

613
IN THE COURT OF QUARTER SESSIONS
OF CAMBRIA COUNTY, PENNSYLVANIA.
No. 2 September Sessions, 1926.

IN THE MATTER OF THE CONDEMNATION
BY THE TOWNSHIP OF ALLEGHENY,
IN THE COUNTY OF CAMBRIA AND
STATE OF PENNSYLVANIA, OF PRO-
PERTY ALONG A CERTAIN HIGHWAY.
IN SAID TOWNSHIP FOR THE PUR-
POSE OF WIDENING SAID HIGHWAY.

TESTIMONY

Lodged 25 October 1926.

FRANK J. MYERS

Official Stenographer
Forty-Seventh Judicial District
Pennsylvania

IN THE MATTER OF THE CONDEMNATION
BY THE TOWNSHIP OF ALLEGHENY, IN
THE COUNTY OF CAMBRIA AND STATE OF
PENNSYLVANIA, OF PROPERTY ALONG A
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I N D E X

Stenographer's Certificate

51

PETITIONERS' WITNESSES:	Direct Ex.	Cross Ex.	Re-Direct.	Re-Cross.
James A. Farbaugh	1	3	7	
Ollie Smithbower	7	8		
A. E. Farbaugh	9	10	12-13	13
Edward Sheehan	13	15	17	17
Edward Lenz	18	19		

WITNESSES FOR I. N. SEYMOUR, LAND OWNER:

I. N. Seymour	21	22	25	25
William Hogue	26	27	30	
Regis Seymour	30	31		
G. A. McConnell	31	32		
Silvester Glass	35	36	37	
George McMullen	37	38		
Hugh Eckenrode	39	40	41	42-43
Sherman Reiter	43	45		
Jerome Flick	48	49		

IN THE MATTER OF THE CONDEMNATION ; IN THE COURT OF QUARTER SESSIONS
BY THE TOWNSHIP OF ALLEGHENY, IN ; OF CAMBRIA COUNTY, PENNSYLVANIA.
THE COUNTY OF CAMBRIA AND STATE OF ;
PENNSYLVANIA, OF PROPERTY ALONG ; No. 2 September Sessions, 1926.
A CERTAIN HIGHWAY IN SAID TOWNSHIP ;
FOR THE PURPOSE OF WIDENING SAID ;
HIGHWAY. ; ROAD DOCKET.

Ebensburg, Pa.,

1926.

BEFORE THE BOARD OF VIEWERS

APPEARANCES:

For I. N. Seymour: F. J. Hartman, Esq.

For the Petitioners: A. A. Nelson, Esq., of Shettig & Nelson.

It is agreed by counsel representing the petitioners and counsel representing I. N. Seymour that the testimony of witnesses be taken by Miss Rhoda Rhody in shorthand and reduced by her into typewriting and that the testimony be filed with the report of the Viewers in this case; that the requirement that each witness sign at the end thereof is waived, and that the witnesses be sworn by one of the Board of Viewers, before whom this hearing is being had.

JAMES A. FARBAUGH

James A. Farbaugh, being duly sworn according to law, testified as follows:

DIRECT EXAMINATION BY MR. NELSON:

Q. Mr. Farbaugh, you are one of the Supervisors of Allegheny Township, this County? A. Yes sir.

Q. How long have you been living in Allegheny Township?

A. Practically all my life.

Q. That is upwards of fifty years? A. Yes.

Q. I understand the Supervisors of Allegheny Township have petitioned the Court for Viewers to ascertain the damage, if any, due to I. N. Seymour for certain property owned by Mr. Seymour by reason of the taking thereof by the Township of Allegheny for the purpose of widening the road from Loretto Road to Ebensburg Junction - that is that part of the Seymour property which abuts on that particular Township road. Is that correct?

A. That is correct.

Q. Are you acquainted with the value of real estate in Allegheny Township? A. Yes.

(It was agreed by counsel to waive qualification of all witnesses)

Q. Mr. Farbaugh, are you acquainted with the I. N. Seymour farm?

A. Yes.

Q. What is the acreage of that farm, if you know?

A. My information is it is about 26 acres.

Q. Have you seen a map of the particular strip of ground which is proposed to be taken by the Supervisors for the purpose of widening this particular road? (Counsel places map before witness.)

A. I had not seen this one.

Q. How much property is being taken - that is what is the length and breadth of the particular strip which is to be taken?

A. 475 feet in length and 18 feet in width.

Q. From the center of the gutter on the East side of the road?

A. That would be about 12 feet at the widest place from the top of the bank (at the narrowest place of the land taken) about 12 feet, outside of the right of way. I don't know if that is exactly right, but I would suppose about 12' outside of what would be the right of way - 33' right of way.

Q. What is the acreage of the strip which has been taken, Mr. Farbaugh?

A. I don't know. -2-

A. 8550 square feet - would be about one-fifth of an acre, I believe.
Or a trifle less.

Q. Then one-fifth of an acre is all it is? A. Figures about
one-fifth of an acre.

Q. There is a small portion which belongs to the road and is
included in the 8550 square feet, is there not?

A. According to my estimation from measurements made before, I
concluded there was a part of that still to be Township right of way
without any proceeding to condemn.

Q. What in your opinion, Mr. Farbaugh was the value of the Seymour
Farm before the condemnation - that is, before this property was taken by
the Township?

A. Well, I consider that \$4,000.00 would be a good round price for
that little farm.

Q. And what in your opinion would be the value of the Seymour farm
after the condemnation and as affected thereby?

A. I consider that since it is nothing more than widening the
road, not cutting off any ground, that with these things in consideration,
the value of the farm would not be lowered more than \$75.00, or that the
farm would still be worth \$3925.

CROSS-EXAMINATION BY MR. HARTMAN:

Q. Now, I understand that you Supervisors of Allegheny Township have
concluded that on account of the drifting of some of your roads, and
especially this road, it is a matter of economy to condemn additional
land alongside of the Township road for winter roads? A. Yes sir.

Q. You have done that in the Jerome Flick case, I understand?

A. Yes sir.

Q. And you propose to do the same thing here? A. Yes sir.

Q. Well now, do you feel that by getting this strip of 18 feet you will have a sufficiently wide winter road for the traveling public when the other road is drifted shut?

A. We feel that we can make a road that the public can get through when the other is drifted shut.

Q. Of course, you don't propose to cut down this piece of ground that you are condemning then to the same level as the other road?

A. No.

Q. That would be an enormous expense, would it not? A. It would.

Q. I understand the Township road will remain as it is now, but you will have this additional road on the side for winter travel?

A. That is the idea - what we want.

Q. Why do you need to take it all along this land - the eastern line of the road from the building, or practically the building of Seymour to the Hogue line?

A. Well, we just want to take it from the foot of the cut so that you can start out on a level with the road already built and come out again on the top of the hill on a level road where snow don't drift.

Q. I am not an engineer, but I was on the ground yesterday and you can do that very thing by going up the hill from the buildings for some distance and still go on the level, and on the upper end at Hogue's you can come out practically on the level 200 feet from the Hogue line toward the buildings from Mr. Seymour's.

A. That might be, but I do not have the exact measurements. We thought the Hogue line was so close to the level at the top of the hill that it would be a proper location to designate to come out.

Q. You don't intend to condemn more land than you have to, do you, Mr. Farbaugh? A. No.

Q. The cut is only some 200 feet, perhaps, or less in length?

A. Well, I didn't measure with a tape, but stepping it off I estimated once before that we ought to have over 400 feet to give us what would be satisfactory there.

Q. Well, the total length of this strip is how many feet, from the map you have there? A. 475 feet.

Q. That cut doesn't go the entire length of that piece? A. Not quite.

Q. Up on the flat at Hogue's place, were you ever up there when it was drifted? The southerly line from this condemned piece of ground, have you ever seen any drifts there.

A. Not on top of the hill.

Q. A. Why do you take that 200 feet?

A. I answered the question, Mr. Hartman, without making an estimate. It was in that neighborhood. We concluded that line was close to the top of the hill. In fact there was no one there to show us exactly where the line was.

Q. Didn't the viewers point out the line to you people on the ground on the day of the view?

A. I wasn't there on the day of the view.

Q. How did you find out how much land you had condemned?

A. By this map.

Q. When you presented your petition did you set forth that there was an action by the Township Supervisors in this matter to condemn land belonging to I. N. Seymour? A. Yes.

Q. What action did the Board of Viewers take to condemn this land?

A. We took the action that is endorsed by an Act of Assembly.

Q. Did you pass a resolution? A. We did.

Q. Did you make that a matter of record in the minutes on your books?

A. We did.

Q. Have you got your books here? A. No.

Q. How much land did you condemn according to the minutes of your meeting?

A. Enough for a winter road.

Q. How much?

A. At that time it was not measured. It is not stated how much exactly.

Q. Then your resolution wouldn't show what land was condemned - it wouldn't show 8550 feet ? A. No.

Q. Were all the Supervisors present when that was done? A. Yes sir.

Q. When was that done?

A. I can't tell you exactly which meeting, Mr. Hartman. It was done before the matter was taken up with the attorneys, of course.

Q. The road as it passes through the Seymour land to the point where you are condemning is practically straight? A. Yes.

Q. If the road is 33 feet wide, as roads were usually laid out then, you say it would be taking less than 18 feet from Mr. Seymour?

A. I think so.

Q. Well, do you know where that original road was laid? A. No.

Q. Then perhaps you are taking all of the 18 feet from Mr. Seymour?

A. Perhaps - perhaps none.

Q. Did you try to locate by measurements on the ground the place where the road was originally laid out?

A. We searched the roads for where the road was originally laid out and couldn't find anything.

Q. Who searched?

A. Our counsel. Q. They could find no record of this road being laid out? A. They advised us so.

Q. How much did you place as the value of the house on this land?

A. I did not place any specific value on the house on this land, for the reason that when farms are sold the buildings are included in a value that is placed on the farm and generally no specific value is placed on the buildings alone.

Q. What value did you place on the barn?

A. I will make the same answer to that.

Q. What value did you place on the garage? A. I will make the same answer.

Q. What value did you place on the pig pen? A. I will make the same answer to that question.

Q. What value did you place on any other buildings in making up your estimate?

A. I will say I placed no specific value on the buildings. The estimate placed on the farm included the buildings.

Q. What value did you place on the ground?

A. Well now I will state again I placed a value of \$4,000 on the ground including the buildings.

Q. Do you know that the adjoining acre of land owned by Mr. Glass was purchased some years ago, being one acre without improvements thereon, at the price of \$905?

A. I don't know other than I heard Mr. Seymour state the other day that he purchased that piece of ground, and I believe there was a school house on the ground that went with it.

Q. That was an old building which had been abandoned for school purposes? A. Yes sir.

REDIRECT EXAMINATION BY MR. NELSON:

Q. Mr. Farbaugh, in your opinion would the ground which has been taken here reduce the value of the house, barn, garage, pig pen, or other buildings? A. Not in my estimation.

OLIE SMITHBOWER; CALLED, SWORN:

DIRECT EXAMINATION BY MR. NELSON:

Q. Mr. Smithbower, where do you live? A. In Allegheny Township.

Q. How long have you lived in Allegheny Township? A. About eight years.

Q. Are you acquainted with the valuation of real estate in Allegheny Township? A. I am.

Q. Do you know the I. N. Seymour farm? A. I do.

Q. You are acquainted with the lines of the farm? A. Not exactly.

Q. You know the general location of the lines?

A. I do, near about.

Q. You know that the I. N. Seymour farm abuts on the Township road leading from Loretto Road to Ebensburg Junction? A. Yes sir.

Q. Did you hear the testimony of Mr. Farbaugh who just left the stand?

A. I did.

Q. From his testimony and your personal knowledge of the I. N. Seymour farm, do you know the particular property which is proposed to be taken by the Township? A. Yes sir.

Q. That is you know the length and breadth of the strip of ground which is to be taken? A. I do according to what was just said.

Q. Then you are acquainted with that frontage to be taken on the road? A. Yes.

Q. What in your opinion, Mr. Smithbower was the value of the I. N. Seymour farm prior to the time when this strip of ground was taken by Allegheny Township? A. \$4,000.

Q. And what in your opinion is the value of that same farm after this strip has been taken away, after the condemnation and as affected by the condemnation? A. \$3925.

CROSS-EXAMINATION BY MR. HARTMAN:

Q. Do you know that Mr. Seymour's land lies on both sides of the road going from the concrete Loretto Road south toward Ebensburg Junction?

A. Yes sir.

Q. How much land is on the West side of that road?

A. I couldn't say how much.

Q. Do you know whether that land also adjoins the concrete road leading from Ebensburg to Loretto? A. Yes sir.

Q. You don't know where the lines are? A. No.

Q. You don't know how many acres are in it? A. Near about 26.

Q. You say that because the assessment shows 26, don't you? A. Yes.

Q. Were you ever over the land? A. No.

Q. Were you ever in the buildings? A. No.

A. E. FARBAUGH, CALLED, SWORN.

DIRECT EXAMINATION BY MR. NELSON:

Q. How long have you been living in Allegheny Township, Mr. Farbaugh?

A. Around sixty years.

Q. Are you pretty well acquainted with the real estate in the Township? A. Yes, especially in the immediate neighborhood.

Q. Are you acquainted with real estate values in the Township? A. yes.

Q. Are you acquainted with the I. N. Seymour farm?

A. I know where it is.

Q. Are you acquainted with the strip of land which is proposed to be taken by the Township off the I. N. Seymour farm? A. Yes sir.

Q. Do you know about the acreage of the strip of land which is to be taken?

A. I do not know anything about the amount, only what is here in this chart - about one-fifth of an acre.

Q. You understand from a calculation made by the viewers that the strip proposed to be taken contains in the neighborhood of one-fifth of an acre? A. Yes sir.

Q. Do you also understand that the strip of land to be taken is about 470 feet long and approximately 18 feet wide?

A. That is what I understand.

Q. You are likewise acquainted with the particular strip which is proposed to be taken from the Seymour property? A. Yes sir.

Q. What in your opinion was the value of the entire farm of I. N. Seymour prior to the taking away of that strip of land, Mr. Farbaugh?

A. I would place it at about \$4,000.

Q. And what in your opinion would be the value of the same farm after that strip had been taken, and as affected by the taking of this strip of ground? A. \$3925.00.

CROSS EXAMINATION BY MR. HARTMAN:

Q. Are you acquainted with the lines of the Seymour farm? A. No sir.

Q. Were you ever on the land?

A. I don't know particularly - I have been on the road, but don't know if I have been on the farm.

Q. Have you ever been in the buildings? A. No sir.

Q. When did you go over that road which passes through the Seymour farm the last time? A. This morning.

Q. You went through probably this morning so that you could testify in this case, did you? A. Yes sir.

Q. How long were you on the ground?

A. Probably fifteen or twenty minutes.

Q. Who pointed out to you the ground that was being taken by the Township? A. Mr. Seymour was there and some more of his neighbors.

Q. Who went with you up there this morning?

A. Mr. Smithbower, Mr. Lynch -- two Mr. Lynches.

Q. Did J. A. Farbaugh go with you? A. No sir.

Q. Now you don't mean us to understand that you were on this particular land that is proposed to be taken, this morning? A. I was.

Q. On this particular land? A. Yes sir.

Q. Just where on this particular land were you?

A. Pretty well up on the hill.

Q. Were you on the road?

A. I went on the road to get there and when I got there I got out of the car and got on the land. Mr. Lynch, the Supervisor, was there and showed us where the strip was to be taken.

Q. As far as you know that is the first time you have ever been on Mr. Seymour's land, outside of traveling the road in your life?

A. Yes, I believe it was. Well, I have been along that road for the last fifty years.

Q. Through the road, of course, but not on the land? A. No.

Q. What value did you place on the house?

A. I didn't place any value on the house.

Q. Do you want us to understand that the house could be put there for \$4,000.00?

A. I don't know anything about the value of the house. I placed a value on the buildings and on the land as \$4,000.00.

Q. How much did you figure the land worth an acre there?

A. I didn't make any calculation of the land separate.

Q. How in the world did you make a calculation at all if you didn't consider the land and didn't consider the buildings? Just explain that to us.

A. I don't know that I placed any particular value on the land by itself.

Q. And you placed no particular value on the buildings? A. No.

Q. How in the world did you arrive at the sum of \$4,000 as being the value of that farm?

A. Farm and buildings.

Q. Exactly, how did you do it?

A. Well, I compared it with some of the other farms that had been sold around through the country.

Q. Did you compare it with the acre purchased a short time ago adjoining this land for \$905? A. No, I didn't.

Q. You didn't happen to hear about it? You didn't take that sale

into consideration? A. No.

Q. What sales did you take into consideration when you fixed this value at \$4,000.00?

A. John Little's farm was sold, last Spring, I think it was.

Q. Where is John Little's farm?

A. It is over along the Carrolltown Road.

Q. How far from this farm? A. I would judge one and a half miles or two miles.

Q. About a mile and a half or two miles?

A. I didn't measure it - that would be my guess.

Q. Would you say that John Little's farm as to location compares or is similar to Mr. Seymour's farm as to location? A. I do not know if it runs out to the brick road. It joins the brick road from Loretto to Carrolltown. A pretty good location.

Q. Is Mr. Little's farm all cleared? A. I do not know.

Q. Do you know the Little farm? A. I certainly do.

Q. Do you know whether it is cleared? A. I had no reason to inquire if it is all cleared.

Q. How much of the Seymour farm is cleared? A. I do not know.

RE-DIRECT EXAMINATION BY MR. NELSON:

Q. Mr. Farbaugh, the acre of ground which was sold by Mr. Seymour is located on the corner or at the intersection of the concrete road leading from Ebensburg to Loretto with the Township road leading from Loretto Road to Ebensburg Junction, is it not? A. Yes sir.

Q. And that particular acre of ground is more suitable for a building lot than back where the property to be taken here is located? A. In my judgment it would be.

Q. It is located right at the overhead bridge at Loretto Road depot? A. Yes.

RE-CROSS EXAMINATION BY MR. HARTMAN:

Q. Don't you know, Mr. Farbaugh, Mr. Seymour's land goes clear down on that concrete road toward Ebensburg, and that his land runs to the very corner of this lot and the Ebensburg road to the West of this acre that we are talking about? Do you know that? A. Yes.

Q. Why isn't the other corner just as valuable and more so than the Glass corner? A. I don't know.

Q. Of course you don't know. There is no explanation to that, is there, Mr. Farbaugh?

RE-DIRECT EXAMINATION BY MR. NELSON:

Q. Is it your understanding that the Supervisors are taking a part of the acre owned by I. N. Seymour which abuts the concrete road? A. No sir.

Q. It is some distance back toward Ebensburg Junction where the property taken here is located? A. Yes sir.

EDWARD SHEEHAN, CALLED, SWORN.

DIRECT EXAMINATION BY MR. NELSON:

Q. Where do you live, Mr. Sheehan? A. In Allegheny Township.

Q. How long have you lived in Allegheny Township? A. Practically 53 years all the time.

Q. Are you acquainted with the valuations of real estate in Allegheny Township? A. Just in a general way.

Q. I believe you have been an assessor in Allegheny Township at one time or another? A. A couple different times.

Q. About how long did you serve in this capacity in Allegheny Township? A. About eleven years.

Q. Are you acquainted with the I. N. Seymour farm in Allegheny Township? A. Yes.

Q. You have heard the testimony of the previous witnesses on the stand in this matter, have you not? A. Yes sir.

Q. From their testimony, from the map or sketch which the viewers have made, and from your personal knowledge of the I. N. Seymour farm, what would you say the value of this farm was prior to the time that this strip of ground was taken from it? A. The farm lands is awful hard to ascertain the value for the simple reason that farms all throughout that section of the country have been offered for sale at what to any person might think a fair value, and they couldn't get a bid for it at all. The value - the way we used to ascertain valuations would be what in my honest opinion they would sell for in case they had to be sold within the next ten days or two weeks.

Q. Well, Mr. Sheehan, if you can, we would like to have your idea as to the market value of the Seymour farm before this property was taken away from it? A. Of course, it is along the brick road, practically along it, and right close to the station, well located, and ought to be a desirable place to a person who wanted to make a truck patch, or something like that - probably worth, if a person could get it, \$4000 or \$5000.00.

Q. Now, what in your opinion would be the value of that same land, same farm, after this particular strip of ground had been taken away? A. This leaves no corners between this proposed strip, does it, and the main Township Road now travelled and uses, a continuous strip right along this edge - no vacant lines?

Q. No sir, as I understand, it won't leave any ground between the road as now located and the strip of ground to be taken. A. I wouldn't suppose the way land valuations is, as I see them, as I understand them, don't suppose it would make a reduction of more than \$100, or such a matter, probably less.

Q. Then your answer to my question as to the value after the condemnation would be \$3900 if the value would be \$4,000, and \$4900 if the original value would be \$5,000. Is that correct? A. That is the way I stated it, yes.

Q: In other words, the damage, in your estimation, to the Seymour farm by reason of the condemnation would be \$100? A. Well, it would be going the very limit at that in my opinion.

CROSS-EXAMINATION BY MR. HARTMAN:

Q. Are you acquainted with the lines of the Seymour farm? A. Just in a general way.

Q. Have you ever been over the lines around the place? A. Not around the lines, but through the field not following the lines.

Q. What field were you through? A. Well, I was through a field to the West of the road.

Q. When? A. I was through on several different occasions. I believe it was about four years ago I was through it one time. Don't believe I was through there since.

Q. And you drove through that time because the road was drifted? A. No.

Q. Q. What occasion had you to go through Mr. Seymour's field? A. Just to look at the soil. As assessor, I would walk through there and look at the general condition of the farm to put a valuation on it.

Q. Are you still assessor? A. No.

Q. When did you quit being assessor? A. Last fall.

Q. Do you know how much you assessed this farm at? A. I think about \$2,000.00.

Q. Are farms assessed at their full value in Allegheny Township or not? A. No sir.

Q. In saying that this farm as a whole is worth \$4000 or \$5000, did you take the value of the buildings into consideration? A. Yes sir.

Q. How much would you say the buildings are worth? A. Generally farm buildings ----

Q. These buildings? I want to know the value of these buildings on the farm? A. The value on it?

Q. I want to know the value you put on them when you say the farm as a whole is worth \$4000 or \$5000? A. The instructions we got.

Q. You are not under any instructions. What instructions did you get? A. The instructions we got was to include the acreage of land including all the improvements.

Q. Instructions from whom? A. The commissioners, and I think an Act of Assembly covers that.

Q. That doesn't apply in this case. You are supposed to give us not the assessed valuation but the market value of that land, and you have already stated that you did not assess it at the market value. Now, then in arriving at the value of \$4000 or \$5000, the value of this farm as a whole, how much did you of that amount allow for the buildings? A. Well, now the land in that community.

Q. I am asking you about these buildings? You will have to answer my question. A. I would have to figure.

Q. Take all the time you want. A. The land in that community is assessed at \$30 an acre.

Q. This is altogether wrong. It is not the assessed valuation; it is the market value? A. The market value of that house considering where it is located would probably be worth about \$1200.

Q. And then the balance you put on the value of the land? A. And barn and buildings.

Q. How much value on the barn? A. Probably \$700 or \$800, or \$750.

Q. How much on the balance of the buildings? A. Garage, probably \$150, somewheres in that neighborhood.

Q. How many acres of land? A. About 26 acres it was assessed at - might be a trifle more or less.

Q. If you put a value of \$1200 on the house, \$750 on the barn, and \$150 on the garage, the balance to make up your \$4000 or \$5000 would be the value of the ground? A. Yes, if you want it that way.

Q. That would make pretty high priced land per acre? A. You didn't give me time to figure on that a little bit.

Q. When you say I didn't give you time to figure, aren't you just guessins at these figures? A. Well, off hand, yes. We never sum them up, each item, you understand, what the actual value of it is. Just sum them up as a whole.

RE-DIRECT EXAMINATION BY MR. NELSON:

Q. Mr. Sheehan, do you know of anybody in the world who can do anything but guess, in other words, give his opinion on the value of this property, or any other property, in any other community in the world? A. It would be an awful hard matter.

RE-CROSS EXAMINATION BY MR. HARTMAN:

Q. Then I am to understand that your testimony is a guess - Is that correct? A. Yes sir, you might put it down that way, Mr. Hartman.

Q. Were you ever in the house? A. Yes sir, I was in last fall. I was never through the house upstairs, but have been in the house on many occasions.

Q. Have you ever been in the barn? A. Just once.

MR. NELSON: Q. You have never been in the pig pen? A. No.

BY THE BOARD:

Q. Is it a fact in the cases of sale of farms with buildings thereon it is rarely that they realize the actual value of the land per acre, plus the actual value of the buildings? A. It is all included.

Q. I understand. Do they ordinarily realize that value? A. Well, farms are sold at a price you couldn't erect the buildings for. You couldn't erect the buildings at what the whole thing sold for. I know one farm in

particular, you couldn't realize out of the whole business what it cost to erect the buildings. That is true. I can locate you lots - a half dozen in our Township.

EDWARD LENZ, CALLED, SWORN.

DIRECT EXAMINATION BY MR. NELSON:

Q. Mr. Lenz, you are one of the Supervisors of Allegheny Township?

A. Yes sir.

Q. How long have you been Supervisor? A. About ten or twelve years, I guess.

Q. Are you acquainted with the I. N. Seymour farm, Ed.? A. I am.

Q. Are you acquainted with the particular strip of ground which is supposed to be taken by the Supervisors in this proceeding? A. Yes.

Q. What in your opinion would be the value of the I. N. Seymour farm prior to the condemnation? A. I think about \$4000.

Q. And what in your opinion would be the value of that same farm after the condemnation and as affected by it? A. Well, I would say about \$3925.

Q. In making up your valuation did you take into consideration the house, barn, garage and other out buildings? A. No, I just threw the whole thing together and assessed the value, 26 acres or 28 acres, 26 acres all the tax book showed in that piece of ground.

Q. In your opinion, does the taking away of this strip of ground affect the house, affect the value of the house? A. No.

Q. Affect the value of the barn or any of the other buildings on the property? A. No.

Q. Are there any fruit trees, or any trees of any kind located on the particular strip of ground which is to be taken? A. No, no trees on that.

CROSS EXAMINATION BY MR. HARTMAN:

Q. The Supervisors, of which you are one, in Allegheny Township have decided as a matter of economy to lay out what they call a winter road alongside of the other road in order to save money for the Township during the winter time in the expense of shoveling snow. Is that a fact?

A. Yes.

Q. And you have condemned the lands of Jerome Flick in Allegheny Township for the same purpose? A. Yes sir.

Q. It is not your intention to change the road but to leave the bank as it is on this condemned strip of land, but to use it in the winter time when the road is drifted shut? A. Yes.

Q. Don't you think, Mr. Lenz that you took more land than you need for this additional road for that purpose? A. I can't answer that. I wasn't along with the viewers. I once looked at it. Don't want to take any more than what will help out for a winter road.

Q. I was over the lands yesterday, and up on the flat for quite a distance there is no bank on either side, the road is practically level with the land. Now you don't need an additional road there, do you?

Q. I don't suppose they would.

Q. Then why did you condemn it? A. We just meant where the ditch cut was through - my idea.

Q. But you have taken clear up to the Hogue line, and up at the Hogue line there is no cut. Why did you take that? A. I couldn't answer that. I wasn't along with the viewers.

Q. Why didn't you go along? A. I was away.

Q. Were any of the Supervisors there on that day? A. I don't know.

Q. Farbaugh wasn't there and you weren't there. Do you know whether Mr. Kunzman was there? A. I couldn't tell you.

Q. Who told these viewers what land you wished condemned? A. I don't know if Mr. Farbaugh or Mr. Kunzman did. I know I didn't for one.

Q. Then the viewers, as far as the proceedings on the day of the

view is concerned had to use their own judgment from what was in the order of the Court? A. I couldn't tell you that.

Q? You don't know that? A. No.

Q. As I understood you, Mr. Lenz, in your direct examination, when you placed the value of \$4000 on this farm you didn't take the buildings into consideration? A. I just lumped it all together.

Q. Did you figure the buildings in as part of that value? A. I never heard anyone place the value this way. Take Mike B. ---

Q. I do not care to encumber the record. Let me try to get clear what you have in mind. When you fixed the value of \$4000 on this farm, did you or did you not include in that value the buildings? A. All together, because on the tax duplicates it was assessed at \$2,000.

Q. It isn't assessed at the full value? A. No.

Q. Well, Mr. Lenz, if you did include the value of the buildings, tell us how much you valued the buildings at? How much of that \$4000 represents the buildings? A. I couldn't tell you that.

Q. How much did you value the land? A. I estimated the whole at \$4000.00.

Q. Then you wouldn't give us any of the elements that entered into your estimate of the \$4000. What elements did you take into consideration? A. I just thought if I was going to buy that farm a fair price would be \$4000.

Q. Is that all you took into consideration when you fixed the value at \$4000? A. Yes' sir. Yes.

Q. Nothing else? A. No.

TESTIMONY ON THE PART OF PETITIONERS CLOSED.

1. N. SEYMOUR, CALLED, SWORN. (LAND OWNER)

DIRECT EXAMINATION BY MR. HARTMAN:

Q. Mr. Seymour, you are the man who owns the farm on which the Supervisors claim they have made a condemnation? A. Yes sir.

Q. How long have you lived on that farm? A. I lived there about 25 years, more or less.

Q. Are you familiar with the market value of real estate in Allegheny Township? A. Yes sir.

Q. Are you familiar with the value of farms similarly situated and located as your farm? A. I can't understand what you mean.

Q. Do you know the market value of other farms that are similar to your farm, both as to character and as to location? A. Yes sir.

Q. Are you familiar with the lines of your farm? A. Yes sir.

Q. How many acres have you? A. We have almost 28 acres.

Q. Do you know the market value of your own farm, the farm in question here? A. Yes sir.

Q. Do you know from the ground and on the ground the land that the Supervisors claim to have condemned? A. Yes sir.

Q. Now what was the fair market value of your farm as a whole before the Supervisors took part of your land? A. I would say \$8000.00.

Q. And what was the fair market value of the same land as a whole after this condemnation and appropriation of land and as affected thereby? A. \$7000.00.

Q. Will you state the size of your house? A. It was 24 x 28. Then we put 4 feet additional to it.

Q. Is it a well constructed house? A. Yes sir.

Q. What state of repair is it in? A. No. 1 shape.

Q. Is it painted? A. Yes sir, it was painted this summer.

Q. What is about the size of the barn? A. It is 42 x 36.

Q. Frame? A. Yes.

Q. What other buildings have you on the farm? A. We have got the garage and pig pen, chicken house, etc.

Q. Is your farm cleared or in wood land? A. It is all cleared but about one-eighth of an acre, which I would suggest is locust.

Q. What is the character of the soil? Is it fertile or poor?
A. It is good.

Q. Can you raise good crops? A. Yes sir, I always raised good crops on it.

Q. Does this farm adjoin and abut on the concrete road leading from Ebensburg to Loretto? A. Yes sir.

Q. And, of course, the road from this concrete road to Winterset also goes through your land? A. Yes sir.

Q. Are the buildings conveniently located in regard to the road?
A. Yes sir.

Q. How far is your barn from the Railroad Station? A. About probably 150 yards.

Q. Can passengers get on trains and get off at that station? A. Yes.

Q. Is there freight service to that station? A. Yes.

Q. Is there Express service at that station? A. Yes.

CROSS EXAMINATION BY MR. NELSON:

Q. Mr. Seymour, what all did you take into consideration when you placed the value of \$8000 on your farm prior to the condemnation? A. I didn't take anything into consideration in particular, but I just placed my value on the farm at \$8000.

Q. Did you put a valuation on the house? A. No I didn't. I just bunched that.

Q. And you didn't put a valuation on the barn, the garage, and pig pen, and so on? A. No sir.

Q. In other words, you bulked your valuation the same as other

witnesses who have testified? (Objection.)

Q. You heard the testimony of the other witnesses, did you not? A. Yes.

Q. You heard them say they did not separate the values of the barn, house, garage, land and other out buildings, did you not? A. Yes sir.

Q. You heard them say that they had taken into consideration the house and all other buildings and the real estate and then put the valuation in bulk? A. Yes sir.

Q. And you have done likewise, have you not? A. Yes sir.

Q. Mr. Seymour, what other farms do you have in mind which are similar in character and location to your farm? A. Mr. Beiter for one.

Q. Which Mr. Beiter? A. Sherman Beiter.

Q. Where is Sherman Beiter's farm? A. It is right close to mine. The bridge separates the farm from mine.

Q. What is the acreage of the Sherman Beiter farm, Mr. Seymour, if you know? The acreage, I cannot tell you. I know he was offered \$8800.00 for it and wouldn't take it.

Q. When was that offer made? A. A few years ago.

Q. About how long ago, Mr. Seymour? A. As near as I can tell you, about two years ago.

Q. Do you know if that was before the timber was sold from the Beiter farm or not? A. I couldn't tell you that.

Q. You say you don't know the acreage of the Beiter farm? A. No, not exactly.

Q. What other farms did you have in mind when you spoke of farms similar in location to yours? A. Well, Mr. Schwab bought several farms in that community. Mr. John Little sold his farm.

Q. Well, what farms were they that Mr. Schwab bought? A. He bought the Bill Little farm for one.

Q. Do you know how much the Bill Little farm cost Mr. Schwab? A. I couldn't exactly tell you how much.

Q. What other farms did Mr. Schwab buy that you have in mind? A. Well, he bought a farm from Hen Beiter. I understand he paid \$6500 for that.

Q. Do you know the acreage of the Henry Beiter farm? A. I do not.

Q. Where is the Henry Beiter farm located? A. Adjoins Mr. Schwab's estate.

Q. Did you know, Mr. Seymour that it is common knowledge about Loretto and vicinity that Mr. Schwab paid more for the farms which he bought than they were worth?

OBJECTION BY MR. HARTMAN:

We object to the question, because even if that be true the fact that sales were made is still the real basis, or one of the elements which the witness may consider in fixing values.

BY THE BOARD: Objection overruled.

A. Yes, sir.

Q. Now are there any other farms Mr. Schwab bought that you have in mind? A. He bought the Henry Ivory farm, but I couldn't give you the price on that, what price he paid for it.

Q. The Ivory farm which you mention is located on the road leading from Loretto to Gallitzin, I believe? A. Yes.

Q. Mr. Seymour, will the fact that this strip of ground has been taken from your property reduce the value of your house, and if so, how much in your opinion? A. Well, I wouldn't know how much it would reduce. Of course, if that kind of work continued on, certainly it would reduce the value of the buildings to a certain extent, if they kept on taking land in that way.

Q. I am just asking you now about the strip of land which is now being taken, not as to any future land that might be taken away from you? A. I didn't make no estimate what that would reduce my buildings.

Q. Would you care to give us an idea as to the reduction in the value of your garage, your barn, and other buildings as a result of taking this land? A. No, I didn't.

Q. In other words, you just figures that your property was worth \$8000 before and now it is worth \$7000? A. Yes, sir.

Q. But you had not made a calculation as to the amount of damages done to the real estate alone and to the buildings in making up the \$1,000 damages? A. No I estimated ^{it would spoil} the location of my farm and the land they have taken from me which I need, that is where I made the \$1,000 damages.

Q. In what way will the taking of this land spoil the location of your farm, Mr. Seymour? A. It will make me a crooked line, and they are taking land right along the road, on the front. That is how I put the value at \$1,000.

Q. That is, do you mean to say now that you feel the ground alone has been damaged to the extent of \$1,000 by reason of the mere taking of the strip? A. I consider it spoiled my farm to the amount of \$1,000.

RE-DIRECT EXAMINATION BY MR. HARTMAN:

Q. If you would figure the valuations of the buildings by themselves could you bring down the value of the farm, including the land, to \$8000, or would it be more? A. It would be more. I couldn't put the buildings there today, what I have, for \$8000.

RE-CROSS EXAMINATION BY MR. NELSON:

Q. You have already testified that the value of your farm including the house and all other buildings prior to the taking of this land was \$8000? A. I testified to that, yes, sir.

Q. Is it your idea that you want to raise that figure now? A. No, but this was if I would have to go and replace those buildings or build those buildings, I couldn't do it for \$8000. That is my answer to that.

RECEIVED BY MR. NELSON, 1945.

WILLIAM HOGUE, CALLED, SWORN:

DIRECT EXAMINATION BY MR. HARTMAN:

Q. How long have you lived in Allegheny Township? A. I was born and raised there.

Q. How old are you? A. 54.

Q. How long have you known the I. N. Seymour farm? A. My whole life.

Q. How close is your farm to his? A. Adjoining.

Q. Do you know the market value of real estate, generally, in Allegheny Township, in the neighborhood of the I. N. Seymour farm? A. I know about what the land has been selling for, farms around their place, and also around Loretto.

Q. Well, then I understand you that you are familiar with and know the market value of lands in this neighborhood? A. Yes sir.

Q. Do you know the market value of Mr. Seymour's farm? A. Yes sir.

Q. Do you know the acreage? A. Yes sir.

Q. How many acres? A. 27 acres, 101 perch.

Q. Do you know the lines of his land? A. Yes sir.

Q. Have you been on the land? A. Yes, sir, farmed it - been on every foot of it.

Q. Do you know the location of his buildings? A. Yes sir.

Q. Are you familiar with the buildings? A. Yes sir.

Q. Have you been in them? A. I have been from the cellar to the attic in the house and have been in the barn frequently.

Q. For what length of time have you been familiar with the buildings? A. Ever since they have been built.

Q. What state of repair were his buildings in? A. Good.

Q. Do you know the strip of land that the Supervisors have condemned for a winter snow road? A. Yes sir.

Q. Have you seen it on the ground? A. Yes sir.

Q. Will you state what the fair market value of Mr. Seymour's property was, his real estate including the buildings, as a whole, before this land

was taken? A. About \$8,000.

Q. And what would be the fair market value of this same land as a whole, including the buildings and all, after the appropriation of this land? A. \$7000.

CROSS EXAMINATION BY MR. NELSON:

Q. What all did you take into consideration, Mr. Hogue, in fixing a value of \$8,000? A. Well, I bulked it all together, the real estate and buildings.

Q. Did you separate the items off, as the ground, the house, the barn, garage, and other out buildings? A. No sir, I didn't separate anything.

Q. You have fixed the damages at \$1,000? A. Yes, sir.

Q. How much would the garage be damaged by reason of the taking of this ground? A. Well, the garage would suffer the hardest damage at the present time?

Q. How much? A. It is pretty nearly impossible to estimate it. It might go some time without damage.

Q. What makes you say it may not be damaged just now and might possibly be damaged later on? A. Well, it throws the traffic closer to it.

Q. How close will the traffic be thrown to that garage? A. Well, as a rule, it hurries it to pass it.

Q. Do you have any idea then and will you give your idea to us as to what amount of damages the garage would suffer by reason of taking of this ground? A. Well, no, I couldn't. It may never suffer any if nobody ever hits it.

Q. Then the only danger that you see to the garage would be the fact that someone might run into it; is that correct? A. Yes.

Q. Do you have any idea what the width of that road is there, directly

past the garage? A. No, I haven't.

Q. You are acquainted with the road, are you not? A. Yes sir. You mean from the used track, or the line where we supposed the line was on the West? Original old fence line?

Q. What I mean, Mr. Hartman, is the width of the road which is now being used and which was used last year and this year up to this time?

A. The road is running at the present time pretty close.

Q. How long has that garage been built? A. 12 or 15 years.

Q. Have you heard of anybody running into the garage within the last fifteen years? A. I don't think anybody ever touched it.

Q. Don't you know as a matter of fact, Mr. Hogue, that the road as at present located will not be changed in any respect by reason of this proceeding?

A. If it 'aint changed in any respect, I don't see what use the proceeding is.

Q. I am asking you about the road which you used this morning, if you came out that way, the road which has been used last year, this year up to this time, and many years past, in other words, the present

roadway. A. Well, I heard them state they intended the new road to be on the bank instead of grading it down to widen the road. The notice called for the purpose of widening the road.

Q. It isn't your understanding that the present road which you and others use is going to be changed, is it? A. No, it isn't my understanding that it ever would be.

Q. But still, you think there is a possibility of that garage being damaged by reason of the taking of this ground? A. There is a possibility, yes.

Q. And you will not undertake to put in dollars and cents the amount of damages by reason of that possibility? A. No, it is pretty near impossible for a person to do so.

Q. Now, Mr. Hogue, will the house of Mr. Seymour be damaged in any

way, and if so, by what amount? A By reason of this proceeding, I do not think the house will be damaged.

Q. Will the barn be damaged? A. No.

Q. Will the pig pen or any of the other improvements about there be damaged, and if so, give us the amount thereof? A. No, none of them will be damaged.

Q. Then the \$1,000 damages which you estimate in your opinion is on the ground alone? A. Yes sir.

Q. With the exception of this possibility of a small damage to the garage, is that correct? A. Yes, sir.

Q. Do you know the approximate acreage of the strip of ground supposed to be taken? A. I heard them say here today.

Q. Did you hear the effect that the viewers had calculated the acreage at less than one-fifth of an acre? A. Yes, sir.

Q. Then in your estimation, the ground proposed to be taken is worth at the rate of approximately \$5,000 per acre. Is that correct? A. No, not in behind, by the acre, it wouldn't be.

Q. But buying it by the strip? A. It is taking the front and breaking the lines.

Q. Just how much of that \$1,000, Mr. Hogue, do you place on the fact that there will be a crooked line left there? A. It is pretty hard to answer as to just what portion of it. Sometimes people pay pretty big prices to straighten up a line. Mr. Seymour himself has offered me a good bit of money just to straighten up a line.

Q. Has he offered you anything near like \$5,000 an acre? A. Oh, no.

Q. Will you give us the amount of damages you have taken into consideration here by reason of the fact that there will be a crooked line? A. No, I never gave that consideration, never separated that from it at all, except that I wouldn't desire that crooked line there, wouldn't have it for quite a little sum.

Q. What would you say the acreage fronting on this road leading from Loretto Road to Ebensburg Junction is worth per acre?

OBJECTIONS BY MR. HARTMAN:

We object to the question as not being proper cross-examination and as not being the proper measure or any element to establish the proper measure of damages.

Objection sustained.

RE-DIRECT EXAMINATION BY MR. HARTMAN:

Q. How would the garage be damaged by reason of the change of this road? A. Well, I really spoke there without giving the proper consideration.

Q. It is my understanding that by using this strip they are condemning now they would be out on the public road when they would reach that cherry tree, which is south of the hog pen, that is likewise south of the garage?
A. Yes.

Q. And the cherry tree is some considerable distance south of that?
A. The hog pen and garage are under the same roof.

Q. How far is the cherry tree, the large cherry tree standing there from the garage? A. Several feet.

Q. How many feet? A. It appears to me there is two, one there and one is up farther.

Q. It is at least sixty feet south of the hog pen? A. Yes, I was going to say forty or fifty feet.

Q. Wouldn't the traffic be out on the present road before it reached the garage? A. Unless a snow drift pushed them.

Q. Might that not be so whether they take this or not? A. Yes.

REGIS SEYMOUR, CALLED, SWORN:

DIRECT EXAMINATION BY MR. HARTMAN:

Q. How long have you lived in Allegheny Township? A. 31 years.

Q. Do you know the I. N. Seymour farm? A. Yes, sir.

Q. For how long have you known it? About 25 years, somewhere near about.

Q. Do you know the market value of real estate in Allegheny Township? In the neighborhood of the I. N. Seymour farm? A. Yes, sir.

Q. Do you know the market value of the I. N. Seumour farm? A. Yes, sir.

Q. How many acres are in that farm? A. Somewhere about 27 or 28.

Q. Do you know the lines? A. Yes, sir.

Q. Do you know the buildings? A. Yes, sir.

Q. Are you familiar with them? A. Yes, sir.

Q. Do you know from the marks on the ground what land the Supervisors are taking from the I. N. Seymour farm? A. Yes, sir.

Q. Is it staked out? A. There are three stakes on the inside, I think.

Q. What was the fair market value of that farm as a whole before the taking of that land as staked off on that farm? A. About \$8,000.

Q. And what would be the fair market value of that same farm, as a whole after the taking of that land? A. \$7,000.

CROSS-EXAMINATION BY MR. NELSON:

Q. Regis, have you put a separate value on the land itself and on the house, barn, and other buildings? A. No, sir, I throwed it all together and made it.

Q. You are a son of I. N. Seymour who is seeking damages here? A. Yes.

G. A. MC CONNELL, CALLED, SWORN.

DIRECT EXAMINATION BY MR. HARTMAN:

Q. Where do you live, Mr. McConnell? A. I live about 100 yards or so from Mr. Seymour?

Q. That is in Allegheny Township? A. Yes, sir.

Q. How long have you lived there? A. The place where I live now,

about two years.

Q. How long have you lived in Allegheny Township? A. I was born in Allegheny Township .

Q. How old are you? A. 32 years old.

Q. How long have you known the I. N. Seymour farm? A. For six years I have known it.

Q. Do you know the lines? A. Yes.

Q. Have you been in the buildings? A. Yes.

Q. How many acres in the farm? A. I would have to take the other men's word for that. 26 or 27 acres, along there.

Q. Do you know the market value of lands in Allegheny Township in the neighborhood of the Seymour farm? A³ Yes, sir.

Q. Do you know the market value of the Seymour farm itself? A. The farm as a whole, I would say the value would be \$8,000. That is it would beworth \$8000.

Q. Do you know what land the Township Supervisors are going to take from it? A. Just what I see there staked off. I seen the scope of land they are going to take.

Q. What would be the market value of this same farm after the appropriation by the Supervisors of that strip and as affected thereby? A. Well, I would consider after that strip is taken off there that farm would depreciate at least \$1,000.

Q. You would say the market value after this condemnation and as affected by it would be \$7000? A. Yes.

CROSS EXAMINATION BY MR. NELSON:

Q. What all have you taken into consideration in making up your value of \$8000? A. Well not so long ago I wanted a spot to build a house right along that road, and I offered him \$450 for a lot to build a house on and he refused it?

Q. Tell us the dimensions of that particular spot? A. There had

been no dimensions considered. I didn't get that far on it. He said he wouldn't sell and I didn't move any further.

Q. You just offered him \$450 for a lot? A. Yes, sir.

Q. How big? A. I wanted a spot to build a house on - medium size house.

Q. You didn't make any proposition to him at all then, did you?
A. Well, I asked him how much he would take for a lot and he made me no offer, and then I made him an offer of \$450.

Q. But you didn't apprise Mr. Seymour of how big that lot was that you wanted? A. Well, now, a regular size lot.

Q. What I am asking you is, did you tell him how much property you wanted? A. No, not exactly.

Q. Then there wasn't any proposition to Seymour at all? A. At that particular time we didn't decide on the size. It was about six months after that we talked it over ^{with his son} and I decided how much I wanted and I told him the size I wanted. He said he would see his father, but I never got it.

Q. In the first place the father told you that the property was not for sale? A. Yes, sir.

Q. Then you had no proposition whatsoever with I. N. Seymour, the father, did you? A. We never had no business proposition, no. We just talked about it, that is all.

Q. Then one of the things you took into consideration was the offer by you of \$450 for a spot of land there, which was immediately turned down by Mr. Seymour? A. How's that?

Q. You made a proposition to purchase land. Seymour turned it down - told you he had nothing for sale? A. Yes sir.

Q. What else did you take into consideration to make up your \$8000 valuation? A. Well, he has a valuable house. It would take \$5000 to replace that house today.

Q. What else? A. This particular damage which they are going to take off his place to widen the road or to make a winter road, knocks a proportionate value off that house as well.

Q. How much, Mr. McConnell? A. At least \$500.

Q. Now, how much is taken off the value of the garage in your estimation? A. I figured that this way, Mr. Nelson, as a whole, the damage would be on everything on the place being taken into consideration, including the piece of ground. When it comes to small buildings, it would be a lot less. This is considering on the whole farm and all that is on it, that is what the damage would be.

Q. In making up your estimate of \$8,000, you just took it as a whole, did you? A. Yes, sir, I certainly did.

Q. You didn't separate the items whatsoever? A. No, sir.

Q. You testified on direct examination, I believe, that you knew the value of real estate in Allegheny Township. From what knowledge have you derived that information, Mr. McConnell? A. I tried to buy another spot of ground and was over bid and that was \$905.00 or something in that neighborhood, for an acre located not over 500 feet below it.

Q. Would you say that that acre of ground which was sold for \$905 is is worth more for location and building purposes than the strip of ground which is proposed to be taken here? A. Not necessarily so. That strip of ground to be taken there wouldn't suit everybody, but for my location I would rather be a piece off the road and would rather have that than the acre sold for \$905.

Q. That is you would rather have the strip of ground which is taken here than the acre of ground over on the corner? A. Yea, it is better land, better condition.

Q. Do you have in mind the agricultural purposes to which the ground could be put to use, or for residence purposes? A. Location, yes.

Q. In what way is the strip of ground which is to be taken better land for building and location purposes than the acre to which you have just referred? A. I said before it wouldn't be for everybody, but I would rather have it a piece away from the improved road on account of danger to children. That was my idea for preferring that piece of ground.

Q. Do you understand, Mr. Seymour, that there is just about 18 feet

of this frontage being taken here? A. Yes, I do.

Q. And you also understand that the remaining part of the Seymour farm will abut on that road, do you? A. Yes, but this 18 Feet that is supposed to be taken is the best part of that field. The farther out you get the steeper it gets toward the railroad. It is the best piece of ground. What I mean by that is for a man to locate there and build a building. The further down toward the railroad the steeper the land would be.

Q. Coming back to my question again, do you understand that the Seymour, the remaining part of the Seymour farm will still abut on this road? A. Yes, I do know that it will still adjoin the road all right, but the further back it gets the steeper it gets toward the railroad.

Q. Then for building purposes, the property which will remain, which you say goes down over the hill would not be as desirable as out on the corner? A. Oh, yes, in my estimation it would be for myself, as I said before.

Q. That is, you would rather build a house on a strip back adjoining the railroad than you would to build out on the concrete road, on the corner?

A. Yes sir, if I want to buy a piece of ground at the present time I would rather have the piece the Township has taken than the piece on the concrete road for the simple reason of danger to children.

Thereupon the hearing was adjourned until 1.30 P. M.

SILVESTER GLASS, CALLED, SWORN.

DIRECT EXAMINATION BY MR. HARTMAN:

Q. How long have you lived in Allegheny Township? A. About five years.

Q. I understand you live on the property spoken of this morning located on the corner where the state highway leads to Munster? A. Yes, sir.

Q. And your property adjoins Mr. Seymour's? A. Yes, sir.

Q. Do you know the market value of real estate in the neighborhood where Mr. Seymour's farm is located? A. Yes, sir.

Q. Do you know the market value of Mr. Seymour's farm? A. Yes.

Q. Have you been over the farm? Do you know how it is located?
A. Yes.

Q. Do you know about how many acres are in it? A. Between 27 and 28.

Q. Now the Supervisors have condemned a strip of land about 18 feet wide from the East corner of this present road, easterly on Mr. Seymour's farm, for a distance of four hundred and some feet. Do you know that particular piece of property over there? A. Yes sir.

Q. Now what was the fair market value of the Seymour farm before this condemnation? A. I would figure about \$8000.

Q. Now what is or would be the fair market value of the Seymour farm as a whole immediately after this condemnation and as affected by it?
A. Well, I think about \$7000.

Q. Have you been in the house? A. Yes sir.

Q. Have you been in the barn? A. Yes sir.

Q. You are familiar with the buildings, are you? A. Yes.

CROSS-EXAMINATION BY MR. NELSON:

Q. You are a son-in-law of I. N. Seymour, Mr. Glass, are you? A. Yes.

Q. What all did you take into consideration in fixing your valuation of \$8,000? A. The whole business.

Q. What constitutes the whole business? A. The ground, buildings, and all as a whole.

Q. Did you attempt to separate the ground from the buildings and again separate the buildings and place a valuation on each? A. I did not.

Q. How did you arrive at the figure of \$8000? A. It is a good location, I think.

Q. You took more than the location itself into mind, did you not?

A. Nothing.

Q. Nothing but the location? A. Nothing.

RE-DIRECT EXAMINATION BY MR. HARTMAN:

Q. Are the buildings in a good or bad state of repair? A. Good shape.

GEORGE MC MULLEN, CALLED, SWORN.

DIRECT EXAMINATION BY MR. HARTMAN:

Q. Mr. McConnell, how long have you lived in Allegheny Township? A. About 34 years.

Q. How long have you known the I. N. Seymour farm? A. About 38 years.

Q. Have you been over that farm? Do you know its extent and what the lines are? A. Yes sir.

Q. Have you been in the buildings? A. Yes, sir.

Q. Do you know the character of the ground in this farm? A. Yes.

Q. Do you know the market value of real estate in Allegheny Township in the neighborhood of this farm? A. I have an idea.

Q. Do you know the market value of this farm, the I. N. Seymour farm? The fair market value? A. Yes, sir.

Q. The Supervisors of Clearfield Township claim to have condemned a piece of land along this I. N. Seymour farm, do you know where that is located? A. Yes, sir, Allegheny Township.

Q. That is what I mean. Have you seen the stakes on the ground where it ran out? A. Yes, sir. It is on the East side of the road 470 feet in length and about 18 feet wide. I saw it measured.

Q. Then you were there? A. I was there when the viewers were there.

Q. Now, Mr. McMullen, what was the fair market value of the I. N.

Seymour farm as a whole before this condemnation proceeding? A. I would say about \$8,000.

Q. And what was the fair market value of this same farm as a whole immediately after the condemnation and as affected by it? A. Oh, about \$7000.00.

CROSS-EXAMINATION BY MR. NELSON:

Q. George, what all did you consider when you made up your figures?

A. I considered the farm and buildings, in what state of repair they were, and the location.

Q. You didn't attempt to separate the farm from the buildings? A. No, I did not.

Q. Are you in a position, George, to put a valuation on the house, for instance? A. No, I am not.

Q. Are you in a position to put a separate valuation on any of the buildings, and a valuation on the farm? A. No.

Q. Just how do you figure now that this strip of land taken here will decrease the value of this farm \$1,000? A. Well, it is crooking the line.

Q. Just explain that crooking the line so we will know what it is?

A. Well coming down from the Hogue line where you leave the road the strip is about 18 feet wide, and then when you come up to the road again. There is just a corner cut out of the farm.

Q. Is it your understanding that the one end of this strip reaches the Hogue line? A. That is as I understand it.

Q. Then the line up there would not be affected, would it? A. No, I don't suppose the line would be affected - just 18 feet more down the hill from where it is now.

Q. Then the only crook in the line that could be placed there by reason of the taking of this land would ~~be~~ be the 18 feet at the other

end? A. Yes.

Q. Now, what damages would you place on it insofar as the crook in the line is concerned? I don't know, but would just like to say to make that much clear about the crook in the line, why I think it is worth \$1,000. That is the way I figure it.

Q. Do you mean us to understand you to say that if there wasn't any crook in the line then there would be a smaller amount or a larger amount of damages? A. I don't mean to say how that would be. I am just talking about the crook in this piece of ground. That is what you wanted, I understand.

Q. But, George, if there was just half of the ground taken which will be taken from the Hogue end down, the 18 foot of a crooked line would be all that would be there, only it would be up further, wouldn't it? A. You mean if they didn't take 400 feet?

Q. Suppose we took 200 feet, then that 18 foot crooked line would be there just the same as it is now, only it would be at a different location; is that correct? A. Yes.

Q. Then, according to your testimony, the damages would remain the same? A. It wouldn't make very much difference; I wouldn't think. He would still have that little corner taken out of his farm.

Q. It is just the crooked line you have in mind? A. And the land that they would take.

Q. You have already stated that if he would take half the land they propose to take that you would not reduce the damages any. A. I wouldn't say that.

Q. Well, what would you do? A. Well, I don't know just exactly what I would do.

HUGH ECKENRODE, CALLED, SWORN.

DIRECT EXAMINATION BY MR. HARTMAN:

Q. Mr. Eckenrode, how close to the Seymour farm do you live? A. I live about a mile south.

Q. You live on the same road that they have made this condemnation from? A. Yes, sir.

Q. And how long have you lived there? A. For two years.

Q. This farm is just across the line of Munster Township? A. Yes, sir.

Q. Do you know this Seymour farm? A. Yes, I do .

Q. Have you been on it? A. Yes, sir.

Q. How many acres are in it? A. Between 27 and 28.

Q. Do you know where the lines are thereon? A. Yes, sir.

Q. Do you know the buildings? A. Yes sir.

Q. Have you been in the buildings? A. I have.

Q. Do you know what state of repair they are in? A. Yes, sir.

Q. Do you know the character of the land? A. Yes, sir.

Q. Is it cleared or is it wood land? A. It is all cleared but about one-eighth of an acre.

Q. Do you know the fair market value of real estate in Allegheny Township in the neighborhood of the Seymour farm? A. Yes, sir I do .

Q. Do you know the fair market value of the Seymour farm itself? A. I think so, yes, sir.

Q. The Supervisors of Allegheny Township are condemning a strip of land east of the road running through Mr. Seymour's farm. Do you know where that strip is? A. Yes sir.

Q. Have you seen the stakes? A. I have.

Q. What was the fair market value of the Seymour farm as a whole before this condemnation? proceeding was started? A. Well, I would figure about \$8,000.

Q. And what would be the fair market value of this same farm as a whole after the taking of this land and as the farm would be affected by this taking? A. I would figure about \$7000.00.

CROSS-EXAMINATION BY MR. NELSON:

Q. What all did you take into consideration, Mr. Eckenrode? A. Well, the entire farm.

Q. Can you give us separate valuations of the real estate itself, and on the house, barn and other out buildings? A. No, I cannot.

Q. Why do you say that the Seymour farm was worth \$8000 before this condemnation? A. Well, I figured it is worth that - that is why I say so.

Q. How did you arrive at that figure? A. Well, the land is in good condition; has good buildings and everything on it.

Q. How did you arrive at the figure of \$7000 after this strip of land is taken? A. I figured the damages to that much land would be worth \$1,000.

Q. Can you give us your method of calculating the \$1,000? A. Well, as a winter road we understand here now will not be necessary. This winter road was going to be made last March. On the 7th day of March there were about four feet of snow where this winter road is going to be made, and also when you come out at the top of the hill next to Mr. Hogue's line you can't travel the road more than fifty or seventy-five feet. Where the cut is, that drifts too. Also at the North past Mr. Seymour's barn, you can't get through there.

Q. Do you mean to say then that the reason you place a valuation of \$1,000 damages is because of the fact that you think that land taken here will not do the Township or the travelling public any good? A. I don't figure it will do much good. No, I do not.

Q. And that is your reason for figuring the damages? A. I consider I don't think it necessary to take the ground.

RE-DIRECT EXAMINATION BY MR. HARTMAN:

Q. You have stated that a fair market value after this land has been taken is \$1,000 less? A. It is \$1,000 less.

Q. You mean by that it would sell for \$1,000 less? A. I would figure after this would be taken it would sell for \$1,000 less.

Q. Then, did you really mean what you told Mr. Nelson that you figured this damage because it will not do the Township any good? A. I consider if it drifts there, but you could get through on either side.

Q. Do you understand what I mean? Let us have it plain. Is it your idea that because of taking this land the farm is worth less? A. Yes.

Q. Well, what has this to do with "if it is going to do the Township any good?"

A. Well, I have answered the question.

Q. The question asked was whether you fixed the damages because it wouldn't do the Township any good? A. Well I suppose it is.-----

RE-CROSS EXAMINATION BY MR. NELSON:

Q. Just tell us, Mr. Eckenrode how you made up the \$1,000 damages?

A. I figured that much ground would be worth that to take it, right along the road.

Q. You don't include in that amount any damage to the buildings? A. No.

Q. Just for the land alone? A. Yes.

Q. And you mean to say that you consider that less than one-fifth of an acre of that land is worth \$1,000? A. In that way, yes sir.

Q. In what way? A. I feel it will not be necessary to be taken as a winter road.

Q. Inasmuch as it isn't necessary to be taken as a winter road you figure that it is worth \$1,000 for one-fifth of an acre? A. Yes.

BY THE BOARD:

Q. Mr. Eckenrode, what would you say the depreciation in the value of the farm was in the event that that was necessary after they take the piece of ground? If you considered it necessary, what then would you say?

A. Well, I don't know. I would figure some reasonable price.

Q. What do you mean - some reasonable price in the event this piece of land was necessary for the Supervisors to take. In that event, would it be \$1,000? A. Well, no.

Q. How much would you say? A. I would say about \$800.

RE-CROSS EXAMINATION BY MR. NELSON:

Q. Then the \$200 difference is just an assessment which you place upon the folly of the proceeding here to take the land? A. If you figure it that way.

Q. I want you to tell us that. My idea doesn't mean a thing. It is your idea. What would you consider or what would you call the \$200 item now? A. Well, I don't know.

Q. Do you mean to indicate that the tax payers of the Township should just be assessed \$200 for taking the property when in your opinion it won't help the situation any with regard to a winter road? A. No, I don't think so.

Q. Well, now, Mr. Eckenrode, at first you testified that in your opinion the damage would be \$1000 because you thought that the situation will not be helped any, then later you testified that if the situation would be helped you would fix the damages at \$800. A. Yes, sir.

Q. Now, what do you call the difference, or for what purpose would you assess the difference of \$200? A. If it was really necessary to take the grounds for a winter road, it would be worth that much less.

SHERMAN BEITER, CALLED, SWORN.

DIRECT EXAMINATION BY MR. HARTMAN:

Q. Mr. Beiter, do you live in Allegheny Township? A. Yes.

Q. How far from the Seymour farm? A. It is just right across the railroad.

Q. 500 feet? A. Yes, around there somewhere.

Q. How long have you lived in that neighborhood? A. About six years.

Q. Do you know the Seymour farm? A. Yes, sir.

Q. How long have you known it? A. I have known it for 25 years
any way.

Q. Do you know the lines of that farm? A. Yes.

Q. Do you know the acreage? A. As near as I could say it would be
about 28 acres.

Q. Do you know the buildings? A. Yes sir.

Q. Have you been in the buildings? A. Yes, sir.

Q. Did you observe the state of repair they are in? A. They are in
first class shape.

Q. Have you been over the farm land itself? A. Yes, sir.

Q. It is nearly all cleared, is it not? A. Yes, sir.

Q. Do you know that the Supervisor's of Allegheny Township are trying
to condemn a piece of land belonging to Mr. Seymour? A. Yes, sir .

Q. Do you know where that is located? A. Yes, sir.

Q. Have you seen the stakes in the ground? A. Yes, sir.

Q. Do you know the fair market value of real estate in Allegheny
Township in the neighborhood of Mr. Seymour's farm? A. Well, yes.

Q. Do you know the market value of Mr. Seymour's farm itself? A. Well, yes.

Q. Now, what was the fair market value of the Seymour farm before
the taking of this land by the Supervisors? A. Well, I would put the whole
thing, everything, about \$8000.00.

Q. And in that you would include the buildings and everything as a whole?

A. Yes, sir.

Q. Now, what would be the fair market value of the whole farm, including
the buildings and everything on it after the condemnation and as affected
by it? A. Well it would knock the value of that place \$1,000 any way.

Q. Then, is your testimony that the fair market value of this same
farm as a whole after the appropriation of the land and as affected by
it would be \$7000? A. Yes.

CROSS-EXAMINATION BY MR. NELSON:

Q. What all did you take into consideration? A. Everything there, buildings, land, etc.

Q. In your calculation of \$8000, did you separate the buildings? A. No, all together.

Q. Have you fixed any amount of damages of this \$1,000 for damage to the building? A. No, I claim that would be knocked off the place, the whole thing.

Q. In your opinion, have any of the buildings been damaged by taking that land? A. No, it wouldn't damage anything more only the valuation.

Q. Well, it hasn't damaged the house any, has it? A. No.

Q. It hasn't damaged the valuation of the house and barn? A. It has in valuation, sure. It has damaged the whole thing, or will after it is done.

Q. How much will it damage the house? A. Well, it would damage the whole thing about \$1,000.

Q. I am speaking of the house now. A. The whole thing I am speaking of.

Q. Do you know whether or not the house will be damaged in valuation by reason of taking this property? A. Sure, it will be damaged with the rest of the stuff.

Q. Will you answer my question when I ask you how much the house will be damaged? What is your answer to that question? A. None at all.

Q. How much in your opinion would the value of the barn be decreased by reason of this condemnation? A. Well, the way I figure, bulking the whole thing together it would be worth \$1,000, knock the price that much off the place.

Q. How did you arrive at that figure? A. By bulking it together I told you.

Q. What was your starting point in arriving at the \$1,000? What did you take into consideration first? A. I took the whole thing. It is going to destroy the man's line. No man would give as much for a place with

a crooked line on the front of the road as he would for a place with a straight line. It would damage the whole tract.

Q. When you started to make up your amount of damages here, which it appears is \$1,000, what did you first take into consideration? A. It is in front of the man's place right along the road, going to damage him right along the road.

Q. What did you next take into consideration? A. That is about all there is.

Q. Then we understand your testimony is to the effect that you have just placed a valuation as to the damages here at the sum of \$1,000, and stick to the proposition that you just fixed it at that without any reason whatsoever except that you think this strip taken is worth \$1000?

A. It is to the valuation of the place.

Q. Do you know how much ground has been taken? A. Well, by the looks of the stakes, as I passed it yesterday, it looks to me it would be about ten or twelve feet. I didn't measure it - am just guessing at it.

Q. Well, you heard the testimony of the witnesses on the stand here who have said that the acreage taken amounts to less than one-fifth of an acre. Do you have any reason to doubt that, or is that your belief?

A. Yes, but you couldn't estimate that acreage of ground the valuation of the ground taken off. You or no other man would pay as much for a farm with a crooked line as for a straight line. That cuts a half moon out of the man's field.

Q. How much of a crooked line will there be Sherman? A. I don't know. It is just a hill. Well, it runs a little further than the hill where the stakes is.

Q. Where do you figure the crooked line will be? A. A cherry tree stands where you see the stakes, right up to the point where the line leads right in the field and around up to the Hogue line.

Q. Before you is a map showing the property which the Township has taken. Will you tell us now where this crooked line will be?

A. Well, of course, I am no surveyor. I didn't survey it, but the

stakes; there are stationed right there above this tree land takes in up through the field, and at the upper end by the looks of the stakes it appears to be about straight. I only passed it with a team, didn't stop and look it up.

Q. If there would be no crooked line left here along the frontage of Mr. Seymour's land, then would that make any difference in the valuation? A. Sure, it cuts right in on him. It takes some ground to make a wider road, and it is going to knock the valuation off his place.

Q. Well, if it is a fact that Mr. Seymour's line along the highway will be straight ^{after} ~~if~~ this property is taken, then would that make any difference in your valuation of the damages? A. No, it wouldn't make any difference because the ground is taken off a man, and it don't make any difference, he has a right to be paid for damages.

Q. Then, the fact that there will be a crooked line here in your opinion does not make any difference as to your valuation? A. He should have his money for it.

Q. Then why did you say that you considered this crooked line as one of the items making up your \$1,000 damages?

A. Well, if you take ground off a man, whether it is crooked or straight, it does not make any difference. He is losing the ground, ain't he.

Q. Then you don't figure the crooked line? A. It has a whole lot to do with it, no matter which way they take the ground.

Q. Isn't it for the ground alone, then, you have assessed damages of \$1,000? A. The whole thing together, I told you before.

Q. The crooked line has nothing to do with it? A. Yes, sir, the whole thing, together with taking the ground, looks of the place, location, and everything.

Q. But Sherman, have you not already testified that by reason of the crooked line on Mr. Seymour's ground is damaged, and then have you not testified that even though the line were straight your damages would be the same? A. I didn't say it was straight. I said I was going by the

stakes were put in.

Q. What made you think the line will be crooked? A. How many stakes did you see? A. I didn't count them.

Q. Were there more than two? A. I don't know.

Q. If there were only two stakes, how could you form in your mind a crooked line between them? A. I could see it.

JEROME FLICK, CALLED, SWORN.

DIRECT EXAMINATION BY MR. HARTMAN.

Q. Mr. Flick, how long have you lived in Allegheny Township?
A. 73 years.

Q. How long have you known the J. N. Seymour farm? A. About 60 years.

Q. Do you know what kind of land he has in this farm? A. Well, it is good land.

Q. Have you been on his farm? A. ~~Yes~~. I haven't been on his farm. I have been through it in his house.

Q. In his buildings? A. I his house and in his barn.

Q. Mr. Flick they are taking or trying to take a piece of land alongside the road, of about 18 feet. Did you see the stakes where they propose to take it? A. I saw the stakes. They are trying to do me the same way.
Q. They have staked it off a line up the East side of the road and south of his buildings, you know, and they want to take it for a winter road. You saw some stakes there. You know how that cuts over in the field there? A. You mean it goes gee and haw (you mean it goes crooked)?

Q. Yes.

Q. Well, Mr. Flick they say they want to take about 1/5 of an acre of that frontage, about 475 feet along that road. Any how, you saw where the stakes were in. Do you know the market value of land in the neighborhood of this farm of Seymour's? A. Yes.

Q. Do you know the fair market value of the Seymour farm? A. Yes.

Q. Now, what is the fair market value of the I. N. Seymour farm before they take this strip of land away from him? A. About \$8000.00.

Q. And what would be the fair market value of the same farm after the taking of this land and as it affects the farm on account of the taking? A. \$7000.00.

CROSS EXAMINATION BY MR. NELSON:

Q. Mr. Flick, did you take into consideration the buildings and the ground all together, or did you attempt to separate it? A. All together.

TESTIMONY CLOSED.

Counsel for the land owner, I. N. Seymour, now requests the Board of Viewers to report in effect that there is no necessity under all of the evidence before them for the appropriation by the Township of the land in question by reason of the road referred to in the proceedings being dangerous on account of being narrow or on account of containing dangerous curves, because under the Act of 1925, P.L. 38, there is no power in the Supervisors of any Township to take by the right of eminent domain private property for a winter road, whether that be a matter of economy for the Township or otherwise, the power in such Supervisors to condemn lands under said Act of Assembly being for the purposes therein set forth, and none other. The undisputed and admitted fact in this case is that the land to be appropriated is for the purpose of establishing an additional parallel road to be used in winter time only, and that the present road bed of the established road will not be widened or in any way affected by the taking of this land.

BY COUNSEL FOR THE PETITIONERS:

We desire at this time to call attention of the Viewers to the fact that the Act of 1925 provides that land can be taken by Supervisors for the purpose of widening roads in any Township in the State or County, and that that is the purpose of this present proceeding.

BY MR. HARTMAN:

In answer to your statement made by counsel, we desire to refer the Viewers to the Act of Assembly itself, both to the title and the Act, which is in effect, "to provide protection and safe travel to the public" and to the language of the Act itself which is in effect, "that the land must be used to widen narrow roads for the better protection and safety of the travelling public." Attention is again called to the evidence, which discloses not a single word in the nature of "danger" on the present road as it exists, and also shows that there are no curves whatever, dangerous or otherwise.

STENOGRAPHER'S CERTIFICATE.

I hereby certify that the proceedings and evidence are fully contained and accurately in the notes taken by me on the hearing of the above cause, and that this copy is a true and correct transcript of the same.

Rhoda Rhodes

IN THE COURT OF QUARTER SES-
SIONS OF CAMBRIA COUNTY,
PENNSYLVANIA.

IN RE: PROCEEDINGS BY THE
TOWNSHIP OF ALLEGHENY TO
CONDEMN LAND ALONG A CERTAIN
HIGHWAY IN SAID TOWNSHIP,
FOR THE PURPOSE OF WIDENING
SAID HIGHWAY.

OPINION OF THE COURT.

Filed 9 March 1927.

Rhoda E. Rhody,
Asst. Official Stenographer,
for the
Forty-Seventh Judicial Dist.
Pennsylvania.

IN RE: PROCEEDINGS BY THE)	IN THE COURT OF QUARTER SESSIONS
TOWNSHIP OF ALLEGHENY TO CON-)	OF CAMBRIA COUNTY, PENNSYLVANIA.
DEMN LAND ALONG A CERTAIN)	No. 2 September Sessions, 1926, R.D.
HIGHWAY IN SAID TOWNSHIP, FOR)	
THE PURPOSE OF WIDENING THE)	EXCEPTIONS TO PROCEEDINGS.
SAID HIGHWAY.)	

----- -OPINION OF THE COURT -----

Heard before Evans, P. J. and Reed, P. J. O. C., S. P.

EVANS, P. J.:

The petition in this proceeding was that of the three Supervisors of Allegheny Township, acting as such, alleging that a certain public road, located as described in the petition, the record of which they have been unable to find, has been laid out, worked and used as of a width not exceeding thirty-three (33) feet; that it is necessary to condemn certain lands lying along and adjacent to the said highway in order to eliminate dangerous curves and to widen said road where the same is not of sufficient width to accommodate the traveling public, and to render travel thereon safe for such traveling public; that the land needed and desired for the purpose is owned by Isadore Saymour, from whom the petitioners have been unable to purchase the necessary and needed land. The petition then recites that proceeding is had by virtue of the Act of General Assembly of March 17, 1925, P. L. 38. An examination of this act discloses that it is "An act for the promotion of the safety of the traveling public by authorizing Counties and Townships to purchase

or condemn, by the right of eminent domain, property and lands along highways so as to eliminate dangerous curves and widen narrow highways." The first section of the act authorizes counties or townships to acquire by purchase or the exercise of the right of eminent domain such property and lands, situate along or adjacent to any county or township highway, as in the opinion of the Commissioners or Supervisors of the Township "may be necessary to eliminate dangerous curves and widen narrow roads or highways for the better protection and safety of the traveling public." This section clearly contemplates an appropriation by the municipality of the particular land desired. That was not done in the present case, but counsel for both the petitioners and exceptants have asked us to pass upon the other questions involved, irrespective of any irregularity or insufficiency of the petition or proceeding. In our judgment, in order to proceed to take land under the right of eminent domain, the Township Supervisors should have passed a resolution appropriating certain specific property necessary for the purpose covered by the act, and indicating their opinion that such appropriation was necessary, and the petition should have contained this specific information as to what had been done and a special and particular description of the land taken. However, we have more difficulty with this particular proceeding.

The testimony taken in the proceeding shows conclusively that the land which the viewers marked out upon the ground and is proposed to be taken as additional land alongside of the Township road is for a winter road, as indicated in part by the following question:

"Q. Well, now, do you feel that by taking this strip of eighteen feet (18'), you will have a sufficiently wide winter road for the traveling public when the other road is drifted shut? A. We feel that we can make a road

that the public can get through when the other is drifted shut."

There is considerable other testimony by the supervisors frankly stating that what they want to do is to provide for a second road for use during the winter season by reason of the fact that the present road drifts with snow and becomes impassable at certain seasons. This may be a very economical and wise provision and action upon the part of the Township Supervisors, but in our opinion it is not such a matter as was contemplated by the Legislature in the passage of the Act relied upon. The only purpose for which the Legislature authorized the appropriation of land along the highway was, "To eliminate dangerous curves and widen narrow roads or highways for the better protection and safety to the traveling public." The Act clearly contemplates but two situations which are to be remedied, one, the elimination of dangerous curves and, the other, the widening of a road so that it may be safer for the traveling public to use, the same being assumed to be dangerous on account of its narrow width. That the Legislature could pass an act permitting the Township Supervisors to condemn lands for summer and winter roads would seem to be beyond question, but it is absolutely essential that there be legislative authority for the appropriation of whatever land the Township shall take. Some Act must be pointed to which authorizes such an appropriation. The Act of 17th March, 1925, does not do this, and we have been referred to no other Act which undertakes to make such a provision. We are, therefore, of the opinion that the proceedings must be dismissed, and enter the following decree:

And now, March 8, 1927, after due consideration, the exceptions are sustained and the proceedings dismissed.

BY THE COURT:

Craw
P.J.

EXCEPTION

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

JOHN E. EVANS, P. J.

(Seal)

No. 2 September Sessions
1926.

ROAD DOCKET

Condemnation by Supervi-
sors of Allegheny Town-
ship

of

Land of Isadore Seymore,
situate in Allegheny Town-
ship, Cambria County.

In Re: exceptions to the
above stated proceeding and
to the confirmation of the
report of viewers.

NOTICE OF ARGUMENT.

F. J. Hartmann.

In Re: Condemnation by the
Supervisors of Allegheny
Township of land of Isadore
Seymore located in Allegheny
Township, Cambria County.

: In the Court of Quarter Ses-
: sions of Cambria County.
: No. 2 September Sessions 1926.
: Road Docket.
: Report of Viewers filed Octo-
ber 25th., 1926.

In the matter of the exceptions filed to the above stated
proceedings to the confirmation of the Report of Viewers.

Notice of Argument.

To Shettig and Nelson attorneys for Supervisors
of Allegheny Township, Cambria County:

Please be notified that the above stated matters will
be called for argument on Monday, January 17th, 1927 at 10:00
A. M., or as soon thereafter as the attention of the Court may
be had.

J. J. Westman
Attorney for Isadore Seymore.

Now January 7th, 1917, service of the above notice is hareby ac-
cepted.

Shettig & Nelson
Attorneys for Supervisors of Alle-
gheny Township.

The Township of Allegheny

To

Isadore Seymour.

Now, September 13th, 1926, within
bond approved.

By the Court
Samuel R. Leonard

PRESIDENT JUDGE OF THE 10TH DISTRICT COURT

OFFICIALLY PRESIDING

Filed 13 Sept. 1926

SHETTIG & NELSON
ATTORNEYS AT LAW
EBENSBURG, PA.

KNOW ALL MEN BY THESE PRESENTS, That the Township of Allegheny, in the County of Cambria and State of Pennsylvania, being a township of the second class under the laws of the Commonwealth of Pennsylvania, is held and firmly bound unto Isadore Seymour in the sum of Five Hundred Dollars, lawful money of the United States to which payment well and truly to be made and done, it binds itself firmly by these presents. Sealed with its seal and dated the _____ day of September, 1926.

WHEREAS said Township of Allegheny, through its regularly constituted Board of Supervisors has condemned certain land and property of said Isadore Seymour along and adjacent to a certain township highway in said township, which said land and property is necessary to eliminate dangerous curves and widening said highway for the better protection and safety of the travelling public.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if said Township of Allegheny shall pay to the said Isadore Seymour, his executors, administrators or assigns, such sum or amount as may be agreed upon between the said Isadore Seymour and the said Township of Allegheny, or as may be awarded to the said Isadore Seymour as his damages by reason of the taking and appropriation of said land and property, then this obligation to be void and of no effect; otherwise to be and remain in full force and virtue.

THE TOWNSHIP OF ALLEGHENY.

BY

Edmond Lenz
J. H. Kuntzman
J. A. Farabough
Supervisors.

NO. 2 SEPTEMBER SESSIONS 1926.

IN THE COURT OF QUARTER
SESSIONS OF CAMBRIA COUNTY.

IN RE:

CONDEMNATION OF LAND BY THE
SUPERVISORS OF ALLEGHENY TOWNSHIP
OF LAND OF ISADORE SEYMORE, (N. I.
SEYMORE), SITUATE IN ALLEGHENY
TOWNSHIP, CAMBRIA COUNTY, PENNA.

EXCEPTIONS TO THE PROCEEDINGS
AND TO THE CONFIRMATION OF THE
REPORT OF VIEWERS.

Filed 27 October 1926

F. J. HARTMANN,
ATTORNEY.
EBENEZUR,
CAMBRIA COUNTY, PA.

IN RE: CONDEMNATION BY THE
SUPERVISORS OF ALLEGHENY
TOWNSHIP OF LAND OF ISADORE
SEYMORE LOCATED IN ALLEGHENY
TOWNSHIP, CAMBRIA COUNTY, PA.

IN THE COURT OF QUARTER SESSIONS OF
CAMBRIA COUNTY.

NO. 2 SEPTEMBER SESSIONS 1926. ROAD
DOCKET.

REPORT OF VIEWERS FILED 25 OCTOBER 1926.

EXCEPTIONS

Isadore Seymore, (N. I. Seymore), the land owner affected by the above stated proceedings by his attorney, F. J. Hartmann, now files the following exceptions to the above stated proceedings and to the confirmation of the report of viewers, to wit:

1. The supervisors of Allegheny Township, petitioners in the above proceeding, have neither jurisdiction in the premises nor power to condemn the land in question alleged to have been appropriated pursuant to the Act of Assembly of 17th March 1925, P. L. 38, because the purpose of such appropriation and condemnation by the said supervisors, namely land for a parallel winter road with an existing public highway, is not contained in said Act of Assembly in that said Act of Assembly authorizes the condemnation of land for the purpose of eliminating dangerous curves and widening narrow roads for the better protection and safety of the public and for no other purposes.

2. This Court is without jurisdiction in the premises to confirm a report condemning and appropriating land under said Act of Assembly because the alleged appropriation of the land of the exceptant is not for the purpose specified in said Act of Assembly but for the purpose of laying out a winter road along side of and parallel with an existing public highway.

3. The testimony filed in this proceeding discloses beyond any question that the purpose of the condemnation is not for the purpose of widening an existing public road but is for the purpose of establishing an additional parallel road to such existing highway.

4. The alleged appropriation of the land in question is not necessary, as is shown by the evidence, for the better protection and safety of the traveling public under any circumstances whatsoever.


5. There is no intention as disclosed by the evidence and the facts that the supervisors of Allegheny Township intend at any time to use the land alleged to have been appropriated either for the purpose of widening a public road or eliminating a dangerous curve in a public highway.

6. The highway abutting on the land alleged to have been condemned according to the evidence and facts in this proceeding is in good condition and is not dangerous in any respect whatsoever.

7. The highway adjoining or abutting the land alleged to have been condemned in this proceeding is practically straight and does not contain any curve or curves whatsoever.

8. The proceedings are irregular, invalid and void under the facts, the testimony and circumstances in that it is sought thereby generally to appropriate land for a purpose not authorized by law.

WHEREFORE it is respectfully urged that the whole proceeding from the beginning unto the conclusion thereof should be vacated, dismissed and stricken from the record.


Attorney for Isadore Seymore, (N.I.
Seymore), Exceptant.

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

No. 2 September Sessions 1926

In the Matter of the Condemnation by the Township of Allegheny, of a strip of land adjacent to the Township Road for the purpose of widening said highway.

ORDER TO VIEW. AND REPORT OF VIEWERS.
TESTIMONY FILED HEREWITH.

Filed 25 October 1926.

CERTIFIED
Jacob M. Hoffman
COUNTY CONTROLLER

A. M. Shoemaker, Atty.
appointed on board of
Viewers.

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 of Cambria County, Pa., appointed by your honorable Court, upon the attached order, and therein directed to view and determine the damages sustained by Isadore Seymore, of Allegheny Township, said county and state, and to report the damages sustained together with a description of the land condemned, as set forth in the attached order; respectfully report:

That having given due notice of the view and of the time and place of meeting of the viewers to the Commissioners of Cambria County, the Supervisors of the Township of Allegheny and to Isadore Seymore by serving personal notice upon the parties, and to the traveling public by printed hand bills posted in public and conspicuous places as required by the Act of the General Assembly and the Rules of Court, and by advertising the view in the Cambria County Legal Journal and the Cambria Freeman of Ebensburg; and having each been duly sworn according to law to perform the duties of our appointment faithfully, impartially and to the best of our judgment and ability and true report to make concerning all matters and things concerning which we were authorized to enquire: we met upon the premises in accord with the notices given, as aforesaid, and having gone over and carefully viewed the premises and the land proposed to be taken - a description of which is hereinafter incorporated in this report, and a plot or draft of which is hereto attached and made a part of this report,- and having given due notice to all parties in interest of the time and place of meeting to hear testimony, we met at the Court House, in Ebensburg, when and where the parties interested appeared with their attorneys and were heard; and having carefully considered the whole situation and the evidence adduced, we prepared a schedule of benefits and damages and after due notice sit at the Court House to exhibit same; at which time no further testimony or evidence was offered.

The schedule exhibited - which is in accord with our final conclusion as to benefits and damages - shows that in our opinion Isadore Seymore sustained damages in the sum of TWO HUNDRED Dollars and will receive NO benefits. Said damages to be paid him by the township of

Allegheny.

The piece of land proposed to be condemned by the Supervisors of the Township of Allegheny is bounded and described as follows, viz;

Beginning at a post, at the intersection of the William Hogue and Seymore line with the gutter on the Easterly side of the township road thence following along the gutter at the Easterly side of said township road North 47° East four hundred seventy five feet to a post, thence South 33° East 18 feet, to a post, thence, South 47° West four hundred seventy five feet to a post on the Hogue - Seymore line, thence North 33° West 18 feet to a post, the place of beginning - containing eight thousand five hundred fifty square feet.

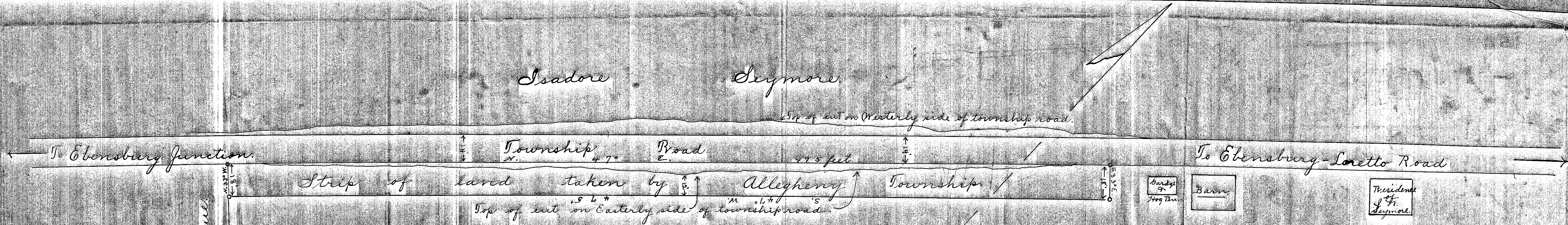
Said piece of ground covering a maximum of eighteen and a minimum of twelve feet in width on top of the bank to the Easterly side of said township road.

From the Act of the General Assembly of the 17th. day of March A. D., 1925, P. L. 38, and the order of the Court of Quarter Sessions hereto attached, the viewers are of the opinion that it is not within the province of the viewers to determine the necessity or non necessity of the taking of the piece of ground in question; however, from the situation which we observed at the view and the testimony as brought out at the hearing the piece of ground in question is neither wanted nor necessary for the purpose of widening the present township road which passes through and over the land of said Isadore Seymore, along and adjacent to the strip of land proposed to be condemned.

Witness our hands this 22nd. day of October, A. D., 1926.

A. M. Shoemaker
J. D. Ritter
Adam Shuman 6

Viewers.



Wm. Hogue

Plot or draft showing the location of a narrow strip of land of Isadore N. Seymore, situate adjacent to the township road in Allegheny Township, Cambria Co., Pa. sought to be condemned for the use of said township.

Viewed upon an order of the Court of Quarter Sessions of Cambria County, Pennsylvania dated the day of A. D. 1926, and entered to No. Sessions, 1926.
 A. M. Shoemaker, J. D. Patter and Adam Shuman, Viewers.

Notice of View!

Notice is hereby given that the viewers appointed by the Court of _____ Quarter
Sessions _____ of Cambria County, Pa., to view, ascertain and determine
the damages which shall be sustained by Isadore Seymore of Allegheny
Township, said county and state, by reason of the taking and condemn-
ing of a certain piece of land along the township road; which leads
from the Ebensburg - Loretto road to Ebensburg Junction, in said
township - where said road passes through and over his premises -
for the property taken, injured or destroyed by reason of the said
taking for the purpose of widening and improving said public road
for the safety and better protection of the traveling public;

will meet _____ ON THE PREMISES _____ in the
Township _____ of Allegheny _____ aforesaid
on the 13th. day October 1925, at 9:00 o'clock A.
M., for the purpose of performing the duties of their appointment.

A. M. Shaemaker,

J. D. Ritter and

Adam Shuman

Viewers.

Ebensburg, Pa. Sept., 23rd., 1926.

Now, ~~Sept.~~ ^{Oct. 2nd} 1926, service of the within notice is
hereby accepted for the Commissioners of the County of Cambria, .
Pennsylvania.

A. J. Kinkead

N O T I C E .

The undersigned Viewers appointed by the Court of Quarter Sessions of Cambria County, Pa., to view ascertain and determine the damages sustained by Isadore Seymore, of Allegheny Twp., said county and state, by reason of the taking and appropriating of a certain piece of land along the public highway for the purpose of widening and improving said public road; will meet at the Court House, Ebensburg, Pa., at 9:00 o'clock A. M., October 16th., 1926, for the purpose of hearing such evidence , relative to the damages sustained by said Isadore Seymore, as the parties in interest may have to offer.

A. M. Shoemaker,

J. D. Ritter and ~~Adam Shuman~~

Adam Shuman,

Viewers.

N O T I C E .

The undersigned Viewers appointed by the Court of Quarter Sessions of Cambria County, Pa., to view ascertain and determine the damages sustained by Isadore Seymore, of Allegheny Twp., said county and state, by reason of the taking and appropriating of a certain piece of land along the public highway for the purpose of widening and improving said public road; will meet at the Court House, Ebensburg, Pa., at 9:00 o'clock A. M., October 16th., 1926, for the purpose of hearing such evidence, relative to the damages sustained by said Isadore Seymore, as the parties in interest may have to offer.

A. M. Shoemaker,

J. D. Ritter and Adam Shuman

Adam Shuman,

Viewers.

For Schettig &
Welson Atty

NOTICE OF VIEW.

Notice is hereby given that the viewers appointed by the Court of Quarter Sessions of Cambria County, Pa., to view, ascertain and determine the damages which shall be sustained by Isadore Seymore, of Allegheny Township, said county and state, by reason of the taking and condemning of a certain piece of land along the township road, which leads from the Ebensburg-Lorette road to Ebensburg Junction, in said township - where said road passes through and over his premises - for the property taken, injured or destroyed, by reason of said taking for the purpose of widening and improving said public road for the safety and better protection of the traveling public; will meet **ON THE PREMISES** in the township of Allegheny aforesaid on the 13th. day of October, 1926, at 9:00 o'clock A. M., for the purpose of performing the duties of said appointment.

A. M. Shoemaker,

J. D. Ritter and

Adam Shuman,

Viewers.

Ebensburg, Pa.

Sep^r. 23d., 1926.

NOTICE OF VIEW

Notice is hereby given that the viewers appointed by the Court of Quarter Sessions of Cambria County, Pa., to view, ascertain and determine the damages which shall be sustained by Isadore Seymore, of Allegheny Township, said county and state, by reason of the taking and condemning of a certain piece of land along the township road, which leads from the Ebensburg-Loretto road to Ebensburg Junction, in said township—where said road passes through and over his premises—for the property taken, injured or destroyed, by reason of said taking for the purpose of widening and improving said public road for the safety and better protection of the travel of the public, will meet on the premises of the township of Allegheny aforesaid, on the 13th day of October, 1926, at 9:00 o'clock A. M., for the purpose of performing the duties of said appointment.

A. M. Shoemaker,
J. D. Ritter and
Adam Shuman,
Viewers.

Ebensburg, Pa.,
Sept. 23d, 1926.

9-24-26

Ebensburg, Pa.,

1926

County Commissioners
To Cambria County Legal Journal, Dr.

The Official Medium for Publication of Legal Notices in Cambria County

Insertion of attached advertisement

times \$

4 38

Notice to view -
Isadore Seymore

APPROVED FOR PAYMENT

COMMISSIONERS

EBENSBURG, PA.,

TO Freeman Publishing Corporation, DR.

PUBLISHERS OF THE CAMBRIA FREEMAN

FINE JOB, BOOK AND COMMERCIAL PRINTING

MR Cambria County Commissioners,
Ebensburg, Pa.

Sept.

24

To Pub. Notice of view ----Isadore Seymore

4 35

APPROVED FOR PAYMENT

COMMISSIONERS

RETURN THIS BILL FOR RECEIPT

V I E W E R ' S N O T I C E .

In the matter of the appointment of Viewers to determine the damages sustained by Isadore Seymore of Allegheny Township, Cambria Co., Pa., by reason of the taking and appropriating of land adjacent to the public highway, where same passes through and over his premises, in said township, for the purpose of widening and improving said highway.

The undersigned viewers having viewed the premises, heard the testimony offered by the parties in interest will fix and exhibit a schedule of their award and hear any further evidence which the parties in interest may have to offer, at the Court House, in Ebensburg, Pa., October 19th., 1926.. at 9:00 o'clock A. M.

A. H. Shoemaker,

J. D. Ritter and

Adam Shuman,

Viewers.

(Copy)

S C H E D . U L E .

In re View to determine the damages which will result to Isadore Seymore of Allegheny Twp., Cambria Co., Pa., by reason of the taking and appropriating of land adjacent to the township road, where same passes through and over his premises, in said township, for the purpose of widening and improving said road and to render it more safe for the traveling public.

The undersigned viewers appointed by the Court of Quarter Sessions of Cambria Co., Pa., having viewed the premises, heard and considered the testimony offered by the parties in interest have prepared the following schedule of benefits and damages, viz:

Damages sustained by Isadore Seymore	-	-	-	-	\$ 200.00
Benefits accruing to	"	"	-	-	\$ NONE.

A. M. Shoemaker,

J. D. Ritter and

Adam Shuman,

Viewers.

(copy)

Costs of View.

A. M. Shoemaker.

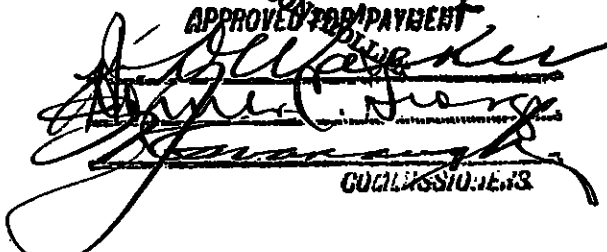
Preparing serving & posting notices of view ^{2d} & preparing notices for publication	\$ 22.50
Preparing & serving notices of hearing	7.50
View	7.50
Hearing	7.50
Reviewing evidence & con- sultation with viewers to fix award	7.50
Preparing & serving notices of sitting to exhibit schedule (personal service)	7.50
Exhibition of schedule	7.50
Preparing schedules & subpoenas	3.75
Engineering work (all told in- cluding transportation)	30.00
Auto hire (3 trips) @ \$4.00	12.00
Advertising (to be pd by A.M.S.)	
Cambria Co. L.J. ^{4.35} Forman ^{4.35}	8.73
Settling final award with viewers preparing & going over report, & assembling & filing same	15.00
Taking & transcribing testimony	\$ 136.98
(Fast item can be paid either to Frank Myers or myself, for him)	35.97
	\$ 172.95

J. D. Ritter

4 Days	\$ 30.00
180 mi (4 trips to Eb9)	9.00
Auto hire (2 trips from Eb9)	8.00
	\$ 47.00

Adam Shugman

4 Days	\$ 30.00
88 miles (4 trips to Eb9)	4.40
Auto hire (2 trips from Eb9)	8.00
	\$ 42.40


 APPROVED FOR PAYMENT
 COMMISSIONER

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

No. 2 September Sessions, 1926.
Road Docket.

In the Matter of the Condemnation by the Township of Allegheny, in the County of Cambria and State of Pennsylvania, of property along a certain highway in said Township for the purpose of widening said highway.

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

The petition of James A. Farabaugh, Edward Lenz and John Koontzman respectfully represents:

That your petitioners are the duly qualified and acting supervisors of the Township of Allegheny, in the County of Cambria and State of Pennsylvania.

That many years ago a public road or highway was laid out and opened in said Township extending between the termini which are described as follows according to present conditions upon the ground: Beginning at a point on the improved state highway known as State Highway No. 3 leading from the Borough of Loretto to the Borough of Ebensburg, at a point about three hundred feet west of the bridge which carries said state highway over the railroad known as the Cresson Division of the Pennsylvania Railroad leading from the station on said railroad known as Ebensburg Junction in a northerly direction to the station of said railroad known as Bradley Junction, near the station on said railroad known as Loretto Road, and ending at the Township line between the Township of Allegheny and the Township of Munster at the line of railroad known as the Cresson Division of the Pennsylvania Railroad leading from station on said railroad known as Ebensburg Junction in a westerly direction to the station on said railroad known as Winterset, said point of ending being distant about five hundred feet in a southerly direction from the point of intersection of said township highway above mentioned with another public highway in said Township of Allegheny leading from said point

of intersection to the Borough of Loretto.

That your petitioners and their counsel have been unable to find the proceedings in said Road Docket of this county whereby said township road above mentioned was laid out and opened to public use, and therefore are unable to set forth herein the place where said proceedings are recorded.

That said township has been maintained as such and has been used by the public for a time so great that the memory of living residents of the district do not recall the time when the same was laid out and opened. That by reason of the fact that the record of the proceedings laying out and opening said road cannot be found, your petitioners cannot state with certainty the width which was fixed for said road by the court at the time when the proceedings laying out and opening the same were had, but that said road as layed out, worked and used is of a width not exceeding thirty-three feet.

That in the opinion of your petitioners as supervisors of the Township of Allegheny aforesaid, it is necessary to condemn certain lands lying along and adjacent to said township highway in order to eliminate dangerous curves and to widen said road where the same is not of sufficient width to accommodate the travelling public and to render travel thereon safe for such travelling public.

That the land which is needed and desired for the purpose aforesaid is owned by one Isadore Seymour, and your petitioners have been unable to purchase from the said Isadore Seymour the land needed for the purposes above mentioned.

That the only lien of record against the said Isadore Seymour is a judgment entered in the Court of Common Pleas of Cambria County on the 22nd day of August, 1922, to No 1 924 September Term, 1922, for a real debt of Three Thousand Dollars in favor of The Gallitzin Building and Loan Association, Pennsylvania, and against Sylvester Glass and Marie Glass, his wife, and Isadore Seymour.

Your petitioners further represent that by the provisions of the Act of the General Assembly of the 17th day of March, 1925, P.L. 38, it is provided that any county or township may acquire by purchase or by the right of eminent domain such property and lands situate along and adjacent to any county or township highway as in the opinion of the commissioners of such county, or the commissioners or supervisors of such township, may be necessary to eliminate dangerous curves and widen narrow roads or highways for the better protection and safety of the travelling public.

That said Act of Assembly further provides that the proceedings for the condemnation of such property and lands and for the assessment of damages for property taken, injured or destroyed, shall be taken in the same manner as is now provided for the condemnation of land by counties and townships for the laying out and opening of county or township roads or highways as the case may be.

WHEREFORE, your petitioners pray the Court to appoint three suitable persons as viewers to view the road aforesaid and to report to the Court their findings, together with a description of the land taken and condemned hereunder, and a statement of the assessment of damages for property taken, injured or destroyed by reason of such condemnation.

And they will ever pray, etc.

Edward Lenz,

J. H. Kuntzman,

J. A. Farabaugh,

Supervisors of Allegheny Township.

ORDER.

Now, September 13, 1926, the within petition having been read and considered, the Court do thereupon appoint A. M. Shoemaker, Adam Shuman and J. D. Ritter as viewers to view the road within mentioned and to report to the Court their findings, together with a description of the land taken and condemned hereunder, and a statement of the assessment of damages for property taken, injured or destroyed by reason of the condemnation to be made thereof by the said Township of Allegheny, And the said viewers shall make return of their proceedings to this Court on the 1st Monday of Nov. 1926.

By the Court,
Samuel Lemmon Reed,
P.J.O.C.S.P.

Extract from the Record.

Certified this 20th day
of Sept. A. D. 1926.

Frank C. Rott.

Clerk of the Court of Quarter
Sessions.

\$35.97.

1921

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40

Th. 2 September Sessions 1926.
In the Court of Quarter Sessions of
Cambria County, Pennsylvania.

In the Matter of the Condemnation
by the Township of Allegheny, in the
County of Cambria and State of Pennsyl-
vania, of property along a certain high-
way in said Township for the purpose of
widening said highway.

PETITION FOR APPOINTMENT OF VIEWERS

Filed 13 Sept. 1926

SHETTIG & NELSON
ATTORNEYS AT LAW
EBENSBURG, PA.

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

In the Matter of the Condemnation by the Township of Allegheny, in the County of Cambria and State of Pennsylvania, of property along a certain highway in said Township for the purpose of widening said highway.

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

The petition of James A. Farabaugh, Edward Lenz and John Koontzman respectfully represents:

That your petitioners are the duly qualified and acting supervisors of the Township of Allegheny, in the County of Cambria and State of Pennsylvania.

That many years ago a public road or highway was laid out and opened in said Township extending between the termini which are described as follows according to present conditions upon the ground: Beginning at a point on the improved state highway known as State Highway Route No. 3 leading from the Borough of Loretto to the Borough of Ebensburg, at a point about three hundred feet west of the bridge which carries said state highway over the railroad known as the Cresson Division of the Pennsylvania Railroad leading from the station on said railroad known as Ebensburg Junction in a northerly direction to the station of said railroad known as Bradley Junction, near the station on said railroad known as Loretto Road, and ending at the Township line between the Township of Allegheny and the Township of Lunster at the line of railroad known as the Cresson Division of the Pennsylvania Railroad leading from station on said railroad known as Ebensburg Junction in a westerly direction to the station on said railroad known as Winterset, said point of ending being distant about five hundred feet in a southerly direction from the point of intersection of said township highway above mentioned with another public highway in said Township of Allegheny leading from said point of intersection to the Borough of Loretto.

That your petitioners and their counsel have been unable to find the proceedings in the Road Docket of this county whereby said township road above mentioned was laid out and opened to public use, and therefore are unable

to set forth herein the place where said proceedings are recorded.

That said township highway has been maintained as such and has been used by the public for a time so great that the memory of living residents of the district do not recall the time when the same was laid out and opened. That by reason of the fact that the record of the proceedings laying out and opening said road cannot be found, your petitioners cannot state with certainty the width which was fixed for said road by the court at the time when the proceedings laying out and opening the same were had, but that said road as layed out, worked and used is of a width not exceeding thirty-three feet.

That in the opinion of your petitioners as supervisors of the Township of Allegheny aforesaid, it is necessary to condemn certain lands lying along and adjacent to said township highway in order to eliminate dangerous curves and to widen said road where the same is not of sufficient width to accommodate the travelling public and to render travel thereon safe for such travelling public.

That the land which is needed and desired for the purpose aforesaid is owned by one Isadore Seymour, and your petitioners have been unable to purchase from the said Isadore Seymour the land needed for the purposes above mentioned.

That the only lien of record against the said Isadore Seymour is a judgment entered in the Court of Common Pleas of Cambria County on the 22nd day of August, 1922, to No. 924 September Term, 1922, for a real debt of Three Thousand Dollars in favor of The Gallitzin Building and Loan Association, Gallitzin, Pennsylvania, and against Sylvester Glass and Marie Glass, his wife, and Isadore Seymour.

Your petitioners further represent that by the provisions of the Act of the General Assembly of the 17th day of March, 1925, P. L. 38, it is provided that any county or township may acquire by purchase or by the right of eminent domain such property and lands situate along and adjacent to any county or township highway as in the opinion of the commissioners of such county, or the commissioners or supervisors of such township, may be necessary to eliminate dangerous curves and widen narrow roads or highways for the better protection and safety of the travelling public.

That said Act of Assembly further provides that the proceedings for the condemnation of such property and lands and for the assessment of damages for property taken, injured or destroyed, shall be taken in the same

manner as is now provided for the condemnation of land by counties and townships for the laying out and opening of county or township roads or highways as the case may be.

WHEREFORE, your petitioners pray the Court to appoint three suitable persons as viewers to view the road aforesaid and to report to the Court their findings, together with a description of the land taken and condemned hereunder, and a statement of the assessment of damages for property taken, injured or destroyed by reason of such condemnation.

And they will ever pray, etc.

Edward Lenz
J. H. Kuntzman
J. A. Farabaugh
Supervisors of Allegheny Township.

State of Pennsylvania

SS.

County of Cambria

James A. Farabaugh being duly sworn according to law says that he is one of the qualified and acting supervisors of Allegheny Township, Cambria County, Pennsylvania, and that the matters set forth in the foregoing petition are true and correct as he verily believes.

Sworn and subscribed before me
this 10 day of Sept, 1926.

Frank E. Robt

J. A. Farabaugh

ORDER.

Now, September 13 1926, the within petition having been read and considered, the Court do thereupon appoint A. M. Hornaker,
Adrian Shuman and J. D. Rector
as viewers to view the road within mentioned and to report to the Court their findings, together with a description of the land taken and condemned hereunder, and a statement of the assessment of damages for property taken, injured or destroyed by reason of the condemnation to be made thereof by the said Township of Allegheny. And the said viewers shall make return of their proceedings to this Court on the 1st Monday day of Nov 1926.

By the Court
Samuel L. Linnwood Reed
PRESIDENT JUDGE OF THE ORPHANS' COURT

SPECIALLY PRESIDING