

DOCKET No. 6

Number	Term	Year
2	Sept. SS	1939

Petition of CHARLES P. NELSON and

FANNIE NELSON, for appointment of
Viewers to assess damages to property
in Lawrence Twp. Versus

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

In re: Petition of CHARLES P. NELSON and FANNIE NELSON, for appointment of viewers to assess damages in the reconstruction of State Highway Route No. 57 in Lawrence Township, Clearfield County, Pennsylvania. : No. 2 September Sessions 1939.

EXCEPTIONS OF CHARLES P. NELSON AND FANNIE NELSON TO REPORT OF VIEWERS.

Charles P. Nelson and Fannie Nelson, file the following exceptions to the report of the viewers in the above stated proceeding;

1. The report of the viewers shows that the damages sustained by Charles P. Nelson and Fannie Nelson in the opinion of the witnesses who testified at the hearing before the viewers ranged from \$3200.00 to \$6000.00 from which testimony the viewers assessed damages to the petitioners in the amount of \$250.00, which is entirely inadequate and not according to the testimony produced.

2. The viewers found that in the excavation necessitated in removing those certain portions of the petitioners' property for an unobstructed view purposes a number of small shade trees, fruit trees and shrubs were destroyed or removed to other parts of the petitioners' property, while the testimony given at the hearing showed the destruction of said shade trees, fruit trees and shrubs, but there was absolutely no testimony to the effect that any of the shade trees, fruit trees and shrubs on the property of the petitioners were removed to other parts of their property.

3. The draft attached to the report of the viewers is an incorrect representation of the property damaged in that it fails to indicate the proper location of the well on the premises and the proper location of the old road, and shows that the viewers failed to make a proper view of the premises.



4. Two of the viewers, H. A. Reese and H. A. Giles, refused to allow the petitioners sufficient time to present their case at the hearings and by their attitude at the view and at the hearings showed that they were prejudiced against the petitioners.

5. One of the viewers, H. A. Giles, made the remark at one of the hearings to the effect that it was unnecessary to take up any more time because he had been a road master in charge of this road for a number of years prior to the reconstruction and relocation of the same and knew all about it.

John M. Drey
Attorney for Exceptants

STATE OF PENNSYLVANIA :
COUNTY OF CLEARFIELD : SS:

Charles P. Nelson, one of the exceptants above named, being duly sworn according to law, deposes and says that the foregoing exceptions are true and correct to the best of his knowledge and belief.

Charles P. Nelson

Sworn and subscribed to before
me this 24 day of August,
A. D. 1939.

Wm. S. Sweeney
Brookhunting
MY COMMISSION EXPIRES FIRST
MONDAY IN JANUARY, 1940.

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

No. 2 September Sessions 1939.

In re: Petition of CHARLES P.
NELSON and FANNIE NELSON, for
appointment of viewers to
assess damages in the recon-
struction of State Highway
Route No. 57 in Lawrence
Township, Clearfield County,
Pennsylvania.

EXCEPTIONS OF CHARLES P.
NELSON AND FANNIE NELSON
TO REPORT OF VIEWERS.

*Exception Accepted
Frank B. Smith
County Auditor
Aug. 24, 1939*

FILED

AUG 24 1939

W. R. COLLINGIER

CLERK

JOHN M. UREY
ATTORNEY AT LAW
CLEARFIELD TRUST COMPANY BUILDING
CLEARFIELD, PA.

IN THE COURT OF

QUARTER SESSIONS

OF CLEARFIELD COUNTY,

In re:-Petition of Charles P. Nelson and Fannie Nelson to assess damages against Clearfield County.

—Versus—

Of September Sessions Term, 1939

No. 2

Petitioners' Bill of Costs

At September Term, 1939

				Dollars	Cents
John G. Mains	1 Days in attendance	1 Miles direct travel		2	06
Roy I. Fulton	1 Days in attendance	1 Miles direct travel		2	06
Clark Turner	1 Days in attendance	2 Miles direct travel		2	12
Alex C. Bailey	1 Days in attendance	18 Miles direct travel		3	08
S. R. Collins	2 Days in attendance	1 Miles direct travel		4	06
	Days in attendance	Miles direct travel			
	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			
	Days in attendance	Miles direct travel			
	Days in attendance	Miles direct travel			
	Serving subpoenas	Witness			
	Miles distance				
Whole amount of bill				11	38

CLEARFIELD COUNTY, SS:

Personally appeared before me Charles P. Nelson, 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 June A. D. 1939

W. R. Gallagher, Prothonotary

Charles P. Nelson

MY COMMISSION EXPIRES FIRST MONDAY IN JANUARY, 1940.

No. 2 Sept. Term, 1939

In re:- Petition of Charles F. Nelson and Fannie Nelson to assess damages against Clearfield County.

Versus

Petitioners' Bill of Costs

For September Term, 1939

Date 19

Amount -- -- \$

FILED

JUN 26 1939

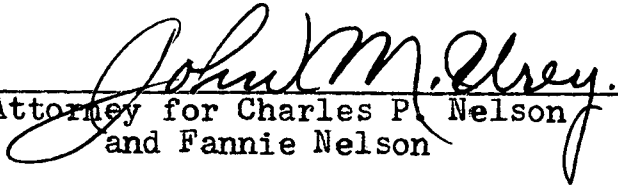
W. R. GALLAGHER
PROTEONOTARY

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNA.

IN RE: PETITION OF CHARLES P. :
NELSON AND FANNIE NELSON FOR :
APPOINTMENT OF VIEWERS TO : No. 2, Sept. Sessions, 1939
ASSESS DAMAGES IN THE RECON- :
STRUCTION OF STATE HIGHWAY :
ROUTE NO. 57 :

STIPULATION AS TO WITHDRAWAL OF EXCEPTIONS AND THAT THE
VIEWERS' REPORT SHALL BE CONFIRMED

Now, the *7th* day of October, 1939, Charles P. Nelson
and Fannie Nelson, his wife, by their attorney, John M. Urey,
hereby withdraw the exceptions filed on August 24, 1939, to the
Viewers' report previously filed on August 28, 1939, and agree
that the said Viewers' report shall be confirmed absolutely; it
is further stipulated that the said Charles P. Nelson and Fannie
Nelson, his wife, have received payment in full for the damages
described in the petition for appointment of Viewers and in the
Viewers' report.



Attorney for Charles P. Nelson
and Fannie Nelson

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNA.

IN RE: PETITION OF CHARLES P. NELSON AND FANNIE NELSON FOR APPOINTMENT OF VIEWERS TO ASSESS DAMAGES IN THE RECONSTRUCTION OF STATE HIGHWAY ROUTE NO. 57

No. 2, Sept. Sessions, 1939

VIEWERS' REPORT SHALL BE CONFIRMED
STIPULATION AS TO WITHDRAWAL OF EXCEPTIONS AND THAT THE

Now, the 7th day of October, 1939, Charles P. Nelson and Fannie Nelson, his wife, by their attorney, John M. Urey, hereby withdraw the exceptions filed on August 8, 1939, to the Viewers' report previously filed on August 8, 1939, and agree that the said Viewers' report shall be confirmed; it is further stipulated that the said Charles P. Nelson and Fannie Nelson, his wife, have received payment in full for the damages described in the petition for appointment of Viewers and in the Viewers' report.

FILED
OCT 7 1939
W. R. CALAGHER
CLERK

John M. Urey
Attorney for Charles P. Nelson
and Fannie Nelson

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

In Re: Petition of CHARLES P. : No. September Sessions 1939
NELSON and FANNIE NELSON, for :
appointment of viewers to assess :
damages in the reconstruction of :
State Highway Route No. 57 in :
Lawrence Township, Clearfield :
County, Pennsylvania. :

To Hon. W. Wallace Smith, President Judge of said Court:

The petition of Charles P. Nelson and Fannie Nelson, of the Township of Lawrence, County of Clearfield, and State of Pennsylvania, respectfully represents;

1. That your petitioners are the owners of the following described real estate:

All that certain piece, parcel or tract of land situate in the Township of Lawrence, County of Clearfield, and State of Pennsylvania, being that part of what was known as the Isaac Goon Estate lying between the Clearfield and Tyrone Railroad and the public road leading from Clearfield Creek to Clearfield. Containing about two acres, more or less. Excepting about one-quarter of an acre of said land, more or less, which Sarah J. Flegal et vir., by their deed dated March 27, 1918, and recorded in Deed Book No. 248 at page 51 granted and conveyed to the County of Clearfield, and also excepting a small piece or portion of the above described premises which A. B. Lansberry and wife, by their deed dated July 17, 1922, and recorded in Deed Book No. 258 at page 113, granted and conveyed to the Pennsylvania Railroad Company.✓

Being the same premises which Abbie Fightner by her deed dated November 6, 1924 and recorded in Deed Book No. 273 at page 66 granted and conveyed to the said Charles P. Nelson and Fannie Nelson, his wife, from which the said Charles P. Nelson and Fannie Nelson by their deed dated the ____ day of March, 1928, and recorded in Deed Book No. 286 at page 333, conveyed to A. M. Gorman a small strip of land lying between ~~the~~ Clearfield Creek and the right of way of the New York Central Railroad Company.

2. That when said land was purchased by your petitioners on

November 6, 1924, there was a small frame dwelling house thereon and shortly after said purchase your petitioners erected a two-story brick-cased dwelling house on said premises, which they used and occupied from that time up until the time of the damage complained of as a dwelling house and tourists' home, and said premises were of great value to your petitioners in their business of conducting a tourists' home.

3. That in addition to the buildings on said premises your petitioners had planted thereon a large number of peach trees, cherry trees, maple trees, white pine trees and a lot of blackberry bushes and shrubbery, and at the time of the damage complained of the peach trees were at least two years old, the cherry trees were of bearing age, the maple trees were of sufficient size to provide considerable shade and the blackberry bushes were large enough to produce berries in considerable quantities.

4. That said above described premises abut on what is known as the Lakes-to-Sea Highway, being United States Route No. 322 and State Highway Route No. 57, Section 3, for a distance of approximately 565 feet on said Highway, and prior to the damage complained of the water supply therefor was obtained from a well or spring located near a small frame dwelling house on said premises, and ingress and egress to and from said premises was had by automobile for the purpose of the tourist business conducted by your petitioners by means of a private road which they constructed from said State Highway a short distance to a point near said brick-cased dwelling house and tourists' home, which private road or driveway was supported by a brick retaining wall also constructed by the petitioners.

5. That prior to the damage complained of said brick-cased dwelling house and tourists' home was plainly visible from said Highway and your petitioners maintained a tourists' sign along the private road leading to said dwelling house and tourists' home, which attracted travelers on said Highway, many of whom applied for meals, lodging and accommodations, from which source your petitioner

derived considerable income.

6. That in the month of June, 1936, the Secretary of Highways of the Commonwealth of Pennsylvania, undertook to construct, reconstruct and improve the said State Highway, and did construct, reconstruct and improve the same in Bradford and Lawrence Townships, Clearfield County, Pennsylvania, from Station 935+99.4 to Station 1055+47.73, as approved by the Secretary of Highways and the Governor of the Commonwealth of Pennsylvania on October 2, 1935, which construction, reconstruction and improvement involved a change in width and grade as well as of existing lines and location of said Highway, and the taking and appropriating of land of the petitioners for the purpose of providing an unobstructed view down and across said land at or near the intersection of said State Highway and the New York Central Railroad and at or near the intersection of said Highway and the Pennsylvania Railroad.

7. That the changes in said Highway where the property of the petitioners abuts thereon consisted of the excavation of the roadbed and gutters to a greater depth and the extending of the slopes at the sides of the Highway to an increased width, and the construction of a twenty foot concrete road with a nine foot concrete gutter on each side thereof for a distance of approximately five hundred and sixty-five feet, which said concrete portion of the Highway and concrete gutters were constructed on a grade running from three to twelve feet lower than the grade of the driveway of said Highway previous to said change.

8. That prior to the damage complained of the well on said premises furnished, said brick-cased dwelling house and tourists' home, and the other buildings with a sufficient supply of pure water during all seasons of the year, and when said roadbed and gutters were excavated to the greater depth the stream or supply of water was cut off from the well and the supply of water was materially reduced.

9. That the land of the petitioners is bounded on the south-east by the right of way of the New York Central Railroad Company and land of Clearfield County, on the west by the right of way of the Pennsylvania Railroad Company, and on the northwest by said State Highway Route No. 57 and is triangular in shape. The surface of said land is much higher than the level of the tracks on the New York Central Railroad and the tracks on the Pennsylvania Railroad. After the grade of the State Highway had been lowered travelers on the Highway did not have an unobstructed view of approaching trains on either the New York Central Railroad or the Pennsylvania Railroad. In order to provide an unobstructed view of trains approaching ^{the crossing} on the New York Central Railroad the State Highway Department took and appropriated a piece of land averaging about twenty-five feet in width and four hundred and fifty feet in length off the east side of said property and in order to provide an unobstructed view of trains approaching ^{the crossing} on the Pennsylvania Railroad said Highway Department took and appropriated a triangular piece of land at the northern end of petitioners' premises extending along said State Highway a distance of about one hundred and thirty feet.

10. In extending the slope of the bank down to the new concrete gutter in front of the property of the petitioners the State Highway Department destroyed the driveway leading up to petitioners' premises, the brick wall supporting said driveway and a lot of shrubbery ~~of considerable value~~ of considerable value, and the petitioners were required to construct a new driveway from the northern ~~end~~ end of the premises for access thereto at considerable expense.

11. In taking and appropriating the piece of land off the east side of the property of the petitioners for the purpose of providing an unobstructed view of trains approaching the New York Central Railroad crossing of said Highway, the State Highway Department destroyed ^{six cherry trees,} five two year old peach trees, a lot of blackberry bushes and a lot of shrubbery, which were of considerable value to the petitioners.

✓ 12. As a result of said changes to said premises in the construction, reconstruction and improvement of said State Highway and the taking and appropriating of land by the Highway Department of the Commonwealth of Pennsylvania for the purpose of providing an unobstructed view of trains approaching the crossing of the New York Central Railroad and the crossing of the Pennsylvania Railroad your petitioners have suffered loss and said property has been reduced in value as follows;

✓ (a) By the taking and appropriating of a strip of land of your petitioners about ten feet in width and about five hundred and sixty-five feet in length on the west side of said State Highway.

(b) By the destruction of the private road running from said State Highway to a point near said brick-cased dwelling house and tourists' home and the destruction of the brick retaining wall which supported the same.

(c) By the partial destruction of the spring or underground stream which furnished the supply of water to said premises.

(d) By the destruction of four two year old peach trees, six cherry trees of bearing age, seven maple trees, two white pine trees, a lot of blackberry bushes and a lot of shrubbery.

(e) By the loss of the entire tourist business conducted by the petitioners on said premises.

(f) By taking and appropriating a piece of land averaging about twenty-five feet in width and being about four hundred and fifty feet in length off the east side of the property of the petitioners for the purpose of providing an unobstructed view of trains approaching the New York Central Railroad crossing of said Highway.

(g) By taking and appropriating a point or piece of land at the northern end of petitioners' premises lying between the right of way of the Pennsylvania Railroad Company and said State Highway and extending along the said Highway a distance of about one hundred and thirty feet for the purpose of providing an unobstructed view of trains approaching the Pennsylvania Railroad crossing of said Highway.

13. That before proceeding with the construction, reconstruction and improvement of said Highway the Secretary of Highways of the Commonwealth of Pennsylvania notified the County Commissioners of Clearfield County, in writing, of the contemplated change in the width, ^{grade} and existing lines and location of said Highway, furnished them with a copy of the plans thereof, showing the changes in the width, ^{grade} and existing lines and location of said Highway and the land to be taken for the purpose of providing an unobstructed view of trains approaching said railroad crossings, and on August 31, 1935, the County Commissioners of Clearfield County agreed in writing that the County of Clearfield would assume any liability for property damage, resulting from the construction of the Highway as contemplated by said plans, provided that said undertaking should not become binding upon Clearfield County until it should receive from or through the Commonwealth of Pennsylvania the funds withheld from the Liquid Fuels Tax that would otherwise have been payable to it, as appears from a resolution adopted at a meeting of said County Commissioners held on said date, a copy of which resolution is hereto attached, marked Petitioners' Exhibit "A" and made part of this petition.

14. That on November 20, 1935, the Secretary of Highways of the Commonwealth of Pennsylvania forwarded to the Commissioners of Clearfield County a print of the approved plans for the relocation, construction and condemnation of right of way for Route 57, Section 3, Clearfield County, between Stations 935+99.4 and 1055+47.73 for which the County had assumed responsibility for property damages, which print of the said approved plans showed the changes to be made in said Highway along the land of the petitioners and the part of said land to be appropriated for the relocation and reconstruction of said Highway and also the land of the petitioners to be appropriated for the purpose of obtaining an unobstructed view of trains approaching on the New York Central Railroad and on the Pennsylvania Railroad, and suggested that if any property was to be condemned by

These plans for which releases had not been obtained that the County should endeavor to secure such releases at the earliest opportunity, a copy of which notice and request is also hereto attached, marked Petitioners' Exhibit "B" and made part of this petition.

15. It is averred that Clearfield County has received from or through the Commonwealth of Pennsylvania the funds that were withheld from the Liquid Fuels Tax which were referred to in said resolution adopted at a meeting of the County Commissioners of said County held on August 31, 1935.

16. It is also averred that the County Commissioners of Clearfield County have refused to enter into an agreement with the petitioners as to the amount of damages to be paid as provided by Section 3 of the Act of Assembly approved the 12th day of July, 1935 P. L. 946, which was the law in force when the County Commissioners of Clearfield County adopted the resolution agreeing that the County would assume any liability for property damage resulting from the construction of the Highway as contemplated by the plans approved by the Secretary of Highways and the Governor of the Commonwealth of Pennsylvania on October 2, 1935, a copy of which plans had been submitted to the County Commissioners and examined by them.

17. It is further averred that when the excavation was started for the removal of that part of the petitioners' land which obstructed the view of approaching trains on the New York Central Railroad that Charles P. Nelson, one of the petitioners, objected and refused to allow the work to go on, that the matter was reported to the County Commissioners and that all three County Commissioners went out to the property in company with a representative of the State Highway Department and agreed that the County of Clearfield would pay all damages sustained by the petitioners on account of the removal of that part of their land which obstructed the view from the Highway of trains approaching the crossings of the New York Central Railroad and the Pennsylvania Railroad, if the contractor was permitted to proceed with the excavation.

the excavation. It is further averred that the County Commissioners of Clearfield County at that time agreed with the said Charles P. Nelson in the presence of the representative of the State Highway Department that they would pay for the expense of constructing the new private road which it was necessary to construct for access to the premises in place of the private road running from the said State Highway to a point near the brick-cased dwelling house and tourists' home, and that the County of Clearfield would pay all other damages to the property of the petitioners caused by the construction, reconstruction and improvement of said State Highway according to the plans approved by the Secretary of Highways and the Governor of the Commonwealth of Pennsylvania which had been submitted to the County Commissioners of Clearfield County.

Your petitioners therefore pray your Honorable Court to appoint viewers to ascertain and assess the damages that they, as owners of said land, are entitled to receive by reason of the relocation, construction, reconstruction and improvement of said State Highway through said land, and by the appropriation of parts of said land for the purpose of providing an unobstructed view or views of trains approaching the crossings of said Highway on the New York Central Railroad and on the Pennsylvania Railroad.

Charles P. Nelson

Fannie Nelson

STATE OF PENNSYLVANIA :
: ss.
COUNTY OF CLEARFIELD :

Charles P. Nelson, ^{Fannie Nelson,} and ^{the} petitioners above named, being duly sworn according to law deposed and says that the facts set forth in the foregoing petition are true and correct to the best of their knowledge, information and belief.

Charles P. Nelson

Sworn and subscribed to before

Fannie Nelson

me this 6 day of May, 1939.

A. D. 1939.

W. R. Gallagher
Prothonotary

ORDER OF COURT

AND NOW May 1 Y, 1939, the within petition having been presented, read and considered, A. B. Shaw, Esq., and H. A. Rice, and H. A. Giles are appointed viewers to view and assess the damages of the within named petitioners and make report to the Court as provided by law.

By the Court,

R. Walter Smith

P. J.

PETITIONER'S EXHIBIT "A"

Be it resolved by the County Commissioners of Clearfield County, that the plans submitted by the Department of Highways for the changing of the State Highway Route 57 in Bradford and Lawrence Townships between Station 935-99.4 and Station 1055-47.73 have been examined and the County Commissioners agree that the County will assume any liability for property damage resulting under Act 32, approved April 13, 1933, from the construction of the highway as contemplated by these plans; that this undertaking shall not become binding upon Clearfield County until it shall have received from or through the Commonwealth of Pennsylvania the funds that have been withheld from the Liquid Fuels Tax that would otherwise have been payable to it.

J. C. Gatehouse

W. T. Thorp

W. V. Carr

Commissioners

I hereby certify that the foregoing resolution was duly adopted at a meeting of the County Commissioners held August 31, 1935, and that it has been recorded as required by law.

Myra E. Lucas

Assistant Clerk

COUNTY SEAL

August 31, 1935

PETITIONER'S EXHIBIT "B"

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HIGHWAYS

Harrisburg

November 20, 1935

O.R. 221
Clearfield
R. 57-3

Commissioners of Clearfield County
Clearfield,
Pennsylvania.

Gentlemen:

We are forwarding to you a print of the approved plans for the relocation, construction and condemnation of right-of-way for Route 57, Section 3, Clearfield County, between Stations 935/99.4 and 1055/47.73, for which the county has assumed responsibility for property damages.

If any property is condemned by these plans for which releases have not been obtained, the county should endeavor to secure them at the earliest opportunity.

If any structures are to be removed, prompt action should be taken by the county so that construction may not be delayed.

Very truly yours,

Warren Van Dyke
Secretary of Highways

By P. M. Tebbs
Deputy Secretary of Highways

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

No. 2 Sept. Sessions 1933

In Re: Petition of CHARLES F.
NELSON and FANNIE NELSON, for
appointment of viewers to
assess damages in the recon-
struction of State Highway
Route No. 57.

PETITION FOR APPOINTMENT OF
VIEWERS

5-17

JOHN M. UREY
ATTORNEY AT LAW
CLEARFIELD TRUST COMPANY BUILDING
CLEARFIELD, PA.

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 8th day of May
in the year of our Lord one thousand nine hundred
thirty-nine

Charles P. Nelson
Judge of the same Court: Upon the petition of ~~XXXXXX~~
and Fannie Nelson
~~XXXXXX~~ of the Township of Lawrence
in said County, setting forth that

Your petitioners are the owners of the following described real estate:

All that certain piece, parcel or tract of land situate in the Township of Lawrence, County of Clearfield and State of Pennsylvania, being that part of what was known as the Isaac Goon Estate lying between the Clearfield and Tyrone Railroad and the public road leading from Clearfield Creek to Clearfield Containing about two acres, more or less, Excepting about one-quarter of an acre of said land, more or less, which Sarah J. Flegal et vir., by their deed dated March 27, 1918, and recorded in Deed Book No. 248 at page 51 granted and conveyed to the County of Clearfield, and also excepting a small piece or portion of the above described premises which A. B. Lansberry and wife, by their deed dated July 17, 1922, and recorded in Deed Book No. 258 at page 113, granted and conveyed to the Pennsylvania Railroad Co. Being the same premises which Abbie Fightner by her deed dated November 6, 1924 and recorded in Deed Book No. 273 at page 66 granted and conveyed to the said Charles P. Nelson and Fannie Nelson, his wife, from which the said Charles P. Nelson and Fannie Nelson by their deed dated the day of March, 1928, and recorded in Deed Book No. 286 at page 333, conveyed to A. M. Gorman a small strip of land lying between Clearfield Creek and the right of way of the New York Central Railroad Company.

That said above described premises abut on what is known as the Lakes-to-Sea Highway, being United States Route No. 322 and State Highway Route No. 57, Section 3, for a distance of approximately 565 feet on said Highway.

As a reselut of changes to said premises in the construction, reconstruction and improvement of said State Highway and the taking and appropriating of land by the Highway Department of the Commonwealth of Pennsylvania for the purpose of providing an unobstructed view of trains approaching the crossing of the New York Central Railroad and the crossing of the Pennsylvania Railroad your petitioners have suffered loss and said property has been reduced in value as follows: (a) By the taking and appropriating of a strip of land of your petitioners about ten feet in width and about five hundred and sixty-five feet in length on the west side of said State Highway. (b) By the destruction of the private road running from said State Highway to a point near said brick-cased dwelling house and tourists' home and the destruction of the brick retaining wall which supported the same. (c) By the partial destruction of the spring or underground stream which furnished the supply of water to said premises. (d) By the destruction of four two year old peach trees, six cherry trees of bearing age, seven maple trees, two white pine trees, a lot of blackberry bushes and a lot of shrubbery. (e) By the loss of the entire tourist business conducted by the petitioners on said premises. (f) By taking and appropriating a piece of land averaging about twenty-five feet in width and being about four hundred and fifty feet in length off the east side of the property of the petitioners for the purpose of providing an unobstructed view of trains approaching the New York Central Railroad crossing of said Highway. (g) By taking and appropriating a point or piece of land at the northern end of petitioners' premises lying between the right of way of the Pennsylvania Railroad Company and said State Highway and extending along the said Highway a distance of about one hundred and thirty feet for the purpose of providing an unobstructed view of trains approaching the Pennsylvania Railroad crossing of said Highway.

The County Commissioners of Clearfield County have refused to enter into an agreement with the petitioners as to the amount of damages to be paid as provided by Section 3 of the Act of Assembly approved July 12, 1935 P.L. 946.

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 Township of

_____ and that Three notices thereof were posted along the route of the proposed road, that the said view would be held on the 23rd day of May

A. D. 1923 ^{Grand Jury} and the hearing to be held in the ~~Excavation~~ Room, at the Court House, in Clearfield, Pa., on the 25th day of May, 1923, at 10:30 o'clock A.M. That

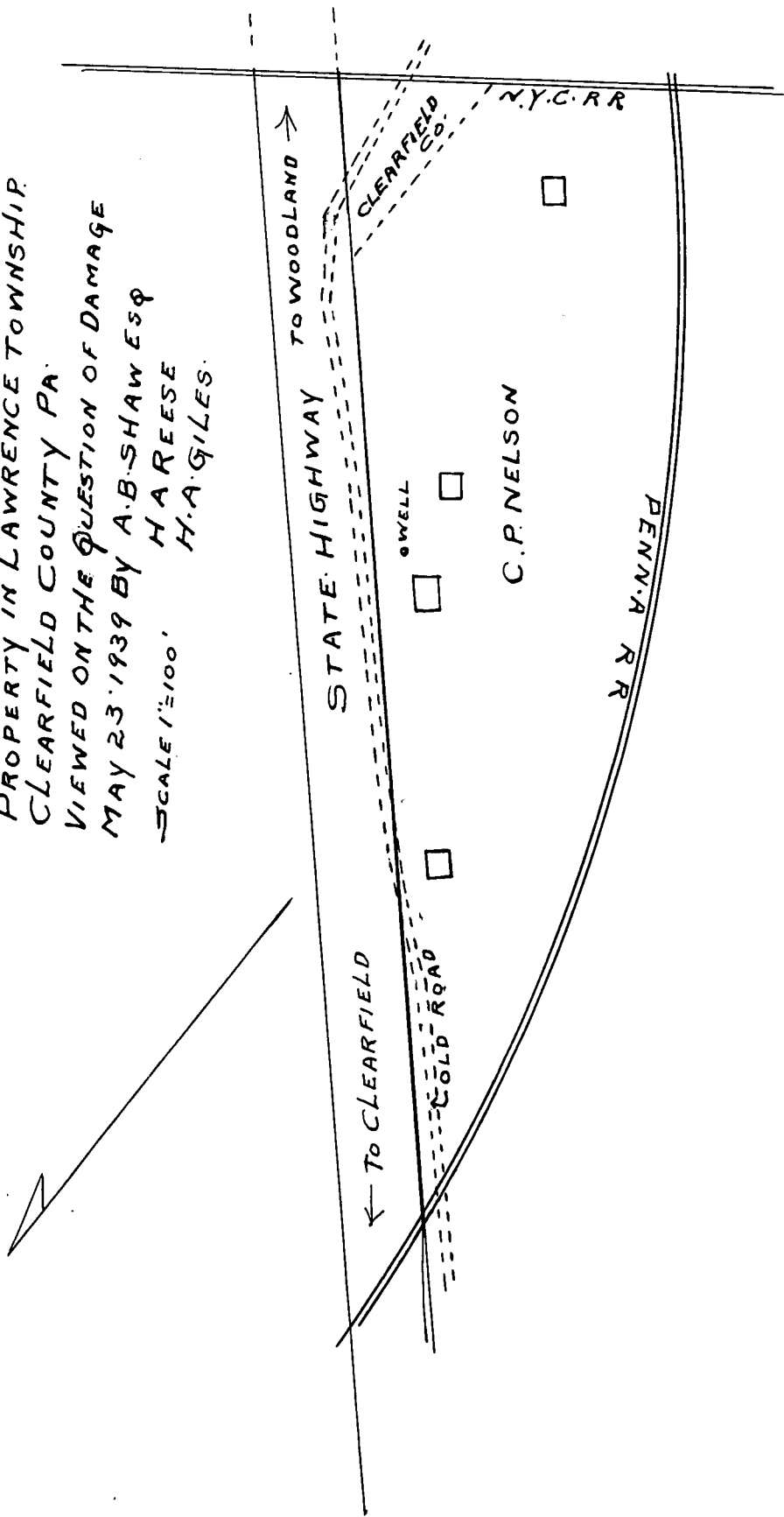
the _____ viewers appointed by the said order viewed the ground proposed for the above mentioned road, and that there were present at the view Charles P. Nelson and Fannie Nelson, his wife, Petitioners, and C. J. Turner, Witness.

parties in interest. That the hearing was held in the ^{Grand Jury} ~~Excavation~~ Room, in the Court House, at Clearfield, Pa., on the 25th day of May A. D. 1923, when the following appearances were noted: John M. Urey, Esq., Attorney for the Petitioners; Charles P. Nelson and Fannie Nelson, his wife; together with the following witnesses for the Petitioners: C. J. Turner, John Maines and Roy Fulton; and S. R. Collins, State Highway Engineer, also Robert V. Maine, Esq. of the Law Firm of Smith & Maine, Solicitors for Clearfield County.

Testimony was taken of the witnesses present but there being an uncertainty as to the liability ~~of~~ ^{for the damages} the County of Clearfield resulting from the construction and relocation of said highway through the Petitioners' property, the hearing was continued to Thursday, the 22nd day of June, A.D., 1939, at 10:30 o'clock A.M. in order that due notice could be served on the Secretary of the Commonwealth for the purpose of establishing ~~upon~~ whether or not the liability for damages in this case should be paid by the Commonwealth of Pennsylvania or by Clearfield County, at which continued hearing there appeared: John M. Urey, Esq. Attorney for the Petitioners, together with Charles P. Nelson and Fannie Nelson, his wife, and Alex Bailey, a witness for the Petitioners, also W. Albert Ramey, Esq., representing the Commonwealth of Pennsylvania, and Robert V. Maine, Esq., of the Law Firm of Smith & Maine, Solicitors for Clearfield County.

After the view and hearings above mentioned, the undersigned, the majority of the said viewers, do agree that damage as been sustained by Charles P. Nelson and Fannie Nelson, his wife, of Lawrence Township, Clearfield County, Pennsylvania, by reason of the construction and relocation of State Highway Route #57, Sec. 3A, through their premises. That after a view and the hearings held in this case, it would appear that no land was taken from Charles P. Nelson et ux in the construction and relocation of said Highway, excepting two small portions thereof, the same being condemned by the Highway Department for unobstructed view purposes. The one portion of the Petitioners' property, condemned as aforesaid for unobstructed view purposes, being the extreme northwestern portion of the Petitioners' property where the Pennsylvania Railroad right-of-way and State Highway Route #57, Sec. 3A, intersect. The other portion thereof being the extreme southeast portion of the Petitioners' property where the New York Central right-of-way and the State Highway Route #57, Sec. 3A, intersect. That in the excavation necessitated in removing those certain portions of the Petitioners' property for unobstructed view purposes, a number of small shade trees, fruit trees and shrubs were destroyed or removed to other parts of the Petitioners' property. That the original private driveway which led off from the south side of the old State Highway and which furnished access to and from the Petitioners' property was destroyed by the change of grade of the new Highway, which necessitated ^{the} construction of a new private road along the north side of the Petitioners'

PROPERTY IN LAWRENCE TOWNSHIP
CLEARFIELD COUNTY PA.
VIEWED ON THE QUESTION OF DAMAGE
MAY 23, 1939 BY A.B. SHAW ESQ
H.A. REESE
H.A. GILES
SCALE 1" = 100'



Road Viewers' Notice

NOTICE IS HEREBY GIVEN that the undersigned Viewers, appointed by the Court of Quarter Sessions of Clearfield County, Pennsylvania, to view a Road or assess damages, ~~leading from and between, in and, by reason of the construction and~~ relocation of State Highway Route 67, Section 6A, through the premises of Charles P. Elcock and Fannie Elcock of the Township of

~~in the Township of~~ Township of

in ~~Lawrence~~ Township, in the County aforesaid, will meet at the house of ~~Charles P. Elcock and Fannie Elcock~~ in ~~Lawrence~~ Township, on ~~Tuesday~~ the ~~22nd~~ day of ~~May~~, A. D. 1928, at 10:00 o'clock A. M., to attend to the duty assigned them, of which time and place aforesaid, all parties interested will take notice.

AND THAT THE PUBLIC HEARINGS AS REQUIRED BY ACT OF ASSEMBLY AND RULES OF COURT SO BE HELD BY THE VIEWERS BEFORE THE FILING OF THEIR REPORT IN COURT, IN ORDER TO GIVE ALL PARTIES INTERESTED IN SAID ROAD AN OPPORTUNITY TO BE HEARD, WILL BE HELD IN THE GRAND JURY ROOM OF THE COURT HOUSE AT CLEARFIELD ON THURSDAY THE 28TH DAY OF MAY, A.D., 1928 AT 10:00 O'CLOCK A.M. AT WHICH TIME AND PLACE ALL PARTIES INTERESTED MAY ATTEND AND BE HEARD IF THEY SO DESIRE.

A. B. GILES

H. A. GILES

FANNY ELCOCK

VIEWSERS

MAY 12,

19 28

TO THE COUNTY COMMISSIONERS OF CLEARFIELD COUNTY, PENNSYLVANIA:

NOTICE OF VIEW

You are hereby notified that the undersigned Viewers, appointed by the Court of Quarter Sessions of Clearfield County on the 8th day of May, A.D., 1939 to assess the damages and benefits, if any, by reason of the construction and relocation of State Highway Route #57, Section 3A, through the premises of Charles P. Nelson and Fannie Nelson, situate in the Township of Lawrence, Clearfield County, Pennsylvania, will meet on the premises on Tuesday the 23rd day of May A.D., 1939 at 10:30 o'clock A.M. to attend the duties assigned them and that the public hearing as required by Act of Assembly and Rules of Court to be held by the Viewers before the filing of their report in Court, in order to give all parties interested in said road an opportunity to be heard, will be held in the Grand Jury Room in the Court House at Clearfield on Thursday the 25th day of May A.D., 1939 at 10:30 o'clock A.M. at which time and place all parties interested may attend and be heard if they so desire.

A. B. Shaw

H. A. Giles

Harry Reese

Viewers

NOW THIS 10th day of May, A.D., 1939, service of the above notice is accepted for the County Commissioners of Clearfield County, Pennsylvania.

Myra E. Lucas
Clerk

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

In re: Petition of CHARLES P. : No. 2 September Sessions 1939
NELSON and FANNIE NELSON for :
appointment of viewers to assess :
damages in the reconstruction :
of State Highway Route No. 57 :
in Lawrence Township, Clearfield :
County, Pennsylvania. :

To Hon. I. Lamont Hughes, Secretary of Highways of Pennsylvania,
Harrisburg, Pa.

You are hereby notified that the undersigned viewers, appointed by the Court of Quarter Sessions of Clearfield County on the 8th day of May, A. D. 1939, to assess the damages and benefits, if any, by reason of the change in width, lines, relocation and grades and the taking of lands for unobstructed views in the construction and reconstruction of State Highway Route No. 57, Section 3A, through the premises of Charles P. Nelson and Fannie Nelson, situate in the Township of Lawrence, Clearfield County, Pennsylvania, will hold an adjourned public hearing in the Grand Jury Room of the Court House in the Borough of Clearfield, County of Clearfield, and State of Pennsylvania, on Thursday the 22nd day of June A. D. 1939 at 10:30 o'clock A. M., at which time and place all parties interested may attend and be heard if they so desire.

A. B. Shaw

H. A. Reese

H. A. Giles

Viewers

RETURN OF SERVICE

Served the above notice on the above named Hon. I. Lamont Hughes, Secretary of Highways of the Commonwealth of Pennsylvania, at his office in the City of Harrisburg, Pennsylvania, this 2nd day of June, 1939 ^{at 9-30 AM} by handing him personally a true and attested copy thereof, and at the same time and place I also served upon the

said Hon. I. Lamont Hughes, Secretary of Highways of the Commonwealth of Pennsylvania, a certified copy of the petition and order of Court in the proceedings filed in the Court of Quarter Sessions of Clearfield County by Charles P. Nelson and Fannie Nelson to No. 2 September Sessions 1939 for the appointment of viewers to assess damages in the reconstruction of State Highway Route No. 57 in Lawrence Township, Clearfield County, Pennsylvania. So Answers,
So answers

W W Caldwell

Sheriff of Dauphin Co. Penn'a

Sworn and subscribed to before

By Thomas L. Snyder
Deputy Sheriff

me this 2nd day of June, A. D.

1939.

Lea R. Poorman
Prothonotary

Copy of written notice + petition
for appointment of viewers served
accepted this 2nd day of June, 1939 Secretary of Highways
I. Lamont Hughes.
By: Philip H. Hughes
Highways Council

(100)

Be it resolved by the County Commissioners of Clearfield County, that the plans submitted by the Department of Highways for the changing of the State Highway Route 57 in Bradford and Lawrence Townships between Station 935-99.4 and Station 1055-47.73 have been examined and the County Commissioners agree that the County will assume any liability for property damage resulting under Act 32, approved April 13, 1933, from the construction of the highway as contemplated by these plans; that this undertaking shall not become binding upon Clearfield County until it shall have received from or through the Commonwealth of Pennsylvania the funds that have been withheld from the Liquid Fuels Tax that would otherwise have been payable to it.

J. C. Gatehouse

W. T. Thorp

W. V. Carr

Commissioners

I hereby certify that the foregoing resolution was duly adopted at a meeting of the County Commissioners held August 31, 1935, and that it has been recorded as required by law.

Myra E. Lucas

COUNTY SEAL

Assistant Clerk

August 31, 1935

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HIGHWAYS

Harrisburg

November 20, 1935

O.R. 221
Clearfield
R. 57-3

Commissioners of Clearfield County
Clearfield,
Pennsylvania.

Gentlemen:

We are forwarding to you a print of the approved plans for the relocation, construction and condemnation of right-of-way for Route 57, Section 3, Clearfield County, between Stations 935-99.4 and 1055-47.73, for which the county has assumed responsibility for property damages.

If any property is condemned by these plans for which releases have not been obtained, the county should endeavor to secure them at the earliest opportunity.

If any structures are to be removed, prompt action should be taken by the county so that construction may not be delayed.

Very truly yours,

Warren Van Dyke
Secretary of Highways

By P. M. Tebbs
Deputy Secretary of Highways

C
O
P
Y

June 10, 1936

Mr. W. J. Carroll
District Engineer
Department of Highways
Clearfield, Pennsylvania

Dear Sir:

In signing for the right-of-way on Route 57, Section 3, Clearfield County, between station 935/99.4 and station 1055/47.73, it was the intention of our resolutions, that it was to include all of the area shown on the plans to be condemned for safe sight distance.

J. C. Gatehouse
T. R. Weimer
W. V. Carr

County Commissioners

property at the top of the slope on the south side of the present Highway and parallel thereto, the cost of which was partly borne by the Petitioners. It was also brought to the attention of the viewers and testified to that the well upon the Petitioners' property has been somewhat depleted in its water supply by reason of the construction and relocation of said Highway, but from the position and nature of the strata of rock which forms part of the slope on the south side of the new Highway adjacent to the Petitioners' property, it is the consensus of opinion of the viewers that the change of grade of said Highway did not effect materially, if any, the previous water supply of the Petitioners.

The amount of damage claimed by Charles P. Nelson and Fannie Nelson, his wife, the Petitioners, and as testified to by their witnesses, ranges from \$3200.00 to \$6000.00. After viewing the premises and taking into consideration the special benefits accruing thereto by reason of the construction and relocation of an improved Highway past the premises of Charles P. Nelson and Fannie Nelson, his wife, your viewers are of the opinion that the foregoing estimates are far out of proportion to the damage sustained, but that Charles P. Nelson and Fannie Nelson, his wife, should be compensated for the land taken and occupied and the damage and inconvenience caused them in the construction and relocation of said Highway, and do assess to the said Charles P. Nelson and Fannie Nelson, his wife, damages in the amount of \$250.00, the same to be paid by Clearfield County in accordance with its resolution and agreement, copies of which are hereto attached and made a part hereof.

and that a plan or draft of said road showing courses 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

when it was not practical to preserve it within that limit.

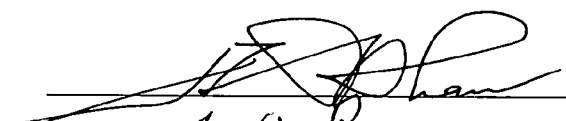
The undersigned further report that they endeavored to procure from all the owners of the land over which the said road passes releases in writing of all claims to damages that may arise from opening the same, and that they procured such releases from

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, were the undersigned viewers respectively having considered the damages to be determined to them, do assess the same damages and make report thereof as follows:

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

WITNESS our hands and seals this 8th day of August

A. D. 1923.

 Seal
H. A. Reese Seal
H. A. Giles Seal
Seal

ORDER

To view and assess damages ~~to~~
for CHARLES P. NELSON ~~use the~~
and FANNIE NELSON
township of Lawrence
Clearfield County

Sessions, 19

read and confirmed Ni. Si. Road to be
opened 33 feet wide, except where there
is side hill cutting or embankment and
bridging, there to be 16 feet wide.

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	AM'T.
A. B. Shaw	4	8	40.40
H. A. Giles	3	15	30.75
H. A. Reese	4	96	44.80

To costs paid W.W.Caldwell,
Sheriff of Dauphin County,
by A.B.Shaw, Esquire, for
service of notice of hearing
on I. Lamont Hughes, Secretary
of Highways. - - - - - \$4.85

FILED
AUG 8 1939
W. R. GALLAGHER
CLERK

Filed 19
Fees \$1.25 paid by

John M. Urey, Attorney

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