

No. 8 March Sessions, 1962, R.D.

IN THE COURT OF QUARTER SESSIONS
OF
CAMBRIA COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA,
Plaintiff

vs.

EUGENE A. SHAFFER and JEAN E.
SHAFFER, husband and wife,
Defendants

Filed April 16, 1962

VIEWERS' REPORT

Order

*now May 23, 1962 no
exceptions having been filed or
appeal taken, the within
Report is confirmed absolutely
By the Court
Methel, J.*

LEOPOLD J. WENDEKIER
Attorney-At-Law
PATTON, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA, :: IN THE COURT OF QUARTER SESSIONS
Plaintiff ::
vs. :: OF
:: CAMBRIA COUNTY, PENNSYLVANIA
EUGENE A. SHAFFER and JEAN E. ::
SHAFFER, husband and wife, ::
Defendants :: No. 8 March Sessions, 1962, R.D.

TO THE HONORABLE, THE JUDGES OF THE SAID COURT:

On January 29, 1962, the Court, after consideration of a petition presented for that purpose of Eugene A. Shaffer and Jean E. Shaffer, appointed Leopold J. Wendekier, Telford L. Locher and Theodore W. Hunt as a Board of Viewers to assess the damages and benefits, if any, caused by the condemnation by the Commonwealth of Pennsylvania, Department of Highways of a portion of certain real estate owned by the petitioners in Richland Township, Cambria County, Pennsylvania, for the purpose of improving a portion of Legislative Route No. 1022, said real estate being more particularly described in the notice of view, a copy of which is hereto attached, respectfully makes the following

REPORT

In pursuance of their appointment, the Board caused notice to be served upon all interested parties that the Board would meet upon the premises on Wednesday, February 21, 1962, at 10:00 o'clock, A.M., e.s.t., for the purpose of viewing the premises and hearing such parties as desired to be heard. Such notices were duly served by personal service and by posting upon the premises more than ten (10) days prior to the date of said meeting.

On the day appointed, the Board, having previously been duly sworn, proceeded to view the premises. In attendance were Mr. and Mrs. Eugene A. Shaffer, the owners, Earl F. Glock, Esq., their counsel, Mr. Jess Fridman, Highway Department employee, Mr. T. Elmer Mock, also a Highway Department employee, and Edward F. Peduzzi, Esq., counsel for the Department.

A meeting for the purpose of hearing the testimony of witnesses was scheduled for Tuesday, February 27, 1962, at 1:30 o'clock, P.M., e.s.t., in the Judges' Chambers, Park Building, Johnstown, Pennsylvania. At the request of counsel for the condemnor and for good cause shown, the meeting was re-scheduled for Tuesday, March 27, at the same place and time.

The meeting was held as scheduled and was attended by Mr. and Mrs. Eugene A. Shaffer, the landowners, Earl F. Glock, Esq., their counsel, Mr. Wallace E. Williams, Howard E. Breneman, District Right-of-Way Engineer for the Highway Department, Mr. Jess M. Fridman, Highway Department employee, Mr. John J. Mock, and Edward F. Peduzzi, Esq., counsel for the Highway Department.

Those who testified for the benefit of the Board were Mr. and Mrs. Shaffer, Mr. Williams, Mr. Mock, and Mr. Breneman. All the witnesses were sworn, prior to testifying.

From the evidence submitted to it, and from an examination and view of the premises, as well as of the locality, generally, the Board finds the following

FACTS

1. The premises condemned by the Commonwealth of Pennsylvania Department of Highways consists of all of the land of the property owner. The portion condemned has an area of 0.94 acres, and is entirely situate in Richland Township, Cambria County, Pennsylvania.

2. There was erected on this land a six-room, 1½ story frame dwelling, and a separate concrete block workshop and garage.

3. The owner has been financially injured by the condemnation of said real estate.

CONCLUSIONS OF LAW

The following questions of law were presented to the Board for its determination:

At the conclusion of the direct examination of the property owner, counsel for the Highway Department proceeded with his

cross-examination of the witness.

At the conclusion of the cross-examination, counsel for the Highway Department objected to any testimony regarding possible future use of the second building erected upon the premises as a woodworking shop.

During its view of the premises, the Board noted that the building was used partially as a garage and partly as a woodworking shop. The building has a concrete floor in the garage portion of the building and a wooden floor in the woodworking shop. Storage lofts were erected in the building and a variety of woodworking equipment was present upon the premises. It therefore appeared to the Board as though the possible future use as a shop was, in fact, a present use of the building as a shop. Consequently, the Board overruled counsel's objection.

Counsel thereupon objected to any testimony by this witness as to the value of the property condemned. The basis for his objection was that the witness had stated that he was personally familiar with other sales in the area.

However, the witness did state that he was familiar with construction and construction costs, both at the present time and in the past. Therefore, the Board was of the opinion that, because of this familiarity and for the further reason that he was the owner of the property, his testimony regarding the market value of the property condemned was admissible. This objection was consequently overruled.

Counsel for the Highway Department thereupon objected to any testimony by this witness regarding the possible future use of the second portion of his property which he had purchased in 1957. Inasmuch as this answer was elicited upon cross-examination, the Board was of the opinion that the objection was not well taken and consequently overruled this objection likewise.

CONCLUSION AND DISCUSSION

The Board of View appointed by the Court for that purpose reports that, after a full and impartial consideration of all the evidence submitted, and after a careful view of the premises, acting at all times according to the viewers' best judgment, it has estimated and determined that the damages sustained by the owner of the property herein involved by the improvement and relocation of a portion of Legislative Route No. 1022 are as follows:

Eugene A. Shaffer and Jean E. Shaffer. . . . \$22,500.00

The award above set forth includes damages for detention from the date of condemnation on May 15, 1961, to the present date.

Counsel for the property owner called as his first witness, Mr. Eugene A. Shaffer, one of the owners. Mr. Shaffer testified that he had now moved from the condemned premises and resides at 514 Francis Street, having formerly lived at 626 Francis Street, which is the property in question.

He stated that he purchased the portion of his property on which the buildings are situate in 1947 and purchased a second portion which abuts upon Maken Drive in 1957. He stated that there were no mortgages or other liens against this property and that he had the house erected thereon built himself.

In his testimony regarding the construction of this building, Mr. Shaffer stated that it was of cement block and grain construction with fir joists; the framing was of white pine, the floors on the first floor and all the trim are of oak and there are yellow pine floors upstairs. The house contains six rooms and bath with a copper water system. There is a three-wire electric service into the house and it is serviced by all utilities including natural gas, water, electricity and telephone. The roof is of asphalt shingle and there is a full basement under the house, the floor of which is concrete. Part of the basement is used for a garage. All walls are plastered and the building is heated by a hand-fired coal furnace, the heating system being of hot water system.

Mr. Shaffer stated that the other building located on these premises is a concrete, block building, part of which is used for a garage and part of which is used for a woodworking shop. The witness testified that he was familiar with construction and construction costs. That, in his opinion, this property was well maintained.

He further testified that, since December of 1960, the area has been zoned commercial. He also stated that, in designing the shop and garage, he had designed it with the intention of converting it into a house when he retires.

Mr. Shaffer said that the lot is level at the front, which abuts on Francis Street with a natural grade back towards Maken Drive. The lot dimensions in Mr. Shaffer's words had 254 feet frontage on Francis Street, 100 feet frontage on Legislative Route No. 11001 and 182 feet frontage on Maken Drive. It consisted in all of approximately one acre.

Inasmuch as the entire property was taken, it was only necessary that the witness testify as to the market value of the property as of the date of condemnation, which was May 15, 1961. In Mr. Shaffer's opinion, the market value of the subject property was \$30,900.00.

On cross-examination, Mr. Shaffer admitted that the property is not connected to a city sewerage system, but instead used a septic tank. He testified that, at the present time, the house has only two bedrooms, although there were four bedrooms when he first occupied the building. One of these bedrooms has since been changed to a dining room and another bedroom has been converted into a den.

He testified that he could not, off hand, name any comparable sales in the area but that he nevertheless felt that he was familiar enough with construction costs to set a market value upon his own property.

On re-direct examination, he stated that there was no drainage problem on this lot, inasmuch as there was a gradual slope

from Francis Street back to Maken Drive. On cross-examination, he stated that he had moved from the condemned property on February 23, 1962, and actually had completely vacated the condemned premises on February 25, 1962.

Mrs. Jean E. Shaffer, wife of Eugene A. Shaffer, was then called as a witness by counsel for the property owners. She stated that, were she asked the same questions, her answers would be the same. In addition, Mrs. Shaffer testified that she had planted many flowers and maintained a vegetable garden upon the premises.

Counsel for the Highway Department did not cross-examine but renewed his objections regarding her opinion as to market value because of her lack of familiarity of market values in the area. Of course, the Board, in following its ruling on the objections made in connection with her husband's testimony, also overruled this objection.

Mr. Wallace E. Williams, a real estate broker and appraiser in the Johnstown area for the past twenty-three years, was then called as an expert witness on behalf of the property owners. Mr. Williams was qualified by counsel for the property owners and stated that, in arriving at his opinion of the market value of the subject property, he had considered the size, shape, location and topography of the ground and miscellaneous other items such as shrubbery, driveways, etc.

He said that he had made a general comparison with other properties in the area and said that, in reality, this property consisted of two pieces of land and was actually larger than present improvements would require. He stated that the land has been put to residential use by the property owner who has thereby removed most of the commercial value of the property.

He stated that, if the property were sold to another person, there would be little, if any, commercial value to the property. He further stated that the property was used properly as a residential property.

Mr. Williams said that the neighborhood shows an upward economic trend due largely to the rapid growth of population in this area. This growth, in his opinion, had increased land values in Richland Township considerably.

He stated that, at the time of his inspection, the property had frontage on Francis Street and on Legislative Route No. 11001; no other street being open at the time of his inspection. It was Mr. William's opinion that the market value of the condemned property was \$23,500.00 and, inasmuch as this was a complete taking, that was the loss sustained by the property owners.

Upon cross-examination, Mr. Williams admitted that commercial zoning has an adverse effect upon residential property erected within the commercial area. However, in this instance, the owner controlled both pieces and this would have not too great an effect upon the market value.

Mr. Williams also stated that he was aware that there was no sewerage system to which this property was connected and he had considered this item in arriving at his opinion of market value. This concluded the property owner's case and they thereupon rested.

Counsel for the Highway Department called as his first witness, Mr. Howard E. Breneman, District Right-of-Way Engineer for the Pennsylvania Department of Highways. Mr. Breneman testified that the date of condemnation was May 15, 1961, and that the area taken was consisted of 0.94 acres which was a complete taking of the property.

He testified that, on August 31, 1961, an offer was first made to the property owners in settlement of their claim and that the offer was renewed on November 16, 1961, at which time a partial payment was offered to the property owners. However, the offers were refused.

As an expert witness, counsel for the Highway Department called upon Mr. John J. Mock. Counsel qualified Mr. Mock as an expert witness. This witness testified that he had made a full field view of the land and buildings and he had considered the size,

shape, location and topography of the land, the highest and best use to which the land could be put, the zoning in the area and the present use and adaptability of the property, as well as comparable sales in the area. In his opinion, the market value of the subject property as of May 15, 1961, was \$20,164.00.

He thereupon testified as to several comparable sales in the area within four or five blocks of the subject property. However, these properties had erected upon them only one building. On cross-examination, Mr. Mock admitted that the properties involved in the sales, which he had used as a comparison, had no commercial prospects nor were they zoned commercially.

He testified also that the nearest grade school was within one block of the property, the nearest high school was within two blocks of the property and the nearest motel was within two blocks of the property.

There being no further testimony or evidence offered, the hearing was concluded.

The power of eminent domain is the power to take property for public use without the owner's consent, City of Philadelphia v. Philadelphia Suburban Water Company, 309 Pa. 130, 163 Atl. 297 (1938); Briegel v. Briegel, 307 Pa. 93, 160 Atl. 581 (1932).

Section 10 of Article 1 of the Constitution of Pennsylvania guarantees that private property should not be taken or applied to public use without authority of law and without just compensation being first made or secured.

The owner of the land at the time of the taking is the person entitled to damages for condemnation, Petition of Lakewood Memorial Gardens, 381 Pa. 46, 112 A. 2d 135 (1953); Petition of Butler County Commissioners, 141 Pa. Super. 597, 15 A. 2d 504 (1940).

When the entirety of a tract of land is taken, the owner is entitled to compensation equivalent to its market value, rather than its value to the owner for his particular purposes, Kinter v. U. S., 156 F. 2d 5, 172 A. L. R. 232 (1946).

This computation is to be made without reference to the identity of the owner or the actual state of his business, Finn v. Providence Gas and Water Company, 99 Pa. 631 (1882). Whether land should be considered as one tract or several tracts depends upon the use of the property by the owner, Gibson v. Fifth Avenue and High Street Bridge Company, 192 Pa. 55, 43 Atl. 339 (1899).

Market value should be determined on the basis of what price the property would bring if the owner were under no compulsion to sell and a purchaser under no compulsion to buy, taking into account all considerations that might be brought forward and reasonably be given substantial weight in bargaining for property, United States v. 15.3 Acres of Land in the City of Scranton, Pennsylvania, 154 Fed. Supp. (1957); Ward v. Commonwealth of Pennsylvania, 390 Pa. 526, 136 A. 2d 309 (1957).

The basis for recovery of compensation being its market value, any relevant and material evidence of such value is admissible, Schuck v. West Side Belt Railway Company, 283 Pa. 152, 128 Atl. 832 (1925). However, the burden is upon the landowner to establish the market value in proceedings before a Board of View or the Court, Broughler v. Commonwealth of Pennsylvania, 383 Pa. 573, 131 A. 2d 341 (1957); Hereda v. Lower Burrell Township, 159 Pa. Super. 262, 48 A. 2d 83 (1946).

Market value may be ascertained from the knowledge and judgment of men acquainted with the property, who, by their experience and judgment, may give a fair, honest and impartial opinion as to value, Curtin v. Nittany Valley Railroad Company, 135 Pa. 20, 19 Atl. 740 (1890), and subsequent cases.

In making its award, the Board has applied the foregoing principles of law to the evidence presented and has considered all other relevant factors. The Board has also considered the benefits, if any, accruing to the property and hereby assesses the damages as above awarded against the Commonwealth of Pennsylvania, Department of Highways.

Respectfully submitted this _____ day of April, 1962.

BOARD OF VIEW

Leopold J. Wendekier
Leopold J. Wendekier, Chairman

T. L. Locher
Telford L. Locher

Theodore W. Hunt
Theodore W. Hunt

COMMONWEALTH OF PENNSYLVANIA, :: IN THE COURT OF QUARTER SESSIONS
 Plaintiff ::
 :: OF
 vs. ::
 :: CAMBRIA COUNTY, PENNSYLVANIA
 EUGENE A. SHAFFER and JEAN E. ::
 SHAFFER, husband and wife, ::
 Defendants :: No. 8 March Sessions, 1962, R.D.

SCHEDULE OF AWARD

From the evidence submitted and the view of the premises affected by the condemnation by the Commonwealth of Pennsylvania Department of Highways, the Board of View finds the damages sustained by the owners in this proceeding as follows:

Eugene A. Shaffer and Jean E. Shaffer. . . . \$22,500.00

The award above set forth includes damages for delay in payment.

The Board of View has taken into consideration any benefits accruing to the property affected and hereby assesses the damages as above awarded against the Commonwealth of Pennsylvania Department of Highways.

BOARD OF VIEW

Leopold J. Wendekier
 Leopold J. Wendekier, Chairman

T. L. Locker
 Telford L. Locker

Theodore W. Hunt
 Theodore W. Hunt

COMMONWEALTH OF PENNSYLVANIA :: IN THE COURT OF QUARTER SESSIONS
 Plaintiff :: OF
 :: CAMBRIA COUNTY, PENNSYLVANIA
 vs. ::
 ::
 ::
 EUGENE A. SHAFFER and JEAN E. ::
 SHAFFER, husband and wife, ::
 Defendants :: No. 8 March Sessions, 1962, R.D.

VIEWERS' NOTICE

We, the undersigned Viewers appointed by the above Court to view and inspect the land and premises owned Eugene A. Shaffer and Jean E. Shaffer, husband and wife, of 626 Frances Street, Richland Township, Cambria County, Pennsylvania, and to determine and estimate the damages or benefits that have resulted or that may seem likely to result to the land or property of said owners by reason of the condemnation by the Commonwealth of Pennsylvania, Department of Highways of a portion of certain real estate of Eugene A. Shaffer and Jean E. Shaffer, husband and wife, do hereby give notice that they will meet upon the premises on Wednesday, February 21, 1962, at 10:00 o'clock, A.M., e.s.t., when and where all persons interested may appear if they so desire.

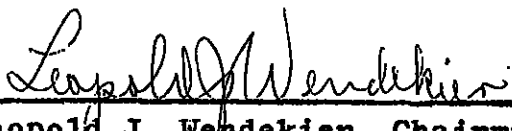
The premises to be viewed are:

ALL that certain piece or parcel of land situate in Richland Township, Cambria County, Pennsylvania, bounded and described as follows:

BEGINNING at a stake on the northerly boundary line of Township Road leading to Walsall, said point being South 33° 43' West, a distance of 400 feet, more or less, from the intersection of said Township Road with Pennsylvania State Highway Route #56; thence along the land of Wilmore Coal Company, North 44° 05' West, a distance of 291 feet to a stake; thence through other lands of which this is a part, North 74° 59' East, a distance of 141.25 feet a stake on the westerly boundary line of Frances Street; thence along the westerly boundary line of Frances Street South 15° 02' East, a distance of 254.40 feet to a stake, the place of beginning.

BEGINNING for a tie line at an iron pin located in the west right of way line of Pennsylvania State Route #11001 and North 25° 48' East 630 feet from the northeast corner of land formerly of the Wilmore Coal Company, now of Henry E. and Dorothy Ghezzi; thence by the north line of a proposed fifty (50) foot street the following two courses and

distance; by a curve to the right with a radius of 30 feet for a distance of 47.12 feet to an iron pin, and North $64^{\circ} 12'$ West 180.74 feet to an iron pin; thence through land of the Wilmore Coal Company, North $39^{\circ} 48'$ East 148.01 feet to an iron pin in line of other land of the said Eugene E. Shaffer and Jean E. Shaffer; thence by line of other land of the said Shaffers, South $52^{\circ} 12'$ East 180.28 feet to an iron pin in the west right of way line of aforementioned highway; thence by said west right of way line of said highway South $25^{\circ} 48'$ West 70 feet to an iron pin, the place of beginning. Containing 0.54 of an acre.


Leopold J. Wendekier, Chairman


T. L. Locher


Theodore W. Hunt

COMMONWEALTH OF PENNSYLVANIA, :: IN THE COURT OF QUARTER SESSIONS
Plaintiff :: OF
vs. :: CAMBRIA COUNTY, PENNSYLVANIA
EUGENE A. SHAFFER and JEAN E. ::
SHAFFER, husband and wife, :: No. 8 March Sessions, 1962, R.D.
Defendants ::

VIEWS' NOTICE OF HEARING

The Board of View appointed by the Court to view the premises and make a determination of the damages, if any, to property of the above owners, more particularly described in the Notice of View, has set, as the time and place for a hearing where all interested parties may appear and be heard, 1:30 o'clock, P.M., e.s.t., on Tuesday, March 27, 1962, in the Judges' Chambers, 409 U. S. Bank Building, Johnstown, Pennsylvania.

All parties should be present with their witnesses to present evidence for the assistance of the Board at that time.

BOARD OF VIEW

by Leopold J. Wandekiev
Chairman

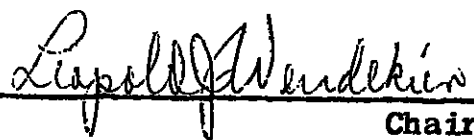
COMMONWEALTH OF PENNSYLVANIA,	::	IN THE COURT OF QUARTER SESSIONS
Plaintiff	::	
	::	OF
vs.	::	
	::	CAMBRIA COUNTY, PENNSYLVANIA
EUGENE A. SHAFFER and JEAN E.	::	
SHAFFER, husband and wife,	::	
Defendants	::	No. 8 March Sessions, 1962, R.D.

VIEWERS' NOTICE

The Board of View appointed by the Court to determine the damages and benefits, if any, caused by the condemnation by the above named defendant of certain real estate of the plaintiff hereby gives notice that the Board, after due deliberation, and considering all the evidence placed before it after a view of the premises, has prepared a Schedule of Award which will be exhibited to all interested parties on Friday, April 13, 1962, at 10:00 o'clock, A.M., e.s.t., in the Judges' Chambers, Park Building, Johnstown, Pennsylvania.

The Board will hear any and all objections to the award at that time.

BOARD OF VIEW



 Chairman

COMMONWEALTH OF PENNSYLVANIA, :: IN THE COURT OF QUARTER SESSIONS
Plaintiff ::
vs. :: OF
:: CAMBRIA COUNTY, PENNSYLVANIA
EUGENE A. SHAFFER and JEAN E. ::
SHAFFER, husband and wife, ::
Defendants :: No. 8 March Sessions, 1962, R.D.

VIEWERS' NOTICE

The Board of View appointed by the Court to determine the damages and benefits, if any, caused by the condemnation by the above named defendant of certain real estate of the plaintiffs hereby gives notice that the Board will file its Report with the Prothonotary of said Court on Monday, April 16, 1962. The report will thereupon become a part of the record in this proceeding.

BOARD OF VIEW

Leopold J. Wendekier
Chairman

This print is made from sheet No. *40*, of Right-of-way
plan for Route No. *1022* Section No. *19w*, *CAMBERIA*
County, approved by the Governor on *MAY 15* 19 *61*
which I we have examined and had explained to me us this
day of _____, 19____, and is to be attached to
the release herewith executed.

Witness _____

(Seal)

Witness _____

(Seal)

Witness _____

(Seal)

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RALPH SHAFFER
&
ELSIE W. SHAFFER

THE WILMORE COAL CO.

WADE R. SHAFFER
&
ELIZABETH MAURY
SHAFFER

RALPH SHAFFER
&
ELSIE W. SHAFFER
Reqd. Right-of-Way Lane
for Limited Access

RAMP A
RAMP B

THE WILMORE COAL CO.

Included in Reqd. Right-
of-Way for Limited
Access

RAMP "A" DATA
PT 6+42.38
Δ 54°28'
L 118.37
R 218.64
R 230.00

RAMP "B" DATA
Δ 190°50'59"
L 552.94
R 166.00

EUGENE E. SHAFFER
&
JEAN L. SHAFFER

FRANCES (SHE)
FRED R. PENNELL
&
VIRGINIA PENNELL

THE WILMORE
COAL CO.

PROPOSED E. MAHER DRIVE

THE WILMORE COAL CO.

CLIFFORD T. ANDERSON
&
ZELDA G. ANDERSON

Reqd. Right-of-Way Line for Limited Access
Sta. 260+09.76 L.R. 1022
Sta. 114+59.92 L.R. 222

ELMER L. HOFFMAN
&
LAURA HOFFMAN

FOR PROFILE & GRADE
LINE OF RAMPS "A" & "B"
SEE SHEET NO. 41

Extent of Limited Access
Sta. 259+37

Reqd. Right-
of-Way Line

Legal Right-
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Plan approved by the
Governor June 7,
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IN THE COURT OF QUARTER SESSIONS
OF CAMBRIA COUNTY, PENNSYLVANIA

NO. *R. S. 8 Much*
1962

COMMONWEALTH OF PENNSYLVANIA

vs.

EUGENE *A.* SHAFFER and JEAN E.
SHAFFER, husband and wife

PETITION FOR APPOINTMENT OF
VIEWERS

Filed: Jan. 29, 1962

EARL F. GLOCK
ATTORNEY AT LAW
UNITED STATES BANK BLDG.
JOHNSTOWN, PA.

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA
COMMONWEALTH OF PENNSYLVANIA : NO. MARCH SESSIONS, 1962

vs.

EUGENE A. SHAFFER and JEAN E. : *R.D. 8*
SHAFFER, husband and wife : PETITION FOR APPOINTMENT OF
VIEWERS

TO THE HONORABLE JUDGES OF THE ABOVE NAMED COURT:

1. Petitioners Eugene A. Shaffer and Jean E. Shaffer are husband and wife, and reside at 626 Frances Street, Richland Township, Cambria County, Pennsylvania, (Post Office Johnstown).

2. The Respondent is the Commonwealth of Pennsylvania, acting through the Secretary of Highways of the Department of Highways.

3. Petitioners are the owners of land in Richland Township, Cambria County, Pennsylvania, bounded and described as follows:

BEGINNING at a stake on the northerly boundary line of Township Road leading to Walsall, said point being South 33° 43' West, a distance of 400 feet, more or less, from the intersection of said Township Road with Pennsylvania State Highway Route #56; thence along the land of Wilmore Coal Company, North 44° 05' West, a distance of 291 feet to a stake; thence through other lands of which this is a part, North 74° 58' East, a distance of 141.25 feet a stake on the westerly boundary line of Frances Street; thence along the westerly boundary line of Frances Street South 15° 02' East, a distance of 254.40 feet to a stake the place of beginning.

BEGINNING for a tie line at an iron pin located in the west right of way line of Pennsylvania State Route #11001 and North 25° 48' East 630 feet from the northeast corner of land formerly of the Wilmore Coal Company, now of Henry E. and Dorothy Ghezzi; thence by the north line of a proposed fifty (50) foot street the following two courses and distance; by a curve to the right with a radius of 30 feet for a distance of 47.12 feet to an iron pin, and North 64° 12' West 180.74 feet to an iron pin; thence through land of the Wilmore Coal Company, North 39° 48' East 148.01 feet to an iron pin in line of other land of the said Eugene E. Shaffer and Jean E. Shaffer; thence by line of other land of the said Shaffers, South 52° 12' East 180.28 feet to an iron pin in the west right of way line of aforementioned highway; thence by said west right of way line of said highway South 25° 48' West 70 feet to an iron pin, the place of beginning. Containing 0.54 of an acre.

UNDER AND SUBJECT to the exceptions, reservations, conditions and restrictions of record relating to said land.

4. In connection with the improvement of Legislative Route #1022, Section 1 in Cambria County, Pennsylvania, the above described property owned by petitioners and occupied by petitioners was condemned by the Commonwealth for Highway purposes by a plan signed by the Governor of the Commonwealth on May 15, 1961.

5. The Commonwealth has not agreed with the petitioners as to the amount of damages or made any payment to him therefore, and in fact the parties have been unable to agree as to the amount of damages, which should be payable to the petitioners for the taking of their land.

6. Petitioners request the Honorable Court pursuant to the Acts of Assembly in such cases made and provided, and including the Act of 1945, June 1, P. L. 1242, Article III to appoint three (3) disinterested and discreet freeholders as Viewers and fix a time when the Viewers shall meet on the line of the improvement and view the improvement, and the property affected thereby, to determine the extent of the damage thereto, and report thereon to the Court.

Eugene A. Shaffer
Jean E. Shaffer

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA
COMMONWEALTH OF PENNSYLVANIA : NO. *B.R.D.* MARCH SESSIONS, 1962

vs. :

EUGENE A. SHAFFER and JEAN E. SHAFFER, husband and wife : DECREE OF COURT TO APPOINT VIEWERS

NOW THIS *29th* day of January, 1962,

Leopold Wendehur

Telford Locher

Theodore Hunt

are hereby appointed to view the premises at the intersection of Frances Street and Legislative Route #11001 owned by Eugene A. Shaffer and Jean E. Shaffer, husband and wife, as more fully described in the attached Petition to determine the damages sustained by said property owners as a result of the condemnation and taking of said property by the Commonwealth, Department of Highways, in connection with the improvement of Legislative Route #1022, Section 1 and report to the Court thereon.

2. Said Viewers shall meet upon the line of improvement at 626 Frances Street on _____ to view the improvement and the property affected thereby.

3. The Viewers shall give notice of such view in the manner provided by law.

BY THE COURT:

By *Wolk*

J.