

In the Court of
Quarter Sessions
of Cambria County,
Pennsylvania.
No. 2. Dec. Sess. 1930.

Petition and Report
of Viewers, in re
assessment of
damages to W.
P. Wagner of
Blacklick Twp.
Cambria Co., Pa.

Filed, 27 Feb'y, 1931

9 March 1931 Affirmed.
By the Court
Crawford
8 June 1931 Remanded absolutely
Frank E. Ruff
to take

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 Viewers appointed by your honorable Court, upon the attached order, and directed to view and determine the damages, if any, which have been sustained by W. P. Wagner of Blacklick Township, Cambria County, Pennsylvania, by reason of the laying out and constructing of the Benjamin Franklin Highway, Route No. 422, through and over his premises in said township, county and state; 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 and to the said W. P. Wagner by making personal service of notices upon them and to the public by posting printed hand bills in public and conspicuous places on the premises of said Wagner and along the new improved highway where same passes over his premises and by printed notice published in the Cambria Freeman of Ebensburg, Pa., a news paper of general circulation and, each having been first duly sworn according to law to perform the duties of our appointment justly, faithfully, impartially and justly to decide and true report to make concerning all matters and things submitted to us in relation to which we were authorized to enquire: All of us met on the premises along the line of the above referred to improvement in accord with the notices so served, posted and published, as aforesaid, and having gone over and carefully viewed the said premises of said W. P. Wagner, along the line of the above referred to improvement in particular and the premises generally, noting the improved land through and over which the said new highway has recently been constructed in particular; especially with reference to the quantity, quality and the manner in which it had been divided by the new highway and the grade at which the said road had been constructed through and over same as well as the accessability to either portion of

the improved farm land from the Benjamin Franklin Highway, Route No. 422; and also such other improvements as were upon the remaining portion of the premises and the nature and value of the woodland through which the roadway had been cut and the width of the right-of-way which had been taken or occupied;

And, having heard what testimony the parties in interest had to offer and estimating the advantages and disadvantages and offsetting one against the other; and having notified both parties in interest of the time and place of our sitting to exhibit our schedule; we have determined that the said W. P. Wagner has sustained damages, over and above benefits, to the amount of Five Hundred Seventy Five \$(575.00) Dollars, as shown by a copy of our schedule hereto attached and made a part hereof.

A sketch or plot showing the general location of the improved highway, Route No. 422, where same passes through and over the premises of the petitioner, with reference to the farm buildings, improved farm land and other land of said Wagner and the other roads through his premises is hereto attached and made a part of this report.

The amount of damages, as above estimated and determined by the viewers is, according to law, due and payable to the said W. P. Wagner by the County of Cambria upon the final confirmation of this report and unless an appeal is taken from the amount of the award herein fixed or exceptions to this report are filed within thirty days from the date of the filing this said report shall be confirmed absolutely.

Witness our hands this 25th
day of February, A. D., 1931.

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

Viewers.

N O T I C E O F V I E W .

Notice is hereby given that the Viewers appointed by the Court of Quarter Sessions of Cambria County, Pa., to view and determine the damages, if any, sustained by one W. P. Wagner, of Blacklick Township, cambria Co., Pa., by reason of the laying out and construction of the "Benjamin Franklin Highway" Route No. 422, through and over his premises situate in said township, county and state.

Said premises adjoin lands of Alex. Mahisky, Samuel Grove and others and contain approximately one hundred seventy acres and is located in or adjacent to the Village of Bethel:

The viewers so appointed as aforesaid will meet on the premises of said W. P. Wagner, in Blacklick Township, Cambria Co., Pa., on Tuesday February 17th., 1931, at 9:30 O'clock a. m., for the purpose of viewing the same and hearing such testimony as the parties in interest may have to offer.

Adam Shuman,

J. D. Ritter and

A. M. Shoemaker,

Viewers.

Now, Feby., 6 1931, service of the above notice is hereby accepted for the Commissioners of Cambria County, Pa.

George E. Kerby
cc

NOTICE OF VIEW.

Notice is hereby given that the Viewers appointed by the Court of Quarter Sessions of Cambria County, Pa., to view and determine the damages, if any, sustained by one W. P. Wagner, of Blacklick Township, Cambria Co., Pa., by reason of the laying out and construction of the "Benjamin Franklin Highway" Route No. 422, through and over his premises situate in said township, county and state.

Said premises adjoin lands of Alex. Mahisky, Samuel Grove and others and contain approximately one hundred seventy acres and is located in or adjacent to the Village of Bethel:

The viewers so appointed as aforesaid will meet on the premises of said W. P. Wagner, in Blacklick Township, Cambria Co., Pa., on Tuesday February 17th., 1931, at 9:30 O'clock a. m., for the purpose of viewing the same and hearing such testimony as the parties in interest may have to offer.

Adam Shuman,

J. D. Ritter and

A. H. Shoemaker,

Viewers.

Now, Feby., 5, 1931, service of the above notice is hereby accepted for W. P. Wagner, the Petitioner.

J. J. Hartman

NOTICE OF VIEW.

Notice is hereby given that the Viewers appointed by the Court of Quarter Sessions of Cambria Co., Pa., to view and determine the damages, if any, sustained by W. P. Wagner, of Blacklick Twp., said county and state, by reason of the laying-out and constructing of the "Benjamin Franklin Highway" Route No. 422, through and over his premises, in said township.

The premises claimed to have been damaged adjoin lands of Alex. Mahisky, Samuel Grove and others, and contain approximately one hundred seventy acres, in or adjacent to the Village of Bethel;

The Viewers appointed as aforesaid will meet on the premises of said W. P. Wagner, in Blacklick Township, Cambria Co., Pa., Tuesday, February 17th., at 9:30 a. m., for the purpose of viewing the said premises and hearing such testimony as the parties in interest may have to offer.

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

S C H E D U L E .

IN RE ASSESSMENT OF DAMAGES TO W. P. WAGNER, OF BLACKLICK TOWNSHIP, CAMBRIA COUNTY, PENNSYLVANIA. NO. 2 DEC. SESS. 1930.

The undersigned Viewers appointed by the Court of Quarter Sessions of Cambria Co., Pa. to View and determine the damages, if any, sustained by W. P. Wagner; by reason of the construction of the Benjamin Franklin Highway, route NO. 422, through and over his premises in Blacklick Township, Cambria Co., Pa.; having viewed the premises and heard the testimony offered and taking into consideration all the advantages and disadvantages caused by the taking and appropriating of the land for the purpose above indicated and offsetting the advantages against the disadvantages; we have estimated and determined that said ~~W. P.~~ W. P. Wagner has sustained damages in the sum of Five Hundred Seventy Five (\$575.00) Dollars and no benefits.

J. D. Ritter,

Adam Shuman and

A. M. Shoemaker,

Viewers.

Certificate of Liens of
Record against H. P. Wagner
property in Blacklick Twp.,
Cambria Co., Pa.

This is to certify that a care-
ful examination of the records
of Cambria County discloses
the following liens against the
property of H. P. Wagner in Blacklick
Twp., said county & state. as follows

Judgment.

Peter G. Cameron Secy of Banking, Commonwealth of Pennsylvania et al ^{vs} H. P. Wagner	} Amount \$95.00 No 779 Dec 1930. Entered Nov 5th 1930.
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Mortgage

Howard M Reese ^{vs} Hirshel P Wagner Mrs " " "	} Real debt \$2,420.00 Vol. 69 Page 690 Sept 29th 1913.
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Release

Lewis Krishin ^{vs} H. P. Wagner	} Amount \$450.00 Vol 82 p. 446 Apr 10th 1916
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A. M. Shoemaker

Costs of View

A. M. Shoemaker

Preparing notices of view and notifying viewers, preparing notices for publication, making personal service of notices and posting notices on premises	24.00
Auto hire	2.00
Stenographer and stationery	2.35
Day on view and hearing	12.00
14 miles @ 10 cts per mi	1.40
Consultation with viewers	6.00
Having parties accept service of notice of sitting to exhibit schedule and preparing schedules for exhibition	6.00
sitting to exhibit schedules	6.00
Making survey, plotting, drafting, transportation	31.45
Examination of records and certificate of liens	7.00
Preparing, having signed assembling & filing report of viewers	18.00
Stenographer and stationery	2.45
	<u>74.75</u>
	105.65

J. D. Ritter

Day on view and hearing	12.00
48 miles Barneston & return	4.80
Consultation with viewers	6.00
34 miles	3.40
Sitting to exhibit schedule	12.00
34 miles	3.40
	<u>24.60</u>
	35.60

Adam Shuman

Day on view and hearing testimony	12.00
28 miles @ 10¢ per mi	2.80
Consultation with viewers	6.00
22 mi	2.20
Exhibition of schedule	12.00
22 mi	2.20
	<u>27.20</u>

Advertising view
 Arthur Griffith
 Cambria Freeman
 31.70
 73.00

State of Pennsylvania

SS.

County of Cambria

Before me, James McClune, Deputy Controller, personally came A. M. Shoemaker, one of the viewers named in the within order who, being duly sworn according to law deposes and says that the items contained in the bill hereto attached; relative to time of employment, auto hire, stenographer and station-printing ery/&c., are correct and the expenses of auto hire help &c. paid and satisfied, as he verily believes.

A. M. Shoemaker

Sworn and subscribed to before me this 27th day of

Feb A. D., 1931.

James McClune

W. P. Wagner : IN THE COURT OF QUARTER SESSIONS OF CAMBRIA
vs. : COUNTY, PENNSYLVANIA.
Cambria County : No. 2 December Sessions, 1930;

PETITION FOR APPOINTMENT OF VIEWERS
TO ASSESS DAMAGES.

To the Honorable the Judges of said Court:

The petition of W. P. Wagner of Blacklick Township, in
said County, respectfully represents:

1. That he is the owner of a certain farm or tract of
land, with two (2) houses, a barn and other out buildings thereon
erected, situate in Blacklick Township, Cambria County, Pennsylvania,
containing about one hundred seventy (170) acres, said farm adjoining
Alex Mahisky, Samuel Grove and others.

2. That your petitioner has been the owner of said
described land for a period of approximately twenty (20) years,
during which time he resided thereon.

3. That prior to and at all times subsequent to the
acquisition of said farm by your petitioner there had been laid out
and in use for public travel a public highway known as the "Clay
Pike" leading from Ebensburg to Indiana, Pennsylvania, which said
public highway crossed your petitioner's farm the entire width
~~thereof.~~

4. That some time in the year 1928, or thereabouts, the
Department of Highways of the Commonwealth of Pennsylvania, by virtue
of the power and authority vested in it, laid out through the land of
your petitioner a certain public highway known as part of the
"Benjamin Franklin Highway", route No. 422, which took the place of
said "Clay Pike" on his said farm.

5. That in laying out said part of Route No. 422 the said Highway Department took and appropriated for highway purposes a part of your petitioners land, being a strip thereof running in an Easterly and Westerly direction across the entire width thereof approximately from fifty (50) to seventy (70) feet in width and approximately fifteen hundred (1500) feet in length.

6. That in laying out and constructing said road the said Highway Department injured, destroyed and made useless a narrow irregular strip of land lying between the said "Clay Pike" and the said new road the entire width of said farm, said strip of land being approximately fifteen hundred (1500) feet in length, and from one hundred (100) to two hundred (200) feet in width; and said department has also destroyed and made useless a narrow strip of land lying north of said new highway about one hundred (100) feet in width and six hundred (600) feet in length.

7. That in laying out and constructing said road said Highway Department has damaged the farm of your petitioner as a whole and it has thereby greatly depreciated in value; it has destroyed valuable young timber trees and fruit trees; it has turned the water from said new road onto the land of your petitioner at various places; and by reason of the construction of said new road a dangerous situation is created for your petitioner who must of necessity cross said highway to his land on the other side thereof and must drive his cattle, horses and vehicles across the same; and in addition to various other ways in which his said land has been damaged, deep cuts and high fills have been made on the land appropriated by said Department.

8. The said Department of Highways has completed the work on said portion of said new public road laid out across your petitioner's farm by constructing on the land appropriated and taken from him a permanent concrete highway.

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

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

11. That your petitioner and the Commissioners of Cambria County have, since the completion of said road over said land, endeavored to agree on the amount of damages sustained, but that they are unable to arrive at an amicable settlement thereof.

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

W. P. Wagner.

D E C R E E .

And now, January 19th, 1931, the within petition presented, read and considered, and the Court do thereupon appoint Adams Shuman, A. M. Shoemaker and J. D. Ritter, Members of the Permanent Board of Viewers of the County of Cambria, as Viewers to view and examine the premises in said petition described, for the purpose of ascertaining the damages, if any, sustained by the petitioner, and to make return of their proceedings according to law.

By the Court,

M.

Extract from the Record.

Certified this 20th day
of January, A. D. 1931.

Frank B. Ruff

Clerk of the Court of Quarter
Sessions.

No. 2 ^{*Dumbin*} ~~March~~ Sessions, 1930.

In the Court of Quarter Sessions
of Cambria County, Penn'a.

W. P. WAGNER,

vs.

COUNTY OF CAMBRIA.

PETITION FOR APPOINTMENT
OF VIEWERS TO ASSESS
DAMAGES.

Filed 20 Jan'y 1931

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

W. P. Wagner, : IN THE COURT OF QUARTER SESSIONS
vs. : OF CAMBRIA COUNTY, PENNSYLVANIA
County of Cambria. : No. _____ March Sessions, 1931.

PETITION FOR APPOINTMENT OF VIEWERS
TO ASSESS DAMAGES.

To the Honorable the Judges of said Court:

The petition of W. P. Wagner of Blacklick Township, in
Said County, respectfully represents:

1. That he is the owner of a certain farm or tract of
land, with two (2) houses, a barn and other out buildings thereon
erected, situate in Blacklick Township, Cambria County, Pennsylvania,
containing about one hundred seventy (170) Acres, said farm adjoining
Alex Mahosky, Samuel Grove and others.

2. That your petitioner has been the owner of said
described land for a period of approximately twenty (20) years,
during which time he resided thereon.

3. That prior to and at all times subsequent to the
acquisition of said farm by your petitioner there had been laid out
and in use for public travel a public highway known as the "Clay
Pike" leading from Ebensburg to Indiana, Pennsylvania, which said
public highway crossed your petitioner's farm the entire width
thereof.

4. That some time in the year 1928, or thereabouts, the
Department of Highways of the Commonwealth of Pennsylvania, by virtue
of the power and authority vested in it, laid out through the land of
your petitioner a certain public highway known as part of the
"Benjamin Franklin Highway", route No. 422, which took the place of
said "Clay Pike" on his said farm.

5. That in laying out said part of Route No. 422 the said Highway Department took and appropriated for highway purposes a part of your petitioner's land, being a strip thereof running in an Easterly and Westerly direction across the entire width thereof approximately from fifty (50) to Seventy (70) feet in width and approximately fifteen hundred (1500) feet in length.

6. That in laying out and constructing said road the said Highway Department injured, destroyed and made useless a narrow irregular strip of land lying between the said "Clay Pike" and the said new road the entire width of said farm, said strip of land being approximately fifteen Hundred (1500) feet in length, and from one hundred (100) to two hundred (200) feet in width; and said Department has also destroyed and made useless a narrow strip of land lying North of said new highway about one hundred (100) feet in width and six hundred (600) feet in length.

7. That in laying out and constructing said road said Highway Department has damaged the farm of your petitioner as a whole and it has thereby greatly depreciated in value; it has destroyed valuable young timber trees and fruit trees; it has turned the water from said new road onto the land of your petitioner at various places; and by reason of the construction of said new road a dangerous situation is created for your petitioner who must of necessity cross said highway to his land on the other side thereof and must drive his cattle, horses and vehicles across the same; and in addition to various other ways in which his said land has been damaged, deep cuts and high fills have been made on the land appropriated by said Department.

8. The said Department of Highways has completed the work on said portion of said new public road laid ^{out} across your petitioner's farm by constructing on the land appropriated and taken from him a permanent concrete highway.

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

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

11. That your petitioner and the Commissioners of Cambria County have, since the completion of said road over said land, endeavored to agree on the amount of damages sustained but that they are unable to arrive at an amicable settlement thereof.

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

W. P. Wagner

STATE OF PENNSYLVANIA, :
COUNTY OF CAMBRIA, : ss.

W. P. Wagner, being duly sworn according to law, deposes and says that he is the petitioner above named and that the facts set forth in the above and foregoing petition are true and correct to the best of his knowledge and belief.

Sworn to and subscribed before me :
this 16th day of January, 1931. :

A. H. Folckmer J.P. :

Beleams R. :

My commission expires
1st Monday January 1936

W. P. Wagner

D E C R E E

And now, January 19th, 1931,
the within petition presented, read and considered, and the
Court do thereupon appoint Adam Shuman

Am. Shaemacher and J.D. Ritter

Members of the Permanent Board of Viewers of the County of
Cambria, as Viewers to view and examine the premises in said
petition described, for the purpose of ascertaining the
damages, if any, sustained by the petitioner, and to make
return of their proceedings according to law.

By the Court
M