

Nov 31 Oct 1961, aka within Report confirmed.
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Account #235

Joseph C. Dolan
Prothonotary

No. L.D. 3 Dec. 1961

IN THE COURT OF COMMON PLEAS
OF CAMBRIA COUNTY, PENN'A.

NO. 14 JUNE TERM, 1961 cp

MOST REVEREND J. CARROLL
McCormick, Bishop of the
Diocese of Altoona-Johnstown
in Trust for the Congregation
of St. Andrew's Church of
Upper Yoder Township,
Plaintiff

vs.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF HIGHWAYS

VIEWERS' REPORT

Filed - Nov 3, 1961

and now, 4 Dec 1961, no
specimens having been
filed, the within Report
is confirmed & adopted
by the Court
Dr. J. J. P.

DONALD J. LETIZIA

ATTORNEY AT LAW

JOHNSTOWN, PENNSYLVANIA

802 1st National Bank Bldg.

FILED FOR RECORD
1961 OCT 31 AM 9:26

SIGNATURE: *Joseph C. Dolan*
JOSEPH C. DOLAN, PROTHONOTARY
CAMBRIA COUNTY COURT, PA.

James J. P.

*to Rev. J. Carroll McCormick
Edwards' Chicago, Ill.
to 'Edward' Pennington, Ky.*

*100-540 to P.
100-540 cr. Report
100-540 - to P.*

IN THE COURT OF COMMON PLEAS
OF CAMBRIA COUNTY,
PENNSYLVANIA

vs.

NO. 14 JUNE TERM, 1961 C.P.

Defendant

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

Pursuant to their appointment on July 17, 1961, the Board of View set Tuesday, August 8, 1961, at 9:30 a.m., e.d.s.t., as the time to view and inspect the premises owned by the MOST REVEREND J. CARROLL McCORMICK, Bishop of the Diocese of Altoona-Johnstown, in Trust for the Congregation of St. Andrew's Church of Upper Yoder Township. Both parties thereafter requested that the View scheduled for August 8, 1961, be continued. The Board thereafter set Tuesday, August 29, 1961, at 9:30 a.m., e.d.s.t., as the time to view and inspect the premises. Due notice thereof was given to Eugene A. Creany, Esquire, Attorney for Plaintiff, as shown by acceptance of service of notice hereto attached and

made a part hereof. Notice was likewise given to Edward F. Peduzzi, Esquire, Attorney for the Defendant, as shown by acceptance of service of notice hereto attached and made a part hereof. The Board of View thereafter set September 22, 1961, at 10:00 a.m., e.d.s.t., at the Judges Chambers, Room 204, Park Building, Johnstown, Pennsylvania, as the time and place for hearing. Due notice thereof was given to Eugene A. Creany, Attorney for Plaintiff, as shown by acceptance of service of notice hereto attached and made a part hereof. Notice was likewise given to Edward F. Peduzzi, Attorney for Defendant, as shown by acceptance of service of notice hereto attached and made a part hereof. The hearing was held at the time and place appointed and was attended thereat by Eugene A. Creany, Esquire, Attorney for the Plaintiff, Charles N. Glass, Real Estate Appraiser and Rev. Fr. Joseph Fleming. The Commonwealth of Pennsylvania, was represented by Edward F. Peduzzi, Esquire, Paul D. Washington and John J. Mock, Real Estate Appraisers, and Howard Breneman, Right-of-Way Engineer. The Plaintiff was thereupon examined upon the merits of the case and a full hearing was held thereon.

Due Notice of the filing of this Report was given to the Plaintiff, through his attorney, Eugene A. Creany, as shown by acceptance of service of notice hereto attached and made a part hereof. Due notice was likewise given to the Defendant, through its attorney, Edward F. Peduzzi, as shown by acceptance of service hereto attached and made a part hereof.

The original papers are attached hereto and made a part of this Report.

The Board of View further reports as follows:

I. SERVICE OF PROCESS

The original papers and docket entries show that the Plaintiff filed a Petition with the Court of Common Pleas of Cambria County, Pennsylvania, on July 17, 1961, requesting that

Viewers be appointed in the above captioned matter.

II. FINDINGS OF FACT

(1) That MOST REVEREND J. CARROLL McCORMICK, Bishop of the Diocese of Altoona-Johnstown, in Trust for the Congregation of St. Andrew's Church of Upper Yoder Township, is the owner of the premises described as follows:

ALL that certain tract of land lying and being partly in the Township of Conemaugh, Somerset County, and partly in the Township of Upper Yoder, Cambria County, Pennsylvania, bounded and described as follows:

BEGINNING at a point on the southerly side of State Highway Route No. 53, which point is distant from the northwesterly corner of a tract of land conveyed to General Telephone Company by deed of Christ Contakos, et ux., dated March 1, 1956, and recorded in Deed Book Volume 680 at Page 100, records of Cambria County, by the following two courses and distances: South 66° 4' West 14.57 feet and South 57° 38' West 710.96 feet; and from said point of beginning, South 28° 15' East through land of which the within described tract is a part 609.59 feet to a point on the northerly line of Bens Creek; thence South 56° 39' West 397.14 feet to a point; thence South 75° 51' West 214.96 feet to a point; thence North 1007 minutes West along line of Route No. 53, 575.84 feet to a point; thence North 54° 6' East along line of Route 53, 412.87 feet to a point; thence North 57° 38' East 18.13 feet to a point; the place of beginning. Containing 7.090 acres.

(2) That on September 16, 1960, the Commonwealth of Pennsylvania, adopted a Resolution condemning a portion of said property for the purposes of construction, reconstruction and improvements to State Highway Route #52, Section 22, in Cambria County, Pennsylvania.

(3) That Charles N. Glass, real estate appraiser, testified that after the condemnation by the Commonwealth of Pennsylvania, Department of Highways, the property owned by the Plaintiff, suffered a loss amounting to \$19,250.

(4) That Rev. Fr. Joseph Fleming, Pastor of St. Andrew's Church, testified that after the condemnation by the Commonwealth of Pennsylvania, the property owned by the Most Reverend J. Carroll McCormick, Bishop of the Diocese of Altoona-Johnstown, in Trust for the Congregation of St. Andrew's Church of Upper Yoder Township, suffered a loss amounting to \$30,000.

(5) That Howard Breneman, Right-of-Way Engineer for the Commonwealth of Pennsylvania, testified that the property was condemned on September 16, 1961, and that 29,640 sq. ft. or .688 acre was taken.

(6) That Paul D. Washington, real estate broker, testified that after the condemnation by the Commonwealth of Pennsylvania, the property owned by Most Reverend J. Carroll McCormick, Bishop of the Diocese of Altoona-Johnstown, In Trust for the Congregation of St. Andrew's Church of Upper Yoder Township, suffered a loss amounting to \$10,730.

(7) That John J. Mock, real estate appraiser, testified that after the condemnation by the Commonwealth of Pennsylvania, the property owned by Most Reverend J. Carroll McCormick, Bishop of the Diocese of Altoona-Johnstown, In Trust for the Congregation of St. Andrew's Church of Upper Yoder Township, suffered a loss amounting to \$11,876.

III. OPINION

The Board of View has carefully examined the evidence offered in this case, has deducted therefrom certain facts, has carefully examined the law applicable, and is of the opinion that the Petitioner has presented a meritorious case.

The Petition alleges that the Most Reverend J. Carroll McCormick, Bishop of the Diocese of Altoona-Johnstown, in Trust for the Congregation of St. Andrew's Church of Upper Yoder Township, is the owner of the property referred to above and that in the condemning by the Commonwealth of Pennsylvania, said property has sustained serious loss and damages and that the compensation for such damages has not been fixed or agreed upon between the Plaintiff and Defendant.

The power of eminent domain is the power to take property for public use without the owner's consent. Briegel v. Briegel, 2160 A. 581, 307, Pa. 93 (1932). Eminent Domain is an

inherited attribute of sovereignty and the provisions for compensation is not part of the power, but a limitation on its use by the constitution, P.S. Const. Art. 1, Section 10.

The Constitution contains three sections relating to eminent domain, Article 1, Section 10, provides that private property shall not be taken or applied to public use, without authority of law and without just compensation being first made or secured. Article 16, Section 3, provides that "The exercise of the right of eminent domain shall never be abridged or so construed as to prevent the General Assembly from taking the property and franchises of incorporated companies, and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of the State shall never be abridged or so construed as to permit corporations to conduct their business in such manner as to infringe the equal rights of individuals or the general well being of the State." Article 16 also provides that municipal and other corporations and individuals invested with the power of eminent domain must make compensation for property taken, and prohibits the General Assembly from depriving any person of the right of appeal from any preliminary assessment of damages against any corporation or individuals made by viewers or otherwise.

When a tract of land is taken, the owner is entitled to compensation equal to its market value. Market value should be determined on the basis of what price the property would bring if the owner were under no compulsion to sell and a purchaser under no compulsion to buy, taking into account all considerations that might be brought forward and reasonably given substantial weight in bargaining for the property, such as location, improvement, productive quality and the uses to which it may reasonably be put, taking in the light of sales of other property in the vicinity. United States v. 15.3 Acres of Land in the City of

Scranton, Com. of Pa., 154 F. Supp. 770 (1957). While the value of the land should not be based upon speculation, everything which gives the land intrinsic value should be considered and it is not to be limited to a particular use, and any use to which the property is adapted or any prospective use may be considered.

*3 copies
1 cert.* CONCLUSION


The Board of View reports that after a full and impartial consideration of the testimony and evidence submitted to them and acting according to their best judgment, they have estimated and determined the damages sustained by the owner and occupants of the said property by reason of the condemning of the property by the Commonwealth of Pennsylvania.

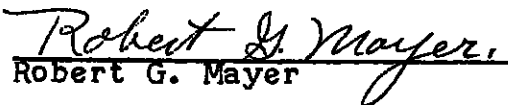
MOST REVEREND J. CARROLL McCORMICK,
BISHOP OF THE DIOCESE OF ALTOONA-
JOHNSTOWN, IN TRUST FOR THE CONGREGATION
OF ST. ANDREW'S CHURCH OF UPPER YODER
TOWNSHIP. \$15,000.00

The Board of View have taken into consideration any benefits accruing to the premises and assess damages against the COMMONWEALTH OF PENNSYLVANIA.

Respectfully Submitted,


Donald J. Letizia, Esq., Chairman


T. L. Locher


Robert G. Mayer

MOST REVEREND J. CARROLL McCORMICK,
BISHOP OF THE DIOCESE OF ALTOONA-
JOHNSTOWN, IN TRUST FOR THE CONGREGA-
TION OF ST. ANDREWS CHURCH OF UPPER
YODER TOWNSHIP,

Plaintiff

vs.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF HIGHWAYS,

Defendant

: IN THE COURT OF COMMON
: PLEAS OF CAMBRIA COUNTY,
: PENNSYLVANIA

: NO. 14 JUNE TERM, 1961

: c.p.

NOTICE

NOTICE is hereby given that the undersigned Viewers
will file their report in the above matter in the Court of Common
Pleas of Cambria County, Pennsylvania, on ^{Tuesday} ~~Monday~~, October ³¹ ~~30~~,
1961.

You will have thirty (30) days from said date within
which to file exceptions to our Report, if you so desire. If no
exceptions are filed thereto within said thirty (30) days our
Report will be confirmed absolutely by the Court.

DONALD J. LETIZIA,

T. L. LOCHER

ROBERT G. MAYER

BY Donald J. Letizia
Chairman

(Board of View)

ACCEPTANCE OF SERVICE this 18th day of October, 1961.

Edward F. Reddy
Attorney for Department of Highways

MOST REVEREND J. CARROLL McCORMICK,
BISHOP OF THE DIOCESE OF ALTOONA-
JOHNSTOWN, IN TRUST FOR THE CONGREGA-
TION OF ST. ANDREWS CHURCH OF UPPER
YODER TOWNSHIP,

Plaintiff

vs.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF HIGHWAYS,

Defendant

: IN THE COURT OF COMMON
: PLEAS OF CAMBRIA COUNTY
: PENNSYLVANIA

: NO. 14 JUNE TERM, 1961

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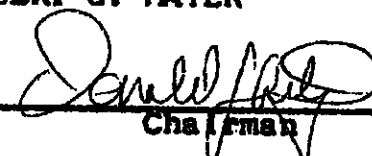
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exceptions are filed thereto within said thirty (30) days our
Report will be confirmed absolutely by the Court.

DONALD J. LETIZIA,

T. L. LOCHER

ROBERT G. MAYER

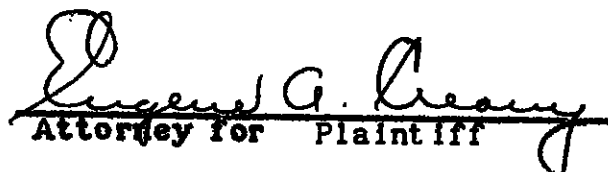
BY



Chairman

(Board of View)

ACCEPTANCE OF SERVICE this 18th day of October, 1961.


Attorney for Plaintiff

MOST REVEREND J. CARROLL McCORMICK
BISHOP OF THE DIOCESE OF ALTOONA-
JOHNSTOWN, IN TRUST FOR THE CONGRE-
GATION OF ST. ANDREWS CHURCH OF
UPPER YODER TOWNSHIP,

Plaintiff

vs.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF HIGHWAYS,

Defendant

IN THE COURT OF COMMON PLEAS
OF CAMBRIA COUNTY,
PENNSYLVANIA

NO. 14 JUNE TERM, 1961 CP

SCHEDULE OF AWARD

From the evidence submitted and the view of the premises affected by the condemning of the said property of the Plaintiff, by the Commonwealth of Pennsylvania, Department of Highways, the Board of View finds the damages sustained by the owners and occupant of this proceeding as follows:

MOST REVEREND J. CARROLL McCORMICK,
BISHOP OF THE DIOCESE OF ALTOONA -
JOHNSTOWN, IN TRUST FOR THE CONGREGA-
TION OF ST. ANDREWS CHURCH OF UPPER
YODER TOWNSHIP. \$15,000.00

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

DONALD J. LETIZIAI

TOLE LLOCHERR

ROBERT G. IMAYER

BY


Chairman

(Board of View)

ACCEPTANCE OF SERVICE this 16th day of October, 1961.


Attorney for

MOST REVEREND J. CARROLL McCORMICK	:	IN THE COURT OF COMMON PLEAS
BISHOP OF THE DIOCESE OF ALTOONA-	:	OF CAMBRIA COUNTY,
JOHNSTOWN, IN TRUST FOR THE CONGRE-	:	PENNSYLVANIA
GATION OF ST. ANDREWS CHURCH OF	:	
UPPER YODER TOWNSHIP,	:	
	:	
	:	
Plaintiff	:	
vs.	:	
	:	
COMMONWEALTH OF PENNSYLVANIA,	:	
DEPARTMENT OF HIGHWAYS,	:	NO. 14 JUNE TERM, 1961 CP
	:	
Defendant	:	

SCHEDULE OF AWARD

From the evidence submitted and the view of the premises affected by the condemning of the said property of the Plaintiff, by the Commonwealth of Pennsylvania, Department of Highways, the Board of View finds the damages sustained by the owners and occupant of this proceeding as follows:

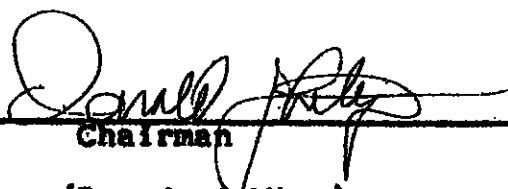
MOST REVEREND J. CARROLL McCORMICK,
BISHOP OF THE DIOCESE OF ALTOONA -
JOHNSTOWN, IN TRUST FOR THE CONGREGA-
TION OF ST. ANDREWS CHURCH OF UPPER
YODER TOWNSHIP. \$15,000.00

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

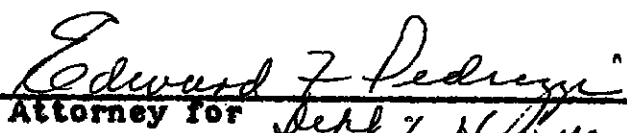
DONALD J. LETIZIA:

T. L. LOCHER:

ROBERT G. MAYER

BY 
Chairman
(Board of View)

ACCEPTANCE OF SERVICE this 16 day of October, 1961.


Attorney for Sept 7 Hbys.

MOST REVEREND J. CARROLL McCORMICK	:	IN THE COURT OF COMMON
BISHOP OF THE DIOCESE OF ALTOONA-	:	PLEAS OF CAMBRIA COUNTY,
JOHNSTOWN, IN TRUST FOR THE CONGREGA-	:	PENNSYLVANIA
TION OF ST. ANDREWS CHURCH OF UPPER	:	@
YODER TOWNSHIP,	:	
Plaintiff	:	
vs.	:	
COMMONWEALTH OF PENNSYLVANIA	:	NO. 14 JUNE TERM, 1961,
DEPARTMENT OF HIGHWAYS,	:	C.P.
Defendant	:	

NOTICE OF EXHIBIT

The undersigned hereby give notice that they, having been appointed by the Court as a Board of View in the above entitled matter, will hold a meeting on Monday, October 16, 1961, at 10:30 A.M., E.D.S.T., at the Courthouse in Courtroom No. 4, Ebensburg, Pennsylvania, at which time they will exhibit the Schedule of Damages caused by the condemning of the said property of the Petitioner by the Commonwealth of Pennsylvania, Department of Highways.

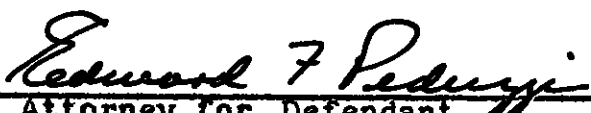
DONALD J. LETIZIA

T. L. LOCHER

ROBERT G. MAYER

BY 
Chairman
(Board of View)

ACCEPTANCE OF SERVICE this 11th day of October, 1961.


Attorney for Defendant

MOST REVEREND J. CARROLL McCORMICK	:	IN THE COURT OF COMMON
BISHOP OF THE DIOCESE OF ALTOONA-	:	PLEAS OF CAMBRIA COUNTY,
JOHNSTOWN, IN TRUST FOR THE CONGREGA-	:	PENNSYLVANIA
TION OF ST. ANDREWS CHURCH OF UPPER	:	@
YODER TOWNSHIP,	:	
	:	
Plaintiff	:	
	:	
vs.	:	
	:	NO. 14 JUNE TERM, 1961,
COMMONWEALTH OF PENNSYLVANIA	:	
DEPARTMENT OF HIGHWAYS,	:	C.P.
	:	
Defendant	:	

NOTICE OF EXHIBIT

The undersigned hereby give notice that they, having been appointed by the Court as a Board of View in the above entitled matter, will hold a meeting on Monday, October 16, 1961, at 10:30 A.M., E.D.S.T., at the Courthouse in Courtroom No. 4, Ebensburg, Pennsylvania, at which time they will exhibit the Schedule of Damages caused by the condemning of the said property of the Petitioner by the Commonwealth of Pennsylvania, Department of Highways.

DONALD J. LETIZIA

T. L. LOCHER

ROBERT G. MAYER

BY 
Chairman
(Board of View)

ACCEPTANCE OF SERVICE this 10th day of October, 1961.


Attorney for Plaintiff

MOST REVEREND J. CARROLL McCORMICK,	:	IN THE COURT OF COMMON
BISHOP OF THE DIOCESE OF ALTOONA -	:	PLEAS OF CAMBRIA COUNTY,
JOHNSTOWN, IN TRUST FOR THE CONGREGATION:	:	PENNSYLVANIA
OF ST. ANDREWS CHURCH OF UPPER YODER	:	
TOWNSHIP,	Plaintiff	: NO. 14, JUNE TERM,
VS.		: 1961 C.P.
COMMONWEALTH OF PENNSYLVANIA,		:
DEPARTMENT OF HIGHWAYS,	Defendant	:

NOTICE OF HEARING

The undersigned hereby give notice that they, having been appointed by the Court as a Board of View in the above entitled matter, will hold a hearing on the 22nd day of September, 1961, at 10:00 A.M., E.D.S.T., in the Judges Chambers, Room 204 Park Building, Johnstown, Pennsylvania, at which time testimony will be taken to determine the damages sustained by and assess the benefits accruing to the property owner as a result of the taking by the Commonwealth of Pennsylvania, Department of Highways.

DONALD J. LETIZIA

T. L. LOCHER

ROBERT G. MAYER

BY Donald J. Letizia
Chairman
(Board of View)

ACCEPTANCE OF SERVICE THIS 6th DAY OF SEPTEMBER, 1961.

Eugene A. Draney
Attorney for plaintiffs

MOST REVEREND J. CARROLL McCORMICK,
BISHOP OF THE DIOCESE OF ALTOONA -
JOHNSTOWN, IN TRUST FOR THE CONGREGATION;
OF ST. ANDREWS CHURCH OF UPPER YODER
TOWNSHIP, Plaintiff
VS.
COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF HIGHWAYS, Defendant

: IN THE COURT OF COMMON
: PLEAS OF CAMBRIA COUNTY,
: PENNSYLVANIA
:
: NO. 14, JUNE TERM,
: 1961 C.P.
:
:

NOTICE OF HEARING

The undersigned hereby give notice that they, having been appointed by the Court as a Board of View in the above entitled matter, will hold a hearing on the 22nd day of September, 1961, at 10:00 A.M., E.D.S.T., in the Judges Chambers, Room 204 Park Building, Johnstown, Pennsylvania, at which time testimony will be taken to determine the damages sustained by and assess the benefits accruing to the property owner as a result of the taking by the Commonwealth of Pennsylvania, Department of Highways.

DONALD J. LETIZIA

T. L. LOCHER

ROBERT G. MAYER

BY Donald J. Letizia
Chairman
(Board of View)

ACCEPTANCE OF SERVICE THIS 6 DAY OF SEPTEMBER, 1961.

Edward F. Peden
Attorney for Dept of Highways

Attorney for

MOST REVEREND J. CARROLL
McCORMICK, BISHOP OF THE
DIOCESE OF ALTOONA-JOHNSTOWN
IN TRUST FOR THE CONGREGATION
OF ST. ANDREWS CHURCH OF UPPER
YODER TOWNSHIP,

Plaintiff

vs.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF HIGHWAYS
Defendant

IN THE COURT OF COMMON PLEAS
OF CAMBRIA COUNTY,
PENNSYLVANIA

NO. 14 JUNE TERM, 1961, CP

VIEWERS' NOTICE

WE, the undersigned Viewers appointed by the
above named Court to view and inspect the land and premises owned
by Most Reverend J. Carroll McCormick, Bishop of the Diocese of
Altoona-Johnstown, In Trust for the Congregation of St. Andrew's
Church of Upper Yoder Township, and to determine the damages
sustained by and assess the benefits accruing to the property
owner as a result of the taking by the Commonwealth of Pennsylvania,
Department of Highways, do hereby give notice that we will meet
upon the premises on Tuesday, August 29, 1961, at 9:30 a.m., e.d.s.t.,
when and where all persons interested may appear, if they so
desire.

DONALD J. LETIZIA

T. L. LOCHER

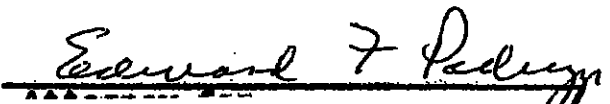
ROBERT G. MAYER

BY


Chairman

(Board of View)

ACCEPTANCE OF SERVICE this 17 day of August, 1961.



MOST REVEREND J. CARROLL
McCORMICK, BISHOP OF THE
DIOCESE OF ALTOONA-JOHNSTOWN
IN TRUST FOR THE CONGREGATION
OF ST. ANDREWS CHURCH OF UPPER
YODER TOWNSHIP,

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HIGHWAYS

: IN THE COURT OF COMMON PLEAS OF
: CAMBRIA COUNTY, PENNSYLVANIA

: NO. 14 JUNE TERM, 1961, CP

NOTICE OF CONTINUED VIEW

The undersigned hereby give notice that the View scheduled
in the above entitled matter for Tuesday, the 8th Day of August,
1961, at 9:30 o'clock a.m., e.d.s.t., has been continued until
further notice of the Board.

DONALD J. LETIZIA

T. L. LOCHER

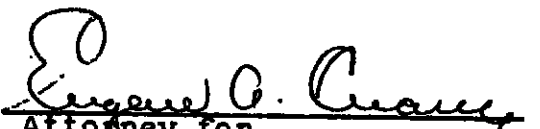
ROBERT G. MAYER

BY


Chairman

(Board of View)

ACCEPTANCE OF SERVICE THIS 7th day of August, 1961.


Attorney for

MOST REVEREND J. CARROLL
McCORMICK, BISHOP OF THE
DIOCESE OF ALTOONA-JOHNSTOWN
IN TRUST FOR THE CONGREGATION
OF ST. ANDREWS CHURCH OF UPPER
YODER TOWNSHIP,

VS.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HIGHWAYS

: IN THE COURT OF COMMON PLEAS OF
: CAMBRIA COUNTY, PENNSYLVANIA

: NO. 14 JUNE TERM, 1961, CP

NOTICE OF CONTINUED VIEW

The undersigned hereby give notice that the View scheduled
in the above entitled matter for Tuesday, the 8th Day of August,
1961, at 9:30 o'clock a.m., e.d.s.t., has been continued until
further notice of the Board.

DONALD J. LETIZIA

T. L. LOCHER

ROBERT G. MAYER

BY

Donald J. Letizia
Chairman

(Board of View)

ACCEPTANCE OF SERVICE THIS 7th day of August, 1961.

Edward F. Padryga
Attorney for Com.

MOST REVEREND J. CARROLL
McCORMICK, BISHOP OF THE
DIOCESE OF ALTOONA-JOHNSTOWN
IN TRUST FOR THE CONGREGATION
OF ST. ANDREW'S CHURCH OF UPPER
YODER TOWNSHIP,

VS.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF HIGHWAYS

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

NO. 14 JUNE TERM, 1961 CP.

VIEWS' NOTICE

WE, the undersigned Viewers appointed by the above named Court to view and inspect the land and premises owned by Most Reverend J. Carroll McCormick, Bishop of the Diocese of Altoona-Johnstown, in Trust for the Congregation of St. Andrew's Church of Upper Yoder Township, and to determine the damages sustained by and assess the benefits accruing to the property owner as a result of the taking by the Commonwealth of Pennsylvania, Department of Highways, do hereby give notice that we will meet upon the premises on Tuesday, the 8th day of August, 1961, at 9:30 a.m., c.d.s.t., when and where all persons interested may appear, if they so desire.

DONALD J. LETIZIA

T. L. LOCKER

ROBERT G. MAYER

BY



Chairman

(Board of View)

ACCEPTANCE OF SERVICE this _____ day of _____, 1961.

**MOST REVEREND J. CARROLL
McCORMICK, BISHOP OF THE
DIOCESE OF ALTOONA-JOHNSTOWN
IN TRUST FOR THE CONGREGATION
OF ST. ANDREW'S CHURCH OF UPPER
YODER TOWNSHIP,**

VS.

**COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF HIGHWAYS**

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

NO. 14 JUNE TERM, 1961 CP.

VIEWERS' NOTICE

WE, the undersigned Viewers appointed by the above named Court to view and inspect the land and premises owned by Most Reverend J. Carroll McCormick, Bishop of the Diocese of Altoona-Johnstown, in Trust for the Congregation of St. Andrew's Church of Upper Yoder Township, and to determine the damages sustained by and assess the benefits accruing to the property owner as a result of the taking by the Commonwealth of Pennsylvania, Department of Highways, do hereby give notice that we will meet upon the premises on Tuesday, the 8th day of August, 1961, at 9:30 a.m., e.d.s.t., when and where all persons interested may appear, if they so desire.

DONALD J. LETIZIA

T. L. LOCHER

ROBERT G. HAYER

BY

Donald J. Letizia
Chairman

(Board of View)

ACCEPTANCE OF SERVICE this _____ day of _____, 1961.

14 June 1961
c.p.

OATH OF OFFICE

No. 14 June Term 1961 CP

STATE OF PENNSYLVANIA, }
COUNTY OF CAMBRIA. } SS:

I, **T.L. Locher**

do solemnly **swear** that I will
support, obey and defend the Constitution of
the United States, and the Constitution of this
Commonwealth, and that I will discharge the
duties of the office of

Viewer

with fidelity; that I have not paid or contribut-
ed or promised to pay or contribute, either directly or indirectly, any money or other valuable
thing to procure my nomination or election, except for proper and necessary expenses expressly
authorized by law; that I have not knowingly violated any election law of this Commonwealth, or
procured it to be done by others in my behalf; that I will not knowingly receive, directly or indi-
rectly, any money or other valuable thing for the performance or non-performance of any act or
duty pertaining to my office, other than the compensation allowed by law.

SWORN and Subscribed in open court this

31 day of July, A. D. 1961
Joseph R. Solan
Prothonotary

T.L. Locher

OATH OF OFFICE

STATE OF PENNSYLVANIA, }
COUNTY OF CAMBRIA. } SS:

I, **Telford Locher,**
do solemnly **swear** that I will
support, obey and defend the Constitution of
the United States, and the Constitution of this
Commonwealth, and that I will discharge the
duties of the office of
viewer

with fidelity; that I have not paid or contribut-
ed or promised to pay or contribute, either directly or indirectly, any money or other valuable
thing to procure my nomination or election, except for proper and necessary expenses expressly
authorized by law; that I have not knowingly violated any election law of this Commonwealth, or
procured it to be done by others in my behalf; that I will not knowingly receive, directly or indi-
rectly, any money or other valuable thing for the performance or non-performance of any act or
duty pertaining to my office, other than the compensation allowed by law.

SWORN and Subscribed in open court this

31 day of July, A. D. 1961

Joseph C. Dolan
Prothonotary

T. L. Locher.

1961

No. 14 June

Term, ~~15~~ CP

COMMONWEALTH PLEAS

VERSUS

NOTICE

FILED FOR RECORD

1961-AUG-22 PM 10:44

1961-AUG-24 PM 10:44

SIGNATURE

JOSEPH C. DOLAN, PROthonotary

CAMBERIA COUNTY COURT, PA.

DOLAN, PROthonotary

A SECURITY COPY

14CP

21172

Most Reverend J. Carroll
McCormick, Bishop of the
Diocese of Altoona-Johnstown
in Trust for Congregation of
St. Andrew's Church of Upper
Yoder Township

Petitioner

v s.

Commonwealth of Pennsylvania
Department of Highways

In the Court of Common Pleas of
Cambria County, Pa.

No. 14 June 61 CP
Term, 19.....

TO T.L. Locher

~~Esq.~~

Attorney for

Pet. for Appt. of Viewers

YOU ARE HEREBY NOTIFIED that has been filed in the

above stated Case

this 17th day of July

A. D. 1961 Please acknowledge receipt of notice hereon and return.

Joseph C. Delam
Prothonotary.

NOW, July 21, 1961, I hereby acknowledge receipt of above notice.

T. L. Locher

OATH OF OFFICE

FILED FOR RECORD
1961 JUL 21 AM 10:38
SIGNATURE: *Joseph C. Bolan*
JOSEPH C. BOLAN, PROTESTANT
CAMBRIA COUNTY COURT, PA.

No. 14 June Term 1961 CP

STATE OF PENNSYLVANIA, }
COUNTY OF CAMBRIA. } SS:

I, Robert G. Mayer

do solemnly Swear that I will
support, obey and defend the Constitution of
the United States, and the Constitution of this
Commonwealth, and that I will discharge the
duties of the office of

Viewer

with fidelity; that I have not paid or contribut-
ed or promised to pay or contribute, either directly or indirectly, any money or other valuable
thing to procure my nomination or election, except for proper and necessary expenses expressly
authorized by law; that I have not knowingly violated any election law of this Commonwealth, or
procured it to be done by others in my behalf; that I will not knowingly receive, directly or indi-
rectly, any money or other valuable thing for the performance or non-performance of any act or
duty pertaining to my office, other than the compensation allowed by law.

SWORN and Subscribed in open court this

20th day of July, A. D. 1961

Joseph A. Salvi
Prothonotary

ROBERT G. MAYER

No. 14 June Term, 1961 CP

COMMONWEALTH PLEAS

versus

NOTICE

FILED FOR RECORD
1961 JUL 21 AM 10:38
SIGNATURE: *Joseph C. Dolan*
JOSEPH C. DOLAN, PROSEUTANT
CAMBERIA COUNTY COURT, PA.

Most Reverend J. Carroll,
McCormick, Bishop of the
Diocese of Altoona-Johnstown,
in Trust for Congregation of
St. Andrew's Church of Upper
Yoder Township
Petitioner

In the Court of Common Pleas of
Cambria County, Pa.

vs.
Commonwealth of Pennsylvania,
Department of Highways

No. 14 June Term, 1961 C.P.

TO Robert G. Mayer, Esq.

Attorney for

Pet. for Appt. of Viewers

YOU ARE HEREBY NOTIFIED that has been filed in the

above stated Case

this 17th day of July

A. D. 1961 Please acknowledge receipt of notice hereon and return.

Prothonotary.

NOW, July 20th, 1961, I hereby acknowledge receipt of above notice.

Robert G. Mayer

1291 101 ST 110:38
FILED FOR REC'D

OATH OF OFFICE

STATE OF PENNSYLVANIA,
COUNTY OF CAMBRIA.

SS:

No. 14 June Term 1961 CP

I, Donald J. Letizia

do solemnly swear that I will
support, obey and defend the Constitution of
the United States, and the Constitution of this
Commonwealth, and that I will discharge the
duties of the office of

Viewer

with fidelity; that I have not paid or contribut-
ed or promised to pay or contribute, either directly or indirectly, any money or other valuable
thing to procure my nomination or election, except for proper and necessary expenses expressly
authorized by law; that I have not knowingly violated any election law of this Commonwealth, or
procured it to be done by others in my behalf; that I will not knowingly receive, directly or indi-
rectly, any money or other valuable thing for the performance or non-performance of any act or
duty pertaining to my office, other than the compensation allowed by law.

SWORN and Subscribed in open court this

20th day of July, A. D. 1961

Donald J. Letizia
Notary Public
Johnstown, Cambria County, Penna.
My Commission Expires May 27, 1964

Donald J. Letizia

No. **14 June** Term, 19**61CP**

COMMONWEALTH PLEAS

.....

.....

versus

.....

.....

.....

NOTICE

Most Reverend J. Carroll,
McCormick, Bishop of the
Diocese of Altoona-Johnstown
in Trust for Congregation
of St. Andrew's Church of
Upper Yoder Township
Petitioner

vs.

Commonwealth of Pennsylvania
Department of Highways

In the Court of Common Pleas of
Cambria County, Pa.

No. 14 June Term, 1961 CP.

TO Donald J. Letizia, Esq.,

Attorney for

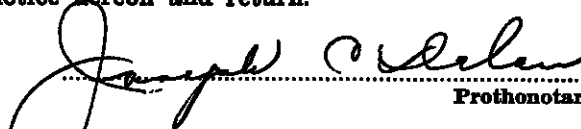
Pet. for Appt. of Viewers

YOU ARE HEREBY NOTIFIED that has been filed in the

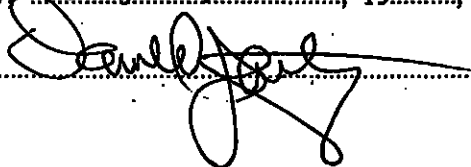
above stated Case

this 17th day of July

A. D. 1961 Please acknowledge receipt of notice hereon and return.


Prothonotary.

NOW July 20, 1961, I hereby acknowledge receipt of above notice.



No. 14 *John* Term, 1961. *CP*

IN THE COURT OF COMMON
PLEAS OF CAMBRIA COUNTY
PENNSYLVANIA

MOST REVEREND J. CARROLL
McCORMICK, Bishop of the
Diocese of Altoona-Johnstown, in
Trust for Congregation of St. An-
drew's Church of Upper Yoder
Township,

Petitioner,

VS.

COMMONWEALTH OF PENNSYL-
VANIA, DEPARTMENT OF HIGH-
WAYS

Petition for the Appoint-
ment of a Board of View

FILED FOR RECORD
1961 JUL 17 PM 3:56
SIGNATURE *Joseph C. Dolan*
JOSEPH C. DOLAN, PRO SECRETARY
CAMBRIA COUNTY COURT, PA.

500. NP.

Law Offices
SMORTO & CREANY
Barnesboro, Pa. Ebensburg, Pa.

*Order + notes sent Lacher
Meyer
Lefgren*

*3 + @
3 order
3 notes*

*NP 5.00
3.00
1.00*

MOST REVEREND J. CARROLL
McCORMICK, Bishop of the
Diocese of Altoona-Johnstown, in
Trust for Congregation of St. An-
drew's Church of Upper Yoder
Township,

Petitioner,

VS.

COMMONWEALTH OF PENNSYL-
VANIA, DEPARTMENT OF HIGH-
WAYS,

Respondent.

IN THE COURT OF COMMON PLEAS
OF CAMBRIA COUNTY
PENNSYLVANIA

NO.

14 June

Term, 1961.

CP.

PETITION FOR THE APPOINTMENT OF BOARD OF VIEW

Petitioner, Most Reverend J. Carroll McCormick, Bishop of the
Diocese of Altoona-Johnstown, in trust for the congregation of St. Andrew's
Church of Upper Yoder Township, Cambria County, Pennsylvania, the suc-
cessor Bishop to the Most Reverend Richard T. Guilfoyle, deceased, and the
Most Reverend Howard J. Carroll, deceased, respectfully represents:

-1-

The petitioner, Most Reverend J. Carroll McCormick, Bishop of
the Diocese of Altoona-Johnstown, in trust for the congregation of St. Andrew's
Church of Upper Yoder Township, Cambria County, Pennsylvania, is a resi-
dent of the City of Altoona, County of Blair and State of Pennsylvania, and as
successor Bishop, is entrusted with and holds for the congregation of St.
Andrew's Church of Upper Yoder Township, Cambria County, Pennsylvania,
all the hereinafter described real estate.

-2-

The petitioner is the owner in trust as above stated of all that cer-
tain tract of land lying and being partly in the Township of Conemaugh, Som-

erset County, and partly in the Township of Upper Yoder, Cambria County, Pennsylvania, bounded and described as follows:

BEGINNING at a point on the southerly side of State Highway Route No. 53, which point is distant from the northwesterly corner of a tract of land conveyed to General Telephone Company by deed of Christ Contakos, et ux., dated March 1, 1956, and recorded in Deed Book Volume 680 at page 100, records of Cambria County, by the following two courses and distances: south 66 degrees 4 minutes West 14.57 feet and south 57 degrees 38 minutes West 710.96 feet; and from said point of beginning, south 28 degrees 15 minutes east through land of which the within described tract is a part 609.59 feet to a point on the northerly line of Bens Creek; thence south 56 degrees 39 minutes west 397.14 feet to a point; thence south 72 degrees 51 minutes west 214.96 feet to a point; thence north 1007 minutes west along line of Route 53, 575.84 feet to a point; thence north 54 degrees 6 minutes east along line of Route 53, 412.87 feet to a point; thence north 57 degrees 38 minutes east 18.13 feet to a point, the place of beginning. Containing 7.090 acres.

-3-

That during the year 1960, the Department of Highways of the Commonwealth of Pennsylvania appropriated a portion of petitioner's property, all of the appropriated portion being located in Cambria County, for the construction, reconstruction and improvements to State Highway Route 52, section 22, being a section of highway at or near what is commonly known as the Bens Creek area in the above stated Township.

-4-

That by reason of the appropriation of the land and the improvements to the said highway, petitioner's property has been seriously affected and damaged, in that it has made his property inaccessible and certain portions of it useless.

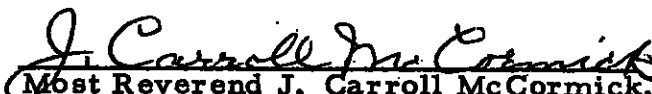
-5-

That during the construction of said road, the petitioner will be deprived of the entrance of the property and inconvenienced by reason of the debris incident to said construction being placed on said land.

That the respondent has destroyed and will affect the entrance to the petitioner's property, making it difficult of access; thereby causing him and the parishioners great inconvenience and greatly depreciating the value of the land and improvements thereon. The appropriation herein referred to has resulted in the destruction of a building which had been previously rented which was income bearing property, destroying of a fence used for the protection of the congregation and children using the school and church, destroying of lawn and trees and shrubbery, thereby affecting the natural beauty of the property involved, and the change of the roadway grade, a higher grade affecting the entrance to the rectory, church, convent and school, making it hard for parishioners' automobiles, school busses, etc., to gain entrance to the property.

Your petitioner, therefore, prays your Honorable Court to appoint a Board of View to assess the damages sustained by your petitioner's property by reason of the construction and relocation of the highway as aforesaid, and to report the same to your Honorable Court in this proceeding in accordance with the Acts of Assembly and Rules of Court in such case made and provided, and

Your petitioner will ever pray.


Most Reverend J. Carroll McCormick,
Bishop of the Diocese of Altoona-
Johnstown, in Trust for congregation
of St. Andrew's Church of Upper Yoder
Township

STATE OF PENNSYLVANIA

:

SS.

COUNTY OF BLAIR

:

:

MOST REVEREND J. CARROLL McCORMICK, Bishop of
the Diocese of Altoona-Johnstown, in trust for congregation of St. Andrew's
Church of Upper Yoder Township, being duly sworn according to law, deposes
and says that he is the petitioner above named and that the statements set
forth in the foregoing Petition are true and correct to the best of his knowledge,
information and belief.

J. Carroll McCormick
Most Reverend J. Carroll McCormick

Sworn to and subscribed before me

this 26th day of May, 1961.

Del. L. Smart

My commission expires: 1/27/63

Petitioner,

VS.

Respondent. :

: IN THE COURT OF COMMON PLEAS
 : OF CAMBRIA COUNTY
 : PENNSYLVANIA

NO. TERM, 1961.

DECREE

AND NOW, this 17 day of May, 1961, upon consideration of the

foregoing petition, and on motion of Eugene A. Creany, Esq., of the law firm of Smorto & Creany, Attorneys for the Petitioner, the Court appoints

Robert S. Mager, T. L. Focher and Donald
J. Tetuzia

as a Board of View to assess the damages caused by the construction and re-
location of State Highway Route 52, section 22, in front of the petitioner's
property, and do direct that the said Board of View shall hold its first meet-
ing as required by the Acts of Assembly and Rules of Court in such case made
and provided, and after evidence is given and report filed, give due notice of
the filing of the report, as required by law, the cost thereof to be taxed as
part of the cost of said proceeding, and do further direct that said Board of
View shall report to this Court in accordance with existing laws and rules of
Court.

BY THE COURT:

Judge

No. Term, 19.....

COMMON PLEAS

versus

FILED FOR RECORD

1961 NOV -3 PM 12:08

SIGNATURE: JOSEPH C. DOLAN, PROTHONOTARY
CAMBRIA COUNTY COURT, PA.

NOTICE

Most Reverend J. Carroll
McCormick, Bishop of the
Diocese of Altoona-Johnstown,
in Trust for Congregation
of St. Andrew's Church of
Upper Yoder Township

vs.

Commonwealth of Pennsylvania
Department of Highways

TO Most Reverend J. Carroll McCormick

In the Court of Common Pleas of
Cambria County, Pa.

No. 14 June

Term, 1961 C.P.

~~Assembly for~~

A Viewers' Report

YOU ARE HEREBY NOTIFIED that has been filed in the
above stated Case

..... this 31st day of October

A. D. 1961 Please acknowledge receipt of notice hereon and return.

Joseph C. Delan
Prothonotary.

NOW, Nov. 2, 1961, I hereby acknowledge receipt of above notice.

J. Carroll McCormick

IN THE COURT OF COMMON PLEAS OF
CAMBRIA COUNTY, PENNSYLVANIA

NO. 14 JUNE TERM 1961 C.P.

ORDER

SMORTO & CREANY, ESQS.

MOST REVEREND J. CARROLL MCCORMICK,
BISHOP OF THE DIOCESE OF ALTOONA
JOHNSTOWN, IN TRUST FOR THE CONGREGATION
OF ST. ANDREWS CHURCH OF UPPER YODER
TOWNSHIP,

Plaintiff

vs.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HIGHWAYS,
Defendant

: IN THE COURT OF COMMON PLEAS
:
: OF CAMBRIA COUNTY,
:
: PENNSYLVANIA

: NO. 14 JUNE TERM 1961 C.P.

ORDER

ORDER

AND NOW, this 2d day of November, 1961, upon consideration of the
foregoing Petition to Certify Award into Court of Quarter Sessions, it is
ordered and directed that all proceedings in this matter shall be certified
to the Court of Quarter Sessions by the Prothonotary of Cambria County.

BY THE COURT:
Griffith /s/
President Judge.

Extract from the Record
Certified this 2nd day of
November A.D. 1961.

Joseph A. Delaney
Prothonotary

NO. 14 JUNE TERM 1961 C.P.
CAMBRIA COUNTY, PENNSYLVANIA
IN THE COURT OF COMMON PLEAS OF

RECEIVED & ENTERED