

DOCKET No. 5

(18) Number 18 <sup>SS</sup>~~Term~~ Sept Year 1922

Petition of Emory E. Huffman for

Appt of Viewers to assess damages

in Burnside Twp.

Versus

The viewers however after a careful inspection of the State highway through the premises of the claimant the part of the claimant's property effected thereby cannot agree with the witnesses on the measure of damages the claimant has sustained. And as has been decided in the case; In re Barbadoes Street of Norristown Pa 8, Phil Rp 498: That neither the oath or duty of a road viewer compels him to draw conclusions exclusively from the testimony. They are appointed to view, and from that view aided by all the information they can derive from an inspection of the locality it is competent for them to arrive at a final conclusion which does not accord with the testimony. It is perfectly proper and highly advisable to seek the light afforded by the testimony of the witnesses; but the evidence as to the amount of damages and the value of the property is after all but the mere opinion of the witnesses and unless it coincides with the judgment of the viewers is not and should not be in itself conclusive upon their action. The primary duty is to view, and then to receive and balance the testimony in the light afforded by their judgment, resulting from that view as also the amount of the land taken: Ib'

The viewers therefore after having carefully viewed and inspected the premises including the Highway; and heard and considered the testimony produced, on the value of the property before and after the construction of the said State Highway through the premises of the petitioner the amount and value of the land taken which consists of about two thirds ( $2/3$ ) of an acre, the inconvenience to the property caused to the said land by the road bed and the drains for farm purposes; and the advantages as well as the disadvantages to the claimant; are fully convinced that four hundred (\$400.00) dollars will fully compensate the claimant for all damages he sustained; by the construction of the said State Highway through his property; They therefore assess the damages to Emory C Huffman the claimant at the sum of Four Hundred (\$400.00)

Dollars.

TO: T. R. WEIMER. JESSE. E. DALE AND M. L. FARRELL:  
County Commissioners of Clearfield County Pa.

You are hereby notified; That the undersigned viewers appointed by the Court of Quarter Session of Clearfield County Pa, to view and assess the damages that Emory, E. Huffman the petitioner has sustained by reason of the change made in the location of the road bed through his property in Burnside Township, Clearfield County Pa; by the changes or improvements in said State Highway on Route No 262, leading from Indiana to Clearfield Pa.

Will meet at the house of the petitioner on the said premises in Burnside Township in the County and State aforesaid. on Tuesday the 22d day of August A. D. 1922 at ten (10) o'clock A. M. to attend to the duty of their appointment; of which time and place aforesaid you will please take notice.

And that the public hearing required by the Act of Assembly and the Rules of Court to be held by the viewers before the filing of their report in Court. In order to give all parties interested a chance to be heard, will be held in the Arbitration Room in the Court House in Clearfield Pa on Wednesday August the 23d, 1922 ~~at nine (9) o'clock A. M.~~ at nine (9) o'clock A. M. when and where all parties interested may attend and be heard.

*A. G. Kramer*

*E. D. Billotte*

*J. S. Michaels*

VIEWERS.

Now August 11th, 1922 service accepted for the County Commissioners of Clearfield County Pa.

*L. C. Norris*

Clerk.

TO; EMORY. E. HUFFMAN.

You are hereby notified; That the undersigned viewers, appointed by the Court of Quarter Sessions of Clearfield County Pa; to view and assess the damages that you the petitioner have sustained by reason of the change made in the width and the existing lines in the location of the State Highway through your land in Burnside Township Clearfield County Pa, by the improvements made to the said State Highway on Route No 262, leading from Indiana to Clearfield; will meet at house of your petitioner on the said premises in Burnside Township in the County and State aforesaid, on Tuesday the 22d day of August A. D. 1922 at ten (10) o'clock A. M. to attend to the duty of their appointment; of wick time and place aforesaid you will please take notice.

And that the public hearing required by the Act of Assembly and the Rules of Court, to be held by the viewers before the filing of their report in Court, in order to give all parties interested a chance to be heard, will be held in the Arbitration Room in the Court House in Clearfield Pa, on Wednesday August the 23d 1922 at nine (9) o'clock A. M. when and where all parties interested may attend and be heard.

A. G. Kramer  
E. D. Billotte  
J. S. Michaels  
VIEWERS.

*Now Aug. 11, 1922, service accepted  
and personal service waived  
John M. Gray, Atty.  
for Emory E. Huffman.*

## RETURN OF VIEWERS

To the Honorable the Judge of the Court of Quarter Sessions of the Peace for the County of Clearfield:

We, the undersigned viewers, duly appointed by your Honorable Court by the foregoing order from and among the County Board of Viewers who have been duly appointed by your Honorable Court and have filed their oaths of office in the Court of Common Pleas of Clearfield County, be leave to report as follows:

That notice of the time of view and of the hearing day was duly served according to law upon the Commissioners of Clearfield County and the Board of Supervisors of the Town of Hamlet.

~~claimant~~ ~~and~~ ~~that~~ ~~the said view would be held on the~~ 22d day of August A. D. 1922, and the hearing to be held in the Arbitration Room, at the Court House, in Clearfield, Pa., on the 23d day of August, 1922, at (9) o'clock A. M. That ~~viewers appointed by the said order viewed the~~ aforesaid Highway ~~and that there were present at the view~~ the claimant Emory C Hoffman ~~the claimant and T R Weimer, Jesse E, Dale and M, L. Farrell the County Commissioners of Clearfield County~~

parties in interest. That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the 23d day of August ---- A. D. 1922, when the following appearances were noted: Emory C Huffman the claimant with his Attorney John M Uray Esq, and the following witnesses; to wit: N. C. Porter, Frank Beck William Sunderlin witnesses for claimant: and A. H. Woodward County Solicitor and T R Weimer, Jessie E. Dale and M.L. Farrell also L. C. Norris Commissioners Clerk.

After the view and hearing above mentioned \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

BEBB  
  
\_\_\_\_\_

Emery C Huffman the claimant was called as a witness in his own behalf and testified that he owns seventy five (75) acres of land Burnside Township in Clearfield County adjoining the Indiana County line near Glan; Campbell. That between fifty and sixty acres are cleared and the balance is timber land. That there were two diferent routes laid out through his farm for the location of a State Highway, that the routes laid is through his cleared farm land, the one was laid out in 1919 and was afterwards abandoned the other is the route on which the State Highway has been build, that his property was worth not less than \$12000.00 and since is not worth over \$10,000.00 claiming that he has been damaged at least \$2000.00. N. C. Porter fixes the value of the property at the same value before the state Highway was laid out and after at about \$10,000.00. He fixes the damages caused by the first location which was afterwards abndened at \$500.00 And Frank Beck fixes the value of the property before at \$10,000.00 and after the state road was laid out at \$8,000.00 but none of the witnesses but non of the witnesses give any information on which they base their estimate on showing that it is simply guess work.

The first route was laid out in 1919 and as the testimony of the claimant shows and the instance of the claimant himself and Mr Joseph Clark of Glen-Campell who it would seem by their own doings without any direction of the State Highway Commission in 1919 went to Indiana Pa and secured the State Highway Engineer of Indiana county to lay out what they intended to be the route or location of the State Highway through the claimant's farm and without any notice to the County Commissioners of Clearfield County laid out, and had some one the testimony does not show

**Clearfield County, ss:**

At a Court of Quarter Sessions of the Peace of the County of  
Clearfield, held at Clearfield, Pa., in and for said County, on  
the 10th day of August  
in the year of our Lord one thousand nine hundred  
twenty-two

Judge of the same Court: EMORY E. HUFFMAN  
Upon the petition of ~~sundry~~  
habitants of the Township of Burnside

in said County, setting forth that he is the owner of a  
certain piece of land situate in the Twp. of Burnside, along the State  
Highway leading from Indiana to Clearfield. That the State Highway  
Commissioner has undertaken the construction of an improved state highway  
known as Route No. 262 through said premises, a change of width and of  
existing lines and location being occasioned thereby. That your petitioner  
has sustained damages by reason of said construction and has been unable  
to agree with the County Commissioners of Clearfield County as to the  
damages sustained by him

and therefore, praying the Court to appoint proper persons to view and lay out the road  
between the points mentioned, whereupon the Court upon due consideration had of the premises,  
do order and appoint from and among the County Board of Viewers A. G. Kramer, Esq.  
E. D. Billotte, Esq. and J. S. Michaels

who have been duly appointed by the Court and filed their oaths of office and are duly qualified  
to perform the duties of their appointment with impartiality and according to the best of  
their judgement, are to view the ground proposed for the said road, and if they view  
the same, and a majority of the actual viewers agree that there is occasion for such road  
they shall proceed to lay out the same, as agreeable to the desire of the petitioner as may,  
be, having respect to the best ground for a road and the shortest distance, in such a manner  
as to do the least injury to private property; and shall make report thereof, stating particularly  
whether they judge the same necessary for a public or private road, together with a plot or  
draft thereof, and the courses and distances and references to the improvements through which  
the same may pass; (and wherever practicable, the viewers shall lay out the said road at  
an elevation not exceeding five degrees, except at the crossing of ravines and streams, when  
by moderate filling and bridging the declination of the road may be preserved within that  
limit,) to the next Court of Quarter Sessions to be held for the said County.

And if the viewers aforesaid shall decide in favor of locating a public road, they  
shall obtain from the persons through whose lands the said road shall pass, releases from any  
damages that may arise to them on opening the same; but if the owner or owners of such land  
refuse to release their claim to damages, the said viewers shall assess the same, taking into  
view the advantages as well as disadvantages arising from said location, and make report of  
such assessments; which report they shall in like manner transmit to the next Court of Quarter  
Sessions, with the draft or plot aforesaid. In which said reports they shall state that they  
have been sworn or affirmed according to law, and that due and legal notice was given of the  
time when, and place where, they should meet, to view and lay out said road, and the time  
and place of hearing

By order of the Court.

Geo W Palston, Clerk.

who by or at whose instance the grading was done over the property of the claimant on the first route laid out for the said proposed State Highway but evidently not by or at the instance of the State Highway Commissioner Mr Huffman in his testimony at the hearing in his cross examination says on what is known as the upper route; I never got any damages; never ask for any; would not charge damages to Joe Clark; no damages claimed showing in the opinion of the view was no doubt made at the instance of himself and Mr Joseph Clark, and not by or at the instance of the State Highway Department.

In the spring of 1922 the State Highway Commissioner surveyed and laid out the State Highway the route through the claimants land at a different location several hundred feet east of the former route on which the road has been build and notified the County Commissioners of Clearfield County were notified as required by the Act of Assembly, Act of 1921 P, L, 109. It is therefore an evident fact that the State Highway Commissioner or the highway Department had any thing to do with the route laid out in 1919 that that must have been done by some one who had no authority to act in the matter which could not bind the county nor make the County liable for the damages sustained thereby. Mr Huffman may have a remedy against some one else but clearly has no claim against the County; so that the viewers cannot take into consideration the damages done to Mr Huffman's property by the first route laid out and the excavation and filling done on said route.

See attached sheet for balance of report;

and that a plan or draft of said road showing curves and distances and the properties affected is hereto attached and made a part hereof, said road being at an elevation not exceeding five degrees, excepting

~~where the road passes over the property of the claimant.~~

The undersigned further report that they endeavored to procure from all the owners of the land over which the said road passes releases in writing of all claims to damages that may arise from opening the same, and that they procured such releases from

the following persons having refused to release the damages to which they respectively may be entitled by reason of the location and opening of the said road, we, the undersigned viewers, after having considered the advantages to be derived to them, do assess them damages and make report thereof as follows:

~~and we herewith return releases obtained and copy of the notices.~~

WITNESS our hands and seals this 23<sup>rd</sup> day of August  
A. D. 1922

A. G. Kramer Seal

E. B. Billotte Seal

J. L. Michaels Seal

Seal

No. 18 Sept. Sessions, 19 22

## ORDER

To ~~view~~ assess damages to ~~a~~  
~~road~~ Emory E. Huffman ~~in~~  
township of Burnside  
Clearfield County Penna.

July 27<sup>th</sup> Sessions 1923

read and confirmed ~~the~~ St. Road to be  
opened 33 feet wide, except where there  
is side hill cutting or embankment and  
bridging there to be 10 feet wide.

By the Court  
Angeline Bell

Filed \_\_\_\_\_ 19

Fees \$1.25 paid by \_\_\_\_\_

J. M. Urey, Atty.,

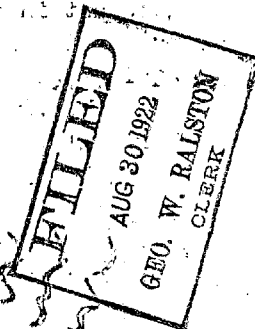
NOTE.—In case of a private road, the release must be executed in favor of the petitioner for said road.

Also, Viewers will carefully note the number of days employed and set the amount out at the foot of their return.

Reviewers cannot interfere with the damages assessed by the original viewers, except so far as the location may be changed by the reviewers.

N. B.—If the viewers believe the parties are not entitled to damages, taking into consideration the advantages as well as the disadvantages of the road, they will report to that effect.

	DAYS	MILES	AMT.



## RELEASE OF DAMAGES

Know all Men by these Presents, that we, the undersigned, owners of lands through which the road located by the viewers, under the annexed order, passes for and in consideration of the sum of one dollar to us...respectively paid by \_\_\_\_\_

\_\_\_\_\_ at and before the ensealing and delivery hereof, have remised, released and forever quit-claimed, and do hereby remise, release and forever quit-claim to the said \_\_\_\_\_

all damages that may arise to us respectfully by reason of the location and opening of the said road, so that neither we nor any of us, nor any person claiming under us, can or may hereafter ask, sue for, demand, have or receive any damages for injuries arising or growing out of the location and opening of the road aforesaid.

Witness our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_  
A. D. 192 \_\_\_\_\_

Seal  
Seal  
Seal  
Seal

IN THE COURT OF Quarter Sessions OF CLEARFIELD COUNTY.

In re-petition of E. E. Huff-

man, for assessment  
of damages in change of Route  
of State Highway No.

Of September SS. Term, 1922.  
No. 18.

Versus

Petitioner's Bill of Costs  
At September Term, 1922.

				Dollars	Cents
M. C. Porter	1	Days in attendance	9	Miles direct travel	\$2.54
William Sunderlin	1	Days in attendance	36	Miles direct travel	4.16
Frank Beck	1	Days in attendance	36	Miles direct travel	4.16
		Days in attendance		Miles direct travel	
		Days in attendance		Miles direct travel	
		Days in attendance		Miles direct travel	
		Days in attendance		Miles direct travel	
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		Days in attendance		Miles direct travel	
		Days in attendance		Miles direct travel	
		Days in attendance		Miles direct travel	
		Days in attendance		Miles direct travel	
		Serving subpoenas		Witness	
		Miles distance			
Whole amount of bill					\$10.86

CLEARFIELD COUNTY, SS:

Personally appeared before me John M. Urey, who being duly sworn, saith the above Bill of Costs is correct, that the witnesses named were subpoenaed, necessary, material, and in attendance as above stated, and that the mileage is correct as he believes.

Sworn to and subscribed before me this  
26th day of August, A. D. 1922.  
Geo. W. Halston, Prothonotary

John M. Urey

No. 18. Sept. Sessions in 1901-1922.

In re-petition of E. E. Huff  
man for assessment of damages  
for change of State Highway  
Route No. 262 in *Cambridge*  
*township*.

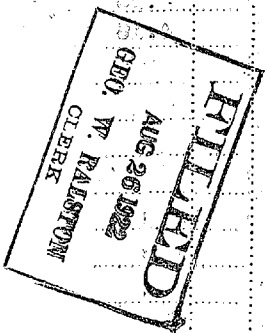
Versus:

Petitioner's Bill of Costs

For September Term 1922.

Date 190

Amount - - \$19.86.



In the Court of Quarter Sessions of Clearfield County, Pa.

In Re Construction of State : No. Sept. Sessions, 1922.  
Highway Route 262. : Petition of Emory E. Huffman for  
appointment of Viewers.

To Hon. Singleton Bell, President Judge of said Court:

The petition of Emory E. Huffman respectfully represents;

First. That he is the owner of a certain piece or tract of land situate in the Township of Burnside, County of Clearfield and State of Pennsylvania, along the State Highway leading from Indiana to Clearfield.

Second. That the State Highway Commissioner of the State of Pennsylvania has undertaken the construction of an improved state highway known as Route No. 262 through said premises, a change of width and of existing lines and location being occasioned thereby.

Third. That your petitioner has sustained damages by reason of the change of width and existing lines and location and the construction of said road at two different times, and he has been unable to agree with the County Commissioners of Clearfield County as to the amount of damages sustained by him.

Your petitioner therefore prays the Court to appoint viewers to ascertain and assess his damages as provided by the Act of Assembly approved April 6, 1921, P. L. 107, amending Section 16 of the Act of May 31, 1911, P. L. 468 and re-enacting Section 1 of the Act of July 18, 1917, P. L. 1040, and as provided by other Acts of Assembly relating to the ascertainment and assessment of damages for opening public highways.

X Emory E. Huffman

State of Pennsylvania:  
County of Clearfield : ss

On this 7 day of August, A. D. 1922, before  
me, a Justice of the Peace in and for said County, personally  
appeared the above named Emory E. Huffman, who being duly sworn  
according to law, deposes and says that the facts set forth in  
the foregoing petition are true and correct to the best of his  
knowledge, information and belief.

Sworn and subscribed

before me this  
day of August, A. D. 1922.

*C. B. Patrick J. P.*

MY COMMISSION EXPIRES  
FIRST MONDAY IN JANUARY, 1923

In the Court of Quarter Sessions  
of Clearfield County, Pa.

No. 18 Sept. Sessions, 1922.

In Re. Construction of State  
Highway No. 262.

Petition of Emory E. Huffman  
for appointment of viewers..

*Aug. 10, 1922 H. E. Huffman Esq.,  
Belleville Pa and J. S. Michaels  
are appointed viewers to in-  
vestigate and report on the  
necessity of widening  
Highway No. 262.*

*AUG 10 1922*  
Geo. W. Ralston Esq.

*W. Ralston Esq.  
Aug 10 1922  
Answer accepted for  
County Commissioners  
J. E. Johnson  
Clerk*

*Urey.  
275-2444 Hwy*