the re-location of said road your petitioner had used as a parking space and baseball ground a certain area lying between the swimming pool and the old highway. The re-location of the road runs through said area, leaving approximately .82 acres of the same on the South side thereof which is no longer available for use in connection with said recreation center, because of the intervening fill. The loss of this area leaves the petitioner with insufficient ground on the North side of the relocated highway available for that purpose at a convenient location.

17. That the re-location of said highway has cut off from the West end of your petitioner's property about 35 acres heretofore used principally for farming, and access to which has been cut off from the new highway because of the cuts and fills, and from the balance of petitioner's property because of the character of the ground.

18. That the re-location of the said highway has cut off from the Southern part of the property about 4.2 acres between the new highway, the old highway and the residence and buildings, and because of the high fill at that point, and because of the stream and swamp between it and said buildings, access to about one-fourth of the same has been cut off.

19. That in the construction of said re-located highway large quantities of rocks, stumps, logs, etc. were rolled onto your petitioner's property beyond the lines appropriated for said improvement, making it impossible to use said land until the same have been removed.

20. That during the construction of said improvement your petitioner did not have access to and was required to close down his recreation center for from two to four weeks in the fall of 1934, and during the month of June, 1935:

21. That in connection with the re-location of said highway there were constructed drains or culverts at ten additional points.

through which the surface water from along the highway is discharged into the fields of your petitioner.

22. That the brick from certain portions of the old highway on your petitioner's property have been removed, but the concrete base left in place, so that it will be necessary to remove said base before the land is tillable or useful for any purpose.

23. That the said Department of Highways has completed the work on said re-located road, where it passes through and along your petitioner's land, by constructing on the land appropriated and taken from him a permanent concrete highway.

24. That your petitioner will at all times be deprived of the ownership of the land appropriated, as aforesaid, and that he will also be deprived of the use of the other land injured and destroyed, as hereinabove set forth.

25. That your petitioner has sustained damages by reason of the facts averred in this petition, and that said damages, and all other damages sustained by him in the premises, are payable and owing to him by the said defendant, the County of Cambria, pursuant to law.

26. That your petitioner and the Commissioners of Cambria County have endeavored to agree on the amount of damages sustained, but they are unable to arrive at an amicable settlement thereof.

WHEREFORE, your petitioner prays the Court to appoint Viewers to examine the said land and premises, as well as the land appropriated or taken, injured and destroyed, and make report of their proceedings according to law.

Logan J. Brown



DECREE.

AND NOW, August 16<sup>th</sup>, 1935, the within petition presented, read and considered, and the Court is thereupon appoint A. M. Shremaker, J. M. Kinney  
and James McCann members of the Permanent Board of Viewers of Cambria County, as Viewers to view and examine the premises in said petition described, for the purpose of ascertaining the damages, if any, sustained by the petitioner, and to make return of their proceedings according to law.

By the Court  
McCann  
J. M.

No. *4 June* ~~Sess.~~ Sess., 1935.  
In the Court of Quarter Sessions  
of Cambria Co., Pa..

LOGAN I. BROWN

-VS-

COUNTY OF CAMBRIA

PETITION FOR APPOINTMENT OF  
VIEWERS TO ASSESS DAMAGES.

*Filed: Aug. 16, 1935*

LAW OFFICES  
EVANS & EVANS  
EBENSBURG, PA.

And now, this *14<sup>th</sup>* day of August, 1935, I hereby accept service of a  
copy of the within petition.

*L. I. Brown*  
Clerk to the County Commis-  
sioners.

R E P O R T   O F   V I E W E R S .

To the Honorable, the Judges of the Court of Quarter Sessions of  
Cambria County, Pennsylvania.

We, the undersigned members of the Permanent Board of Viewers, appointed by the Court of Quarter Sessions of Cambria County, Pennsylvania to view and determine the damages, if any, sustained by Logan I. Brown by reason of the relocating, changing of grade, opening and widening of State Highway Route No. 22., "William Penn Highway", through and over his premises or farm situate in Munster Township, said county and state, respectfully report:

That having given due and legal notice of the view and of the time and place of meeting of the viewers to the Commissioners of Cambria County and Chas. S. Evans Esq., Attorney for Logan I. Brown, and having them accept service of notices hereto attached, and to the public by printed hand bills posted in conspicuous places along the line of said improvement where same passed <sup>through and over</sup> the premises of said Brown, and by publication in the Cambria County Legal Journal and the Ebensburg Mountain -  
eer Herald; and having each been first duly sworn according to law to perform the duties of our appointment faithfully, impartially and to the best of our judgment and ability, and justly to decide and true report to make concerning all matters and things submitted to us in relation to which we were authorized to enquire: All of us met in accord with the notices given and posted, as aforesaid, and having carefully gone over and viewed the premises noting particularly the general lay of the farm, the location of the house, cottage and other buildings thereon, the swimming pool and other improvements at and about said house, pool and recreation park with reference to the old Pittsburgh - Philadelphia Turnpike or State Highway Route No. 22., noting also the location, grade, cuts and fills of the new road, the proportionate acreage of said farm on either side of the new improved highway, the location and condition of the spring formerly supplying drinking water at the recreation park and to the residence for drinking and domestic purposes, the location and condition of

the garden, shrubbery, trees, fences, drains, springs, the situation with reference to access to the land on the northerly side of said road, the new entrance to the park and pool &c.

Having thus viewed the premises we set a day, of which both the Commissioners of Cambria County and said Logan I. Brown had due notice, when we would sit to hear any testimony the parties in interest might have to offer and in accord with such notices as served we met at the Court House for the purpose stated when and where the parties met and then agreed to submit the matter to the Viewers without offering any testimony.

A day was set, of which the parties had written notice when we would again meet at the Court House to exhibit our schedule of benefits and damages and hear such evidence at that time as they might submit, and met accordingly but no testimony was offered.

The viewers met and carefully reviewed the whole situation taking into consideration every detail brought to their attention and prepared said schedule of benefits and damages and offsetting one against the other concluded as evidenced by said schedule, a copy of which is hereto attached.

From our observation it is clear that the Logan I. Brown property has been divided by the new road; that some thirty five acres thereof lying on top of the hill to the northerly side of the improved road has been practically isolated from the balance of the farm and buildings thereon; that a number of seedlings were removed, several fruit trees destroyed and some timber trees cut in the course of grading, that the work as carried out necessitated a deep cut and a large fill together with lesser cutting and filling in other places; that the water line was cut and there was much evidence/<sup>that</sup> the source of water supply had been cut off; several long strips of fence had been cut down and destroyed; the owner required to change the approach to his recreation park, &c. &c., and that he had been required to vacate his residence and remain out of same for a considerable period of time while much heavy blasting was being done in the deep cut just north of the residence, and that a small piece of land on the southerly side of said road had been cut off from the remaining part

tions and that a somewhat hazzardous condition in crossing from the residence to the recreation park has resulted due to the location of the new road and the grade of same.

Having thus considered these matters at length giving due weight to all such items, we have estimated and determined that Logan I. Brown has sustained damages in the sum or amount of Eighteen Hundred Twenty Five (\$1825.00.) Dollars; which amount should be paid him by the County of Cambria; and No Benefits, except those incident to all others abutting the new highway lay-out; which are not deductable.

A copy of notices served, posted, published and exhibited together with a sketch of said improvement and the property affected are hereto attached and made a part of this report.

Unless exceptions hereto are taken or an appeal filed within thirty days from the filing of same it shall be confirmed absolutely.

Witness our hands this 22nd. day of October, A. D., 1935.

A. M. Shoemaker  
J. M. [unclear]  
James M. [unclear]  
Viewers.

NOTICE OF VIEW.

Notice is hereby given that the viewers appointed by the Court of Quarter Sessions of Cambria County, Pennsylvania, to view and determine the damages, if any, which have been sustained or which seem likely to be sustained by Logan I Brown by reason of the taking, appropriating or destroying of certain of his property in connection with the change of the location and grade of the William Penn Highway, or Highway Route NO. 22., through and over his premises, consisting of 102 acres 101 perches, more or less, and known as Eben - Cress Park, situate in Munster Township, Cambria County, Pa., adjoining lands of W. S. Anderson, Sekerak Estate, Beiter Heirs, Rodgers Estate and \_\_\_\_\_ Brady.

Said Viewers, appointed as aforesaid, will meet upon the premises in Munster Township, Cambria County, Pa., October 15th. 1935, at 9:30 o'clock a. m., for the purpose of performing the duties of their said appointment.

A. M. Shoemaker,

P. M. Kinney and

James McCann,

Viewers.

Now, September 4<sup>th</sup> 1935, service of the above notice is hereby accepted for the Commissioners of Cambria County, Pennsylvania.

A. J. Dou

NOTICE OF VIEW.

Notice is hereby given that the viewers appointed by the Court of Quarter Sessions of Cambria County, Pennsylvania, to view and determine the damages, if any, which have been sustained or which seem likely to be sustained by Logan I Brown by reason of the taking, appropriating or destroying of certain of his property in connection with the change of the location and grade of the William Penn Highway, or Highway Route NO. 22., through and over his premises, consisting of 102 acres 101 perches, more or less, and known as Eben - Cress Park, situate in Munster Township, Cambria County, Pa., adjoining lands of W. S. Anderson, Sekerak Estate, Belter Heirs, Rodgers Estate and \_\_\_\_\_ Brady.

Said Viewers, appointed as aforesaid, will meet upon the premises in Munster Township, Cambria County, Pa., October 15th. 1935, at 9:30 o'clock a. m., for the purpose of performing the duties of their said appointment.

A. M. Shoemaker,

P. M. Kinney and

James McCann,

Viewers.

Now, Sept. 1935, service of the above notice is hereby accepted for Logan I. Brown.

  
Attorney for Logan I. Brown.

NOTICE OF VIEW.

Notice is hereby given that the viewers appointed by the Court of Quarter Sessions of Cambria County, Pennsylvania, to view and determine the damages, if any, which have been sustained or which seem likely to be sustained by Logan I. Brown by reason of the taking, appropriating and destroying of certain of his property in connection with the change of the location and grade of the William Penn Highway, or Highway Route No. 22., through and over his premises, consisting of 102 acres 101 perches, more or less, and known as Eben-Cress Park, situate in Munster Township, Cambria County, Pa., adjoining lands of W. S. Anderson, Sekerak Estate, Beiter Heirs, Rodgers Estate and \_\_\_\_\_ Brady.

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A. H. Shoemaker,

P. M. Kinney and

James McCann,

Viewers.

V I E W E R ' S   N O T I C E .

In re View of Property of Logan I. Brown, situate in Munster Township, Cambria County, Pennsylvania,

The undersigned Viewers habing viewed the premises above re -  
ferred to will sit at the Court House, Ebensburg, Pa., at 9:00 a. m.,  
o'clock October, /<sup>1935,</sup> 7<sup>th</sup>/ for the purpose of hearing all testimony which  
the parties in interest may have to offer pertaining to the matter of  
our enquiry, and will sit again at the same place and hour October the  
19<sup>th</sup> 1935 to exhibit their schedule of benefits assessed and damages  
hear any further testimony the parties may have to offer,  
sustained if any/and will file their report in the Court of Quarter  
Sessions of said couty October 22<sup>nd</sup> 1935; and unless exceptions thereto  
are filed or an appeal taken within thirty days of the date of filing  
said report, the same shall be confirmed absolutely.

A. M. Shoemaker

P. M. Kinney and

James McCann,

Viewers.

*Service of the above notice is hereby  
accepted by H. F. Lou  
clerk*

*Oct 15, 1935, Service of above notice is accepted*

*Edward Crane  
Atty for Petitioner*

V I E W E R ' S   S C H E D U L E .

In re View of Property of Logan I. Brown situate in Munster Town -  
ship, Cambria County, Pennsylvania.

The undersigned viewers having been appointed by the Court of  
Quarter Sessions of Cambria County to view and determine the damages,  
if any, sustained or which seem likely to be sustained by Logan I.  
Brown by reason of the laying out, opening and constructing of Highway  
Route No. 22, known as the William Penn Highway, through and over his  
premises; according to the changed location and grade; situate in Mun-  
ster Township, Cambria Co., Pa.: Having viewed and carefully gone over  
the premises and carefully considered all matters and things, pertain -  
ing to our investigation, which were brought to our attention and hav -  
ing given all parties in interest an opportunity to be heard by them -  
selves, their attorneys and witnesses; which they declined to do; we  
have estimated and determined that said Logan I. Brown has received no  
benefits by reason of said relocating and constructing said highway;  
except in common with the general public; and has sustained damages in  
the sum of *Eighteen Hundred Twenty Five Dollars*, which  
amount should be paid him by the County of Cambria.

A. M. Shoemaker  
James McCann and  
P. M. Kinney,  
Viewers.

Oct 22<sup>nd</sup> 1935

This is to certify the records of Cambria County disclose the following liens against the Logan I Brown property -

Judgments

Am. Sci Pa 684 Dec 1932	The First National Bank of Ebersburg Pa vs Logan I Brown	1304 Dec 1927 Amount \$1312 <sup>50</sup>
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First National Bank of Ebersburg Pa vs Logan I Brown	1305 Dec 1927 amount \$1312 <sup>50</sup>
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Am. Sci Pa 685 Dec 1932.	First National Bank of Ebersburg, Pa. vs Logan I Brown	1306 Dec 1927 Amount \$7,350 <sup>00</sup>
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Taxes

1932	Logan I Brown Co	Tax \$28,100	School \$17,50	Rd \$28,00
"	do "	<del>28,00</del>	<del>14,00</del>	<del>28,00</del>
1933	Logan S Brown	4,00	2,50	4,00
"	do "	28,00	17,50	28,00
"	do "	4,00	2,50	4,00
1934	Logan F Brown	22,40	14,00	14,00

A. M. Shoemaker

# Costs of View

A. M. Shoemaker

Preparing notices of view, notifying owners and preparing notices for publication - making personal service of notices & posting notices on premises	\$18.00 ✓
Stenographer & stationery	2.20 ✓
Posting & serving notices - 8 mi -	.80 ✓
Day on view	12.00 ✓
8 miles @ 10¢ per mi	.80 ✓
Preparing notices of hearing & sitting to exhibit schedule & having parties accept service of same	6.00 ✓
Day at hearing & estimating damages	12.00 ✓
Preparing schedules for exhibition and exhibiting same	12.00 ✓
Preparing report assembling having signed & filing same & serving notices of filing same	15.00 ✓
Examination of records & certificate of same	6.00 ✓
Stenographer & stationery	2.20 ✓
	\$87.00

P. M. Kinney	
Day on View 12.00	3.00
Day at Ebensburg for hearing 12.00	2.20
Day Exhibiting Schedules 12.00	.220
30 miles @ 10¢	3.00
22 mi	.220
	\$43.40

COUNTY CONTROLLER  
 JAMES M. CANN

James McCann	
Day on View 12.00	4.40
Day at hearing 12.00	3.60
Day Exhibiting Schedules 12.00	.360
44 miles @ 10¢ per mi	4.40
36 miles	.360
	\$47.60

APPROVED FOR PAYMENT

L. M. Keller

John Thomas

COMMISSIONERS

Logan I Brown : IN THE COURT OF QUARTER SESSIONS OF CAMBRIA  
-vs- : COUNTY, PENNSYLVANIA.  
COUNTY OF CAMBRIA :: NO. 4 June Sessions, 1935.

In re Petition for Appointment of Viewers to Assess Damages in the above entitled case.

Whereas a petition for the appointment of viewers to assess damages, if any have been sustained by said Logan I. Brown, by reason of the change and alteration of the grade and location of the public highway through and over his premises; situate in Munster Township, Cambria County, Pennsylvania;; was presented to your honorable Court on the 16th. day of August, A. D., 1935, and

Whereas on the same day your honorable Court did appoint A. M. Shoemaker, P. M. Kinney and James McCann; members of the Permanent Board of Viewers of Cambria County ; as a Board of Viewers to view and determine the damages, if any, as aforesaid and to make their report to the next term of court, according to the Act of Assembly in such cases made and provided,

And Whereas there was not sufficient time, between the 16th. day of August and the 2nd day of September, 1935, in which to advertise said view as required by the Act of Assembly and the Rules of Court.

Now, therefore your petitioners hereby pray your honorable Court to extend the time and grant a continuance in the above case permitting the said viewers to make their return on or before the first day of the next session of this court, and they will ever pray, &c.

A. M. Shoemaker  
Attorney for the Viewers.

Now, September 2<sup>nd</sup>., 1935, the above petition read and considered and the time requested to be extended for the filing of the report of said viewers is hereby granted and said viewers authorized to make their said report on or before the next term of this court. *None proven*

*as of Sept 2<sup>nd</sup> 1935*

By the Court

LOGAN I. BROWN : IN THE COURT OF QUARTER SESSIONS OF CAM-  
BRIA COUNTY, PENNSYLVANIA.  
-vs- :  
COUNTY OF CAMBRIA : NO. 4 *June* ~~SEPTEMBER~~ SESSIONS, 1935.

PETITION FOR APPOINTMENT OF VIEWERS TO ASSESS DAMAGES.

TO THE HONORABLE THE JUDGES OF SAID COURT:

The petition of LOGAN I. BROWN, of the Township of Munster, in said County, respectfully represents:

1. That he is the owner of two certain contiguous tracts of land, situate in Munster Township, Cambria County, Pennsylvania, containing together 102 acres and 101 perches, more or less.
2. That the same was purchased by your petitioner about ten years ago for the purpose of erecting, constructing and operating thereon a swimming pool and recreation center.
3. That shortly after the purchase thereof your petitioner erected upon said premises a concrete swimming pool, bath house, store room, residence, , garage, baseball field and camp sites, all of which were occupied and operated as one unit, known as "Eben-Cress Park."
4. That prior to and at all times subsequent to the acquisition of said lands by your petitioner there had been laid out and in use for public travel, along and through said lands, a public highway, known as the "Pittsburgh and Philadelphia Pike", later the "Cresson Pike", and then "Pennsylvania State Highway Route No. 22," known as the "William Penn Highway."
5. That sometime in the year 1934, or thereabouts, the Department of Highways of the Commonwealth of Pennsylvania, by virtue of the power and authority vested in it, re-located said Route No. 22, known as the "William Penn Highway", along and through the land of your petitioner, wherein a change of width and existing lines was

made, and damage resulted to your petitioner's said land.

6. That in re-locating the said William Penn Highway the said Highway Department took and appropriated for highway purposes a part of your petitioner's land, being a strip thereof running in an Easterly and Westerly direction, of approximately 4800 feet in length, and varying from 60 feet to 125 feet in width, and containing about .8.1 acres.

7. That in connection with said swimming pool and recreation center it was necessary to construct a residence for the convenient and necessary operation of the same, all of which were located on the North side of the highway.

8. That the said highway, as re-located and constructed, runs between the residence and the said swimming pool and recreation center, separating the same with a cut immediately North of the rear of the residence of a maximum depth of 40 feet, and a fill of an approximate average of .7 feet.

9. That in connection with the operation of the recreation center it had been necessary for your petitioner and employees to travel back and forward to and from the residence many times a day, and since the completion of said highway, because of the deep fill and cut, and because of the speed at which the traffic moves, making these necessary trips is extremely dangerous.

10. That prior to the construction of said re-located highway the water from a large and never-failing spring, about 500 feet North of the residence, was piped thereto, and used for domestic purposes, and was also used for drinking water for the bathers and campers. The construction of the cut caused the water from the spring to disappear entirely, except in extremely wet weather, and left the residence and the recreation center without water for drinking and domestic purposes, and since that time your petitioner has been required to haul water from Ebensburg Borough for those purposes.

11. That the re-located highway ran through the truck garden of your petitioner, and also ran through his orchard and certain timber land, and in connection with the construction there were cut down a number of apple trees from the orchard, a lot of locust trees and other timber trees.

12. That the plans of the State Highway Department provided that a fill be made in connection with the approach from the recreation center to the new highway, to afford petitioner's patrons an opportunity of viewing the on-coming traffic before driving onto the new highway, only a part of which has been constructed. This leaves the approach to the new highway very steep and insufficient landing room for said patrons to view the on-coming traffic. Because of the grades and construction of the road bed the traffic passes this point at a high rate of speed, which makes it extremely dangerous to your petitioner's patrons.

13. That the re-located highway ran through the entrance to the recreation center, and made it necessary for your petitioner to remove and re-build the gates and entrance, as well as his advertising signs.

14. That during the period of construction, and since, your petitioner and his family have been unable to occupy the said residence, because of the heavy blasting in the cut at the rear of the residence, and also because the water supply and supply lines had been disconnected and cut off in connection with said improvement, and their inability to occupy said residence has caused your petitioner additional expense by way of rent, transportation, additional employees, etc.

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16. That prior to the re-location of said road your petitioner had used as a parking space and baseball ground a certain area lying between the swimming pool and the old highway. The re-location of the road runs through said area, leaving approximately .82 acres of the same on the South side thereof which is no longer available for use in connection with said recreation center, because of the intervening fill. The loss of this area leaves the petitioner with insufficient ground on the North side of the relocated highway available for that purpose at a convenient location.

17. That the re-location of said highway has cut off from the West end of your petitioner's property about 35 acres heretofore used principally for farming, and access to which has been cut off from the new highway because of the cuts and fills, and from the balance of petitioner's property because of the character of the ground.

18. That the re-location of the said highway has cut off from the Southern part of the property about 4.2 acres between the new highway, the old highway and the residence and buildings, and because of the high fill at that point, and because of the stream and swamp between it and said buildings, access to about one-fourth of the same has been cut off.

19. That in the construction of said re-located highway large quantities of rocks, stumps, logs, etc. were rolled onto your petitioner's property beyond the lines appropriated for said improvement, making it impossible to use said land until the same have been removed.

20. That during the construction of said improvement your petitioner did not have access to and was required to close down his recreation center for from two to four weeks in the fall of 1934, and during the month of June, 1935.

21. That in connection with the re-location of said highway there were constructed drains or culverts at ten additional points.

through which the surface water from along the highway is discharged into the fields of your petitioner.

22. That the brick from certain portions of the old highway on your petitioner's property have been removed, but the concrete base left in place, so that it will be necessary to remove said base before the land is tillable or useful for any purpose.

23. That the said Department of Highways has completed the work on said re-located road, where it passes through and along your petitioner's land, by constructing on the land appropriated and taken from him a permanent concrete highway.

24. That your petitioner will at all times be deprived of the ownership of the land appropriated, as aforesaid, and that he will also be deprived of the use of the other land injured and destroyed, as hereinabove set forth.

25. That your petitioner has sustained damages by reason of the facts averred in this petition, and that said damages, and all other damages sustained by him in the premises, are payable and owing to him by the said defendant, the County of Cambria, pursuant to law.

26. That your petitioner and the Commissioners of Cambria County have endeavored to agree on the amount of damages sustained, but they are unable to arrive at an amicable settlement thereof.

WHEREFORE, your petitioner prays the Court to appoint Viewers to examine the said land and premises, as well as the land appropriated or taken, injured and destroyed, and make report of their proceedings according to law.

(Sgd.) Logan J. Brown.



DECREE.

AND NOW, August 16<sup>th</sup>, 1935, the within petition presented, read and considered, and the Court do thereupon appoint A. M. SHOEMAKER, P. M. KINNEY and JAMES McCANN, members of the Permanent Board of Viewers of Cambria County, as Viewers to view and examine the premises in said petition described, for the purpose of ascertaining the damages, if any, sustained by the petitioner, and to make return of their proceedings according to law.

By the Court,  
McCANN  
P. J.

*Extract from the Record  
Certified Aug. 16, 1935  
J. M. Jones  
Clk.*

No. 4 <sup>June</sup> ~~Sept.~~ Sess., 1935.  
In the Court of Quarter Sessions of Cambria Co., Pa.

LOGAN I. BROWN

-vs-

COUNTY OF CAMBRIA

PETITION FOR APPOINTMENT OF  
VIEWERS TO ASSESS DAMAGES.

*Order and  
Report of Viewers*

*Filed. Oct. 22-1935*

CERTIFIED  
LAW OFFICES  
EVANS & EVANS  
EBENSBURG, PA.

And now, this 14th day of August, 1935, I hereby accept service of a copy of the within petition.

H. F. DOWR  
Clerk to the County Commissioners