

DOCKET No. 7

Number	Term	Year
2	Dec.	1943

In Re: Assessment of Damages to
Property of Foster G. Norris in
Pike Twp.

Versus

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 Pike and that three notices thereof were posted along the route of the proposed road, that the said view would be held on the ninth day of December A. D. 1923, and the hearing to be held in the ~~Arraignment~~ Room, at the Court House, in Clearfield, Pa., on the 16th day of December, 1923, at 10:30 o'clock A.M. That the three viewers appointed by the said order viewed the ground proposed for the above mentioned road, and that there were present at the view Foster Norris, A.B. Shaw, Esq., Chas. Middleton, and John Smeal, Supervisors of Pike Township; Ira Jay, County Commissioner, and Arthur Rowles,

parties in interest. That the hearing was held in the ~~Arraignment~~ Room, in the Court House, at Clearfield, Pa., on the 16th day of December A. D. 1923, when the following appearances were noted: Foster G. Norris, petitioner, with his Counsel A.B. Shaw, Esq.; Chas. Middleton and John C. Smeal, Supervisors of Pike Township, with M.L. Silberblatt, Esq., of Bell & Silberblatt, Atty's. Foster G. Norris, Ernest Rowles and Arthur Rowles, witnesses on behalf of petitioner, Chas. Middleton and John C. Smeal, Supervisors and Dan. Bailey, Dist: Twp. Engr., of the State Dept. of Highways, all sworn, examined and cross-examined by Counsel and your Board.

After the view and hearing above mentioned, the undersigned, the majority of the said viewers, do agree ~~that the XXXXXXXXX occasion for a road as desired by the petitioner, and that the same is XXXXXXXXX necessary for a XXXXXXXXX and having due respect to the shortest distance and the best grade for such road which have laid out in such manner as shall be the least injurious to private property, and as far as practicable agreeably to the desire of the petitioner, and the road for XXXXXXXXXXXXXXX the following described road to wit~~ Beginning that damages have been sustained by the petitioner. We further find that Township Road, Route 454, passing through the Farm of petitioner, in Pike Township, was re-constructed and repaired by placing thereon a 14-foot, 8-inch, stone base Road with four foot shoulders where it was practicable to do so, and in doing so, raised the said highway: at one point (in front of petitioner's Garage) above the ordinary grade thereof.

That in so changing the grade of said road, the Supervisors did not open ditches along the sides of the road of sufficient capacity to take and carry off the surface water from one side of the road to the other by culverts of sufficient capacity and adequate to the maximum volume of water to be taken care of; and in so ditching the road, and in erecting mounds of earth on the opposite side from the ditching, carrying the water varying distances across natural outlets, and accumulating it in large quantities and channeling it across petitioner's cultivated lands instead of distributing it over the fields as heretofore, the Supervisors did not comply with the plans and specifications of the State Department of Highways.

That in making the permanent improvements to the road, the Supervisors bettered the grade, curves were eliminated, some of the higher places were cut down and some of the lower places filled up, but with material hauled in containing some deleterious substance. One of the fills in the road was in front of petitioner's Garage, rendering access thereto from the public road more difficult than it was before; and in order to close the Garage, it will be necessary to change the doors from "swinging-doors" to "over-head doors", or raise the building.

Very little of petitioner's land was taken, used or appropriated in making the improvement; the damage done being in consequence of the change of the grade of the road in front of the Garage; the precipitating upon his farm land of a large body of water, in channels, which did not naturally thus flow upon it; and the use of material hauled in, for surfacing said road, containing some deleterious substance the draining from which destroys all vegetation over which it flows.

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 17th day of November in the year of our Lord one thousand nine hundred forty-three

Judge of the same Court: Upon the petition of ~~sundry in~~
~~habitants of the Township of~~ Foster G. Norris, Pike

in said County, setting forth that by reason of resurfacing and improvement of Township Road Route #454 by the Pike Township Road District were changed from the course of said road and approximately one and one-half acres of your petitioners land was taken and damages done and your petitioner has not been compensated for said damages done and land taken.

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 John Scollins, Esq. H. A. Reese and T. C. McGarvey

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, ~~and upon 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. W. Wallace Smith, President Judge.

J. Harold M. Fassler, Clerk.

PROPERTY IN PIKE TOWNSHIP
CLEARFIELD COUNTY PA.
VIEWED UPON A QUESTION OF
DAMAGE
DEC. 9-1943 BY JOHN SCOLLINS ESQ
SCALE 1" = 300' H. REESE
T. C. McGARVEY

NO 2 DEC 43

TO CURWENSVILLE

HOUSE

GARAGE

BARN

FOSTER

NORRIS

A & L ROWLES

To: The County Commissioners of Clearfield County, Pa., :

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENN'PA.

IN RE: Order to view and assess damages to property of Postor G. Morris, by reason of the construction and re-location of Township Road Route #486 in Palo Township. No. 8, December Term, 1943.

You are hereby notified that the undersigned Viewers, appointed by this Court to the above number and term, to view and assess damages to the property of Postor G. Morris, by reason of the construction and re-location of Township Road Route #486 in Palo Township, in the County aforesaid, will meet at the property of Postor G. Morris in Palo Township aforesaid, on Thursday, December 8th, 1943 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 hearing required by 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 in the said damages an opportunity to be heard, will be held in the Grand Jury Room in the Court House in Clearfield, on Thursday, December 16th, 1943 at 10:30 o'clock A. M., or as soon thereafter as counsel can be heard, at which time and place all parties interested may attend and be heard.

John Scallion
N. A. Reese
T. C. McGarvey
VIEWERS

Dated: November 24th, 1943.

CLEARFIELD COUNTY, SS:

Now, this 24th day of November, 1943, service of the above notice is accepted for the Commissioners of Clearfield County.

J. A. Reese
Chief Clerk

TO: John C. Smeal, R. M. Ward and Charles Middleton,
Supervisors of Pike Township, Clearfield County:-

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENN'A.

IN RE: Order to view and
assess damages to property
of Foster G. Norris, by reason
of the construction and re-
location of Township Road
Route #454 in Pike Township.

NO. 2, December Term, 1943.

You are hereby notified that the undersigned Viewers,
appointed by the Court to the above number and term, to view and
assess damages to the property of Foster G. Norris, by reason of
the construction and re-location of Township Road Route #454 in
Pike Township, in the County aforesaid, will meet at the property
of Foster G. Norris in Pike Township aforesaid, on Thursday,
December 9th, 1943 at 10:30 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 hearing required by 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
in the said damages an opportunity to be heard, will be held in
the Grand Jury Room in the Court House in Clearfield, on Thursday,
December 16th, 1943 at 10:30 o'clock A. M., or as soon thereafter
as counsel can be heard, at which time and place all parties
interested may attend and be heard.

John Smeal
J. N. A. Reese
J. C. McGarvey
Viewers

Dated: November 24th, 1943.

CLEARFIELD COUNTY, SS:

Now, this 26 day of November, 1943, service
of the above notice is accepted for the Supervisors of Pike
Township, Clearfield County.

John C. Smeal
Charles Middleton

Supervisors.

After viewing the premises and conditions, hearing the evidence, and taking into consideration all the benefits and advantages accruing to said property, occasioned by the straightening, re-grading and improvement to said township road, Route 454, your Board concludes as a matter of Law, that the petitioner has suffered damage, and under the Act of May 1, 1933, P.L. 103, and amendments thereto, is to be compensated therefor.

It was agreed by Counsel, both for the petitioner and the Supervisors of Pike Township, that it be stipulated of record: that the Order of Court, made in this proceeding December 2, 1943, was based upon a mistake of fact, and irrelevant to the matter in issue before your Board.

Your Board further finds as a fact that the said premises are subject to the lien of a Judgment in favor of the Curwensville State Bank, of Curwensville, Pa., a creditor.

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 ~~waiving 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 respectfully 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: Foster G. Norris, the petitioner, the sum of One Hundred (\$100.00) Dollars, payable to the Curwensville State Bank, Curwensville, Pa., Judgment creditor,

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

WITNESS our hands and seals this 23rd day of December
A. D. 1943.

John Bellino Seal
R. A. Rees Seal
T. C. McGawey Seal
Seal

No. 2 Dec Sessions, 1943

ORDER

To view and Assess Damages a road for Foster G. Norrise in the township of Pike
Clearfield County _____

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.

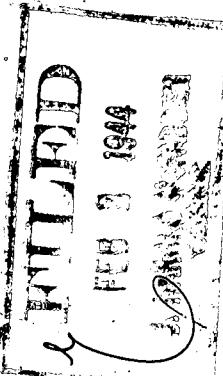
	DAYS	MILES	AM'T.
H. A. Reese	2	48	22.40
T. C. McGarvey	1	43	12.15
John Scollins	2	56	22.80

____ 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.
Feb. 2, 1944, Confirmed in s^t.
E. J. Starnes M'Gaddens
Roadmaster.

Feb. 8, 1944
E. J. Starnes M'Gaddens
Roadmaster.

19
BENSON & SPARKS
A. B. Shaw, Atty.

Filed _____



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 af 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, PENNA.

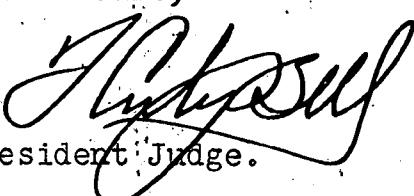
In re: Petition for the :
Appointment of Viewers to :
Assess the Damages to the :
Property of Foster G. Norris, : No. 2 December SS 1943.
by Reason of the Construction :
and Relocation of Township :
Road Route #454 in Pike Township :

ORDER.

This petition was filed to assess damages in the relocation of a Township road and exceptions were filed on behalf of the County Commissioners; and it being admitted at the argument that there was land taken outside of the line of the location of the highway and that it is a Township road, the petition alleging that the improvement was done by the Pike Township Road District; and no appeal having been taken from the award of the Viewers or any petition for review having been filed;

NOW June 30, 1944, the exceptions filed on behalf of Clearfield County are dismissed.

By the Court,


President Judge.

Ex die, exception noted and bill sealed to Clearfield County.

By the Court,


President Judge.

No. 2 December SS 1943

IN THE COURT OF QUARTER
SESSIONS OF CLEARFIELD COUNTY
PENNSYLVANIA.

In re: Petition for the
Appointment of Viewers to
Assess the Damages to the
Property of Foster G. Norris,
by Reason of the Construction
and Relocation of Township
Road Route #454 in Pike
Township

O R D E R



F. CORTEZ BELL
PRESIDENT JUDGE
CLEARFIELD, PENNSYLVANIA

COMMERCIAL PRINTING CO., CLEARFIELD, PA.

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNSYLVANIA

In re: Order to View and Assess Damages to property of FOSTER G. NORRIS by reason of construction and re-location of Township road No. 454 in Pike Township

: No. 2 December Term 1943

PETITION FOR ORDER TO STAY PROCEEDINGS.

TO THE HON. W. WALLACE SMITH, PRESIDENT JUDGE OF SAID COURT:

The petition of Pike Township Supervisors respectfully represents:

(1). That on the 28th day of October 1943, a petition was presented on behalf of Foster G. Norris; which was filed in the Court of Common Pleas of Clearfield County; and on said date, namely October 28, 1943, your Honorable Court awarded viewers to ascertain the damages sustained by the relocation and construction of a certain road in Pike Township, Clearfield County, Pennsylvania.

(2). That said petition was afterwards transferred from the Court of Common Pleas of Clearfield County, to the Court of Quarter Sessions of Clearfield County to No. 2 December Term 1943.

(3). That the first notice that your petitioner had of the awarding of a view, was notice received from the viewers that they would sit for the purpose of holding a view, on the 9th day of December 1943 at 10 A.M., and hold hearing on the 16th day of December 1943 at 10:30 A.M. at the Court House at Clearfield.

(4). That your petitioner attempted to ascertain what facts justified the awarding of said view, your petitioner having become a member of the Board of Supervisors subsequent to any work being done on the road in question.

(5). That no copy of the petition was filed or is of record, though counsel for the petitioner has supplied your affiant's counsel with a copy of the petition originally presented in the

Court of Common Pleas, which avers that in the spring of 1941 the Township of Pike in resurfacing and improving the Township Road, changed the lines and location of the same as originally laid out taking approximately one and one-half acres of the land of Foster G. Norris.

(6). Your petitioner has no knowledge of any taking of land or any change of lines or relocation of the road, and has inquired of the County Commissioners who viewed the premises several years ago, in an attempt to settle the dispute and no one has confirmed the averment that there was any change in line or location of the road as laid out, nor has any proceeding been brought which would authorize the Supervisors of the Township of Pike to make or change the lines or location as provided by law.

(7). Your petitioner avers that to No. 13 September Sessions 1921, a petition was presented to the Court of Quarter Sessions of Clearfield County, praying for the laying out of the road in question.

(8). That after appointment of Viewers and report filed, a road thirty-three feet in width was laid out through the premises here in question. According to the Report of the viewers filed to that Number and Term, Foster G. Norris was awarded damages in the amount of One (\$1.00) Dollar. Said view was confirmed absolutely and your petitioner, from his own knowledge, as well as from inquiry of the County Commissioners, and other former Supervisors of Pike Township, is advised that there was no change in the lines and location of the road as laid out in the view of 1921; and that the portion of the road wherein the damage is claimed, is not over thirty-three feet in width, and in fact is not that wide; and avers that the petitioner is without right to a view, in the absence of showing that there has been a change in the lines and location of the road as originally laid out.

WHEREFORE, your petitioner prays that all proceedings be stayed until the petitioner avers and proves a change in the lines and location of the road as originally laid out, and that any proceedings brought to this Number and Term be limited to any such changes, or that the viewers be instructed to determine the lines and locations of the original road, and if there be no change therein, that said proceeding be dismissed at the cost of the petitioner; or if there be a change, that they be instructed to limit their estimate to any damages solely to the changes from the lines and location of the original road.

WHEREFORE your petitioner prays that your Honorable Court stay all further proceedings until the petitioner shall show under what authority the view for damages is awarded; and he will ever pray.

Bell - Schell
Attorneys for Pike Township
Supervisors.

STATE OF PENNSYLVANIA :
: SS
COUNTY OF CLEARFIELD :

Before me, the subscriber hereto, came CHARLES MIDDLETON, who being duly sworn according to law, deposes and says that he is Secretary of the Board of Supervisors of the Township of Pike; that the facts set forth in the within petition are true and correct to the best of his knowledge and belief.

Sworn to and subscribed before:
me this 30th day of November :
AD 1943.

Chas Middleton

J. Harold M'Fadden

PROTHONOTARY MY COMMISSION EXPIRES FIRST
MONDAY IN JANUARY, 1944

O R D E R

NOW, December 2nd, A.D. 1943, the within petition having been presented, Rule is issued on Foster G. Norris to show wherein there is any change in the lines and location of the road as originally laid out to No. 13 September Term 1921; this showing to be made within a period of _____ days from the date of this Order.

BY THE COURT

P.J.

IN THE COURT OF QUARTER
SESSIONS OF CLEARFIELD
COUNTY, PENNSYLVANIA
No. 2, December Term 1943

In re: Order to View and
Assess Damages to property
of FOSTER G. NORRIS by
reason of construction and
re-location of Township
Road No. 454 in Pike
Township.

PETITION FOR ORDER TO
STAY PROCEEDINGS.

Dec. 2, 1943. "Dunk
which state was an
actual claim property
is especially designed
of the views from
King's Gate Park

BELL & SILBERBLATT
ATTORNEYS AT LAW
COUNTY NATIONAL BANK BUILDING
CLEARFIELD, PENNA.

IN THE COURT OF QUARTERSSESSIONS OF A CLEARFIELD COUNTY, PENNSYLVANIA

In re: Petition for damages ;: No. December Term 1943
resulting from the construction
and reconstruction of Township :
Road Route # 454 in Pike Town-
ship. :

PETITION FOR THE APPOINTMENT
OF BOARD OF VIEW

TO THE HON. W. WALLACE SMITH, PRESIDENT JUDGE OF SAID COURT:

The petition of Foster G. Norris, of Pike Township, Clearfield County, Pennsylvania, respectfully represents

(1) That your petitioner is a citizen of the Township of Pike, Clearfield County, Pennsylvania, where he has resided upwards of twenty years.

(2) That your petitioner was in 1924 and 1941, and still is the owner and in possession of a farm in the Township of Pike, Clearfield County, Pennsylvania, consisting of One hundred and twelve (112) Acres, which is bounded and described as follows:

On the North by the New York Central Railroad; on the South by Nemo Darndetta; on the East by E.J. Norris, and on the West by Arthur Rowles; said premises being more specifically described in the Office of the Recorder of Deeds in and for Clearfield County, in Deed Book 373, page 242.

(3) In the Spring and Summer of 1941, the Pike Township Road District in the resurfacing and improvement of Township Road Route # 454, the side, center and surface lines of said road leading from the intersection of said Township Route # 454 with Legislative Route # 62-C in said Township of Pike, to the point of intersection with Legislative Route #59 in the Borough of Curwenville, Pennsylvania, were changed from the course of said road as originally laid out, and in making said changes, appropriated approximately one and one-half (1 1/2) Acres of your petitioners land, and in several places on your petitioners land, not only changed the horizontal lines of said road, but also elevated the surface thereof, so that it obstructed and prevented convenient

ingress and egress to and from your petitioners lands and buildings.

(4) Your petitioner further avers that in the construction and re-location of said road through his property, the surface water has been diverted to centralized points along said road whereby the surface of your petitioners land, has been washed and damaged.

(5) Your petitioner has not been compensated for the damages to his property; neither has your petitioner been able to agree with the Pike Township Road District as to the amount of damages; although he has often tried so to do. The only lien against the above described property is a Judgment held by the Curwenville State Bank, Curwenville, Pennsylvania.

WHEREFORE, your petitioner prays your Honorable Court to appoint Viewer's to ascertain and assess the damages done to the property of your petitioner, and to make report thereof to the Court in accordance with the Acts of Assembly in such case made and provided.

And your petitioner will ever pray,

Foster G. Norris.

Petitioner

STATE OF PENNSYLVANIA:

SS

COUNTY OF CLEARFIELD:

On the 28th day of October, A.D., 1943, before me, the subscriber, personally appeared, Foster G. Norris, who being duly sworn according to law deposes and says that the facts contained in the foregoing petition are true and correct to the best of his knowledge, information and belief.

Sworn and subscribed before me
this 28th day of October, A.D., 1943.

Foster G. Norris

J. Harold McGadden

PROTHONOTARY

MY COMMISSION EXPIRES FIRST
MONDAY IN JANUARY, 1944

ORDER

Now, October 28, 1943, the foregoing petition having been read and considered, J. A. Dennis, Esq., H. A. Reiter, and J. C. McNamee, are appointed Viewer's to view the premises, and after hearing had, to report to the Court recommendation and award as to the amount of damages resulting to the property of Foster G. Norris, by reason of the construction and re-location of Township Road Route # 454 in the Township of Pike, Clearfield County, Pennsylvania.

By the Court,

Dr. Gralla, P.J.
P.J.

IN THE COURT OF QUARTER
SESSIONS OF CLEARFIELD COUNTY
No. 2 December Term 1943

In re: Petition for the appointment of Viewers to assess the damages to the property of Foster G. Norris, by reason of the construction and re-location of Township Road Route # 454 in Pike Township.

P E T I T I O N

FILED
NOV 17 1943
J. WILSON MCGRIE PROTHONOTARY

A. B. SHAW
ATTORNEY AT LAW
CLEARFIELD, PA.

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

RE:

PROCEEDINGS TO VIEW AND ASSESS
DAMAGES TO PROPERTY OF FOSTER
G. NORRIS, BY REASON OF THE
CONSTRUCTION AND RELOCATION OF
TOWNSHIP ROAD, ROUTE NO. 454
IN PIKE TOWNSHIP

: No. 2 December Sessions 1943

EXCEPTIONS TO VIEWERS' REPORT

TO THE HONORABLE F. CORTEZ BELL, PRESIDENT JUDGE:

Now comes, the County Commissioners of Clearfield County, Pennsylvania, by their Solicitors, Smith & Maine, and take exceptions to the Viewers' Report dated December 23, 1943, said exceptions being as follows:

FIRST: Said Viewers' Report does not mention or refer to any eminent domain proceeding or act of condemnation with reference to the land of Foster G. Norris.

SECOND: Said Viewers' Report fails to set forth or in any way indicate the municipal subdivision or municipal subdivisions responsible for the payment of the damages awarded.

THIRD: Said Viewers' Report fails to set forth any finding as to the legal width of the right of way of the said road, as the same was heretofore established and fails to refer to the proceeding or Act of Assembly pursuant to which the said road was opened.

FOURTH: Said Viewers' Report contains no finding as to what, if any, road improvements, construction or repairs were made outside of the established right-of-way lines of said road upon the land of the said Foster G. Norris.

FIFTH: Said Viewers' Report contains no finding as to how much, if any, of the land of Foster G. Norris, was taken, used or appropriated by the Pike Township Supervisors as a result of the improvement and repair of said road.

SIXTH: Said Viewers' Report discloses that the viewers improperly predicated their award upon the results flowing from a change in the grade of said road, the said viewers having said in their report "the damage done being in consequence of the change of grade of the road in front of the garage*****".

Smith & Name
CLEARFIELD COUNTY SOLICITORS

m.s. burchell & a. j. b. law

IN THE COURT OF QUARTER
SESSIONS OF CLEARFIELD COUNTY
PENNSYLVANIA
NO. 2 December Sess. 1943

RE: PROCEEDINGS TO VIEW AND
ASSESS DAMAGES TO PROPERTY
OF FOSTER G. NORRIS, BY
REASON OF THE CONSTRUCTION
AND RELOCATION OF TOWNSHIP
ROAD, ROUTE NO. 454 IN PIKE
TOWNSHIP

EXCEPTIONS TO VIEWERS!

REPORT

*EXCEP
FEB 9 1944
J. B. Law*

SMITH & MAINE,
ATTORNEYS-AT-LAW
CLEARFIELD, PA.

And now Feb 9, 1944, service accepted by
City
Perry & Burchell
attorneys for Defendants
of Pitt Township
~~City~~ for Plaintiff

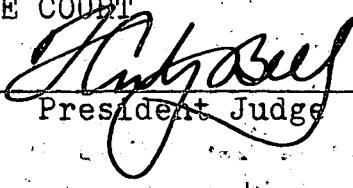
IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNSYLVANIA

In re: Petition for appointment:
of viewers to assess damages to : No. 2 December Sessions 1943
the property of Foster G. Norris:
by reason of construction and
re-location of Township Road
#454 in Pike Township.

O R D E R

NOW, July 19, 1944, the Court's attention having been called
to an error in the Order of June 30, 1944, said Order is revoked
and rescinded and has no further force and effect; to be replaced
by an Order to be filed shortly.

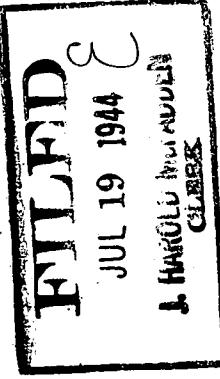
BY THE COURT


President Judge

IN THE COURT OF QUARTER
SESSIONS OF CLEARFIELD COUNTY,
PENNSYLVANIA.
No. 2 December Sessions 1943

In re: Petition for appointment
of viewers to assess
damages to the property of
FOSTER G. NORRIS by reason
of construction and reloca-
tion of Township Road #454
in Pike Township.

O R D E R



F. CORTEZ BELL
PRESIDENT JUDGE
CLEARFIELD, PENNSYLVANIA

COMMERCIAL PRINTING CO., CLEARFIELD, PA.

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

In re: Petition for Viewers
to Assess Damages to the
Property of FOSTER G. NORRIS,
by Reason of the Construction
and Relocation of Township Road
#454 in Pike Township. : : : : No. 2 December SS 1943

OPINION

Exceptions were filed by Clearfield County to the return of the Viewers dated December 23, 1943, said Viewers' Report not referring to any eminent domain proceeding or act of condemnation, failing to set forth the municipal subdivision responsible in damages, and failing to find the legal width of the road taken or to refer to proceedings by which the road was opened.

The Report failed to make any findings as to what improvements were outside the right-of-way and what land, if any, was taken, and damages were chiefly awarded for change of grade, for which Clearfield County would not be liable.

It is apparent that this proceeding, from its inception, has been indefinite and vague. The petition presented on October 28, 1943, makes no mention of the County of Clearfield; it does aver, in the third paragraph, that the Pike Township Road District, in the resurfacing and improvement of Township Route No. 454, changed the course of the road. The petition further avers the change of grade and other damages, as a result of which 1-1/2 acres of land were taken.

On December 2, 1943, the Township of Pike presented a petition in which it was denied that any land was taken, or any change of lines and locations made, and in which it was averred that the road had been opened in pursuance to an opening order

to a certain Number and Term; that the Supervisors had not gone outside the lines of same, and requested that said proceeding be stayed until the identity of the road were determined and the quantum of land taken ascertained.

On December 2, 1943, the Court referred the taking of land to the Viewers for their report.

The Viewers' Report filed December 23, 1943, was confirmed nisi February 2, 1944, in which the Viewers found that damages had been sustained by the petitioner, and that the Township road had been reconstructed and repaired, raising the grade of the same, eliminating curves, and stated that "very little of petitioner's land was taken, used or appropriated in making the improvement". The Viewers' Report determining damages in the amount of \$100.00, without stating who should pay the same, is defective in failing to set off the benefits as against the damages, as required by the Act of Assembly, and states that counsel for the petitioner and the Supervisors of Pike Township had agreed that the petition of Pike Township dated December 2, 1943, was based on a mistake of fact and was irrelevant to the matter at issue. The exceptions now raise the same issue.

In the Viewers' Report it is stated that the Viewers concluded that the petitioner had suffered damages and under the Act of May 1, 1933, P.L. 103, is to be compensated therefor.

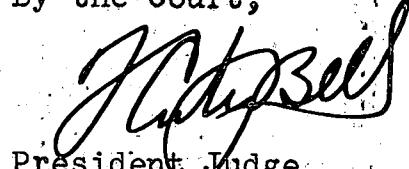
This View was held concurrently with view passed on to No. 1 December 23, 1943, all papers being filed at the same time, and on like dates, and the opinion of the Court with respect to No. 1 December 23, 1943, is applicable in this case, and for the

purposes of brevity will not be repeated here, but is adopted by reference.

O R D E R

NOW July 20, 1944, the County of Clearfield not being an interested party to this proceeding, the exceptions are dismissed and the award of the Viewers is confirmed absolutely, Pike Township and Foster G. Norris not having filed any exceptions or taken any appeal.

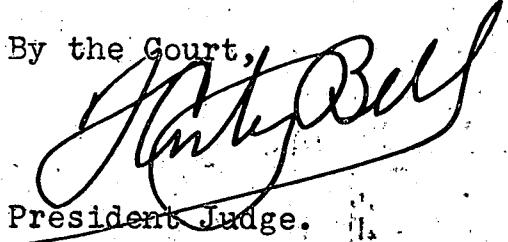
By the Court,



President Judge.

Eo die, exception noted and bill sealed to Clearfield County.

By the Court,



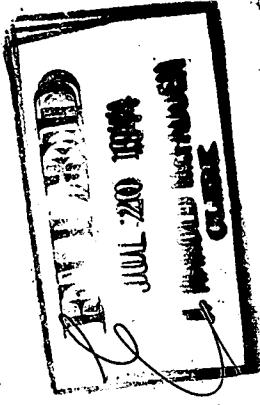
President Judge.

No. 2 December SS 1943

IN THE COURT OF QUARTER
SESSIONS OF CLEARFIELD COUNTY
PENNSYLVANIA.

In re: Petition for Viewers
to Assess Damages to the
Property of FOSTER G. NORRIS
by reason of the Construction
and Relocation of Township
Road No. 454 in Pike Town-
ship.

ORDER



F. CORTEZ BELL
PRESIDENT JUDGE
CLEARFIELD, PENNSYLVANIA

COMMERCIAL PRINTING CO., CLEARFIELD, PA.