

VIRGINIA: IN THE CIRCUIT COURT OF RAPPAHANNOCK COUNTY

The State Commission on Conservation and Development of  
the State of Virginia - - - - - Petitioner.

V. AT LAW NO: 149

Clifton Aylor and others and Thirty-Seven Thousand Four  
Hundred (37,400) Acres of land, More or Less, - Defendants.

This day came the State Commission on Conservation and Development of the State of Virginia, the above named Petitioner, by counsel, and exhibited the record of the above styled proceeding, and announced its purpose and intention to move and pray the Court on the 13th day of November, 1933, to enter Judgment in rem, in substantially the form, words and figures shown in a proposed draft thereof hereinafter set forth at length, condemning to the use of the Petitioner each of the several tracts of land within the area described in the petition which are severally designated in the table included in said proposed draft of said judgment by the respective numbers thereof as shown, designated and delineated on the County Ownership Map filed with the report of the Board of Appraisal Commissioners appointed herein; and each of the several tracts of land within the area described in the petition, designated and delineated on the said Map, as to which findings of the facts of value and amount of incidental damages which will arise from the proposed condemnation thereof have been ascertained and determined by the said Board of Appraisal Commissioners and set forth in their said report, to which findings exceptions or motions to disapprove or to decline to accept such findings have heretofore been entered of record, if it shall affirmatively appear of record that such exceptions or motions to disapprove or to decline to accept such findings shall have been withdrawn prior to the time of entry of said judgment; also to move for such other and further relief as Petitioner may be advised, including orders for the dismissal of this proceeding in respect of any or all the various tracts of land shown and delineated on said Map which Petitioner may decide not to acquire as authorized under Section 22 of the Public Park Condemnation Act; and thereupon Petitioner moved the entry of an order setting this proceeding for hearing on said date, and directing any and all the parties of record in this proceeding, if they desire to oppose the entry of said judgment in rem, to show cause, if any such cause there be, in writing filed with the record of this proceeding not later than five days prior to the said date, why the said judgment in rem should not be entered on the motion and prayer of the Petitioner.

It appearing from the said record that the respective values of the fee simple estate in each and all of the said tracts of land as to which Petitioner purposes to pray for judgment in rem, and the respective amounts of incidental damages which will result from the proposed condemnation thereof have been determined, ascertained and set forth in the report filed by the Board of Appraisal Commissioners heretofore appointed in this proceeding; and it appearing from the report of the said Board of Appraisal Commissioners and of the Special Investigators heretofore appointed in this proceeding that guardians ad litem have

been appointed and have appeared in this proceeding on behalf of all infants, insane persons, and persons under other legal disabilities who, after diligent search, were found and reported by said Special Investigators or otherwise shown to have any real claim of right, title, estate or interest in or to any of the lands described in the petition filed herein; and upon the motion of the Petitioner, by counsel, it is ordered that this proceeding be set for hearing on the said day and date, at 10:00 A. M. and that any or all of the parties of record in this proceeding, who purpose or desire to oppose the entry of the said judgment in rem, show cause, if any such cause there be, in writing filed with the record of this proceeding not later than five days prior to the said date, why the said judgment in rem should not be entered on the motion and prayer of the Petitioner.

It is further ordered that the Petitioner shall forthwith mail or cause to be mailed a copy of this order to all parties of record in the proceeding whose post office addresses have been filed with the record, as provided in Section 7 of the Public Park Condemnation Act, to their several post office addresses thus filed with the record; and to the guardians ad litem, appointed herein for all infants, insane persons, or persons under other legal disability who appear to have any claim of right, title, estate, or interest in or to any of the lands described in the petition or to the proceeds arising out of the condemnation thereof or to incidental damages arising from such condemnation, as set forth in the report filed by the Special Investigators and the Board of Appraisal Commissioners appointed herein, to the post office addresses of said guardians ad litem as shown by the record or otherwise known to the Petitioner; and further to the attorneys of record representing any of the said parties of record in these proceedings or any of the said guardians ad litem, or any of said infants, insane persons, or persons under other legal disability, to their respective addresses as shown in the record or otherwise known to the Petitioner; and the Petitioner is further ordered to file with the record of this proceeding, a verified statement in writing showing the mailing of such copies of this order, to whom mailed and the date of said mailing.

The following is the proposed draft of the judgment in rem which the Petitioner purposes and intends to move and pray the Court to enter as aforesaid:

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"This day came the State Commission on Conservation and Development of the State of Virginia, the above named Petitioner, by counsel, and exhibited to the Court the record of the above styled proceeding, and showed to the Court:

"(1) That this proceeding has been conducted under the provisions of the Public Park Condemnation Act (Acts of the General Assembly of Virginia of 1928, page 1036: Code of 1930, Section 4388, et.seq.)

"(2) That there was incorporated in the notice for publication herein, provided in Section 9 of the said Public Park Condemnation Act, the notice and warning touching incidental

damages set out in Section No. 20 of said Act;

"(3) That this proceeding was had upon newspaper publication of notice, warning 'all persons whomsoever' as provided in Section No. 12 of said Act;

"(4) That the report of the Special Investigators and the Board of Appraisal Commissioners heretofore appointed in this proceeding, filed herein discloses a final and conclusive ascertainment and determination of the value of the fee simple estate in each of the numbered tracts of land shown in the table herein after set out and for which judgment of award condemning the same to the use of the Petitioner is moved and prayed by Petitioner; and of the amount of incidental damages which will result from the condemnation of each of the said tracts for the use of Petitioner, on account of which any person who has appeared and is entitled to be heard, has submitted claims, or on account of which it appears from the said report of Special Investigators and the Board of Appraisal Commissioners, filed as aforesaid, any infant, insane person, or person under legal disability, or any person not entitled to be heard at the hearing provided in Section No. 12 of said Act, has a real and well founded claim, or on account of which it has been made to appear that any infant, insane person or person under other legal disability has any real and well founded claim;

"(5) That the record discloses an ascertainment and determination of said Board of Appraisal Commissioners, as shown by the said report filed as aforesaid, of the fact or facts of value of all, or substantially all, claims of right, title, estate, or interest by such owners or claimants, in or to each of the said respective tracts, and amount of any real claim which any of such persons, or any other person, or persons, who have appeared and are entitled to be heard, may have in the proceeds of each of said respective tracts;

"(6) That a longer period than six months has elapsed since the 'day certain' fixed by the order of the Court entered herein on or before which all interested persons were warned to appear and answer or plead as provided in Section No. 9 of said Act;

"(7) That a longer period than sixty days has elapsed since said report of Special Investigators and Board of Appraisal Commissioners was filed in the Clerk's Office of this Court;

"(8) That neither Petitioner, nor any other person has filed, or presented any motion praying this Court or the Judge thereof to decline to accept or to disapprove any of the findings of facts of value and incidental damages so ascertained and determined by said Board of Appraisal Commissioners as shown by their said report with reference to any of said tracts; or if any such motion or exception has been filed or presented with respect to said tracts or any of them, such motion or exception has been withdrawn in writing filed with the record of this proceeding;

"(9) That each of said tracts is located wholly within

the boundary lines of the lands sought to be condemned and set forth and described in the petition filed herein, and is separately shown, delineated and designated by number on the County Ownership Map, and described in the above mentioned report of the Special Investigators and Board of Appraisal Commissioners, with which said County Ownership Map was filed and of which it forms a part;

"(10) That diligent inquiry and search was made by the Special Investigators appointed herein as to the existence of any land, or parcels or tracts of land, or right or title or interest or estate therein, within the boundary line set forth in the petition, or of any real claim in or to the proceeds of any such land, or right, or title, or estate, or interest in the event of its condemnation, owned by any infant, insane person, or person under other legal disability, or any property or properties owned by such person or persons which will be damaged by the taking of land within the boundary line set forth in the petition, beyond the peculiar benefits that will accrue to such property or properties of such persons from the acquisition of the land, or estate, or interest therein, sought to be condemned and the use of the same for a public park or for public park purposes; and the names of all such persons found by the said Special Investigators or otherwise known to the Board of Appraisal Commissioners, were reported in the said report of the Special Investigators and the Board of Appraisal Commissioners appointed herein; and guardians ad litem were appointed in this proceeding for each and all of such persons;

"(11) That Petitioner, in compliance with the order setting this proceeding for hearing on its motion and prayer for a judgment in rem condemning the hereinafter mentioned tracts of land to its use, and forthwith upon the entry of said order, mailed a copy thereof to all parties of record in this proceeding whose post office addresses have been filed with the record, as provided in Section 7 of the Public Park Condemnation Act, to their several post office addresses thus filed with the record; and to the guardians ad litem appointed herein for all infants, insane persons, and persons under other legal disability, who appear to have any claim of right, title, estate, or interest in or to any of the lands described in the petition, or to the proceeds arising out of the condemnation thereof or to incidental damages arising from such condemnation, as set forth in the said report filed by the Special Investigators and the Board of Appraisal Commissioners appointed herein after diligent search made for such persons as set out in said report, to the post office addresses of said guardians ad litem as shown by the record or otherwise known to the Petitioner; and further to the attorneys of record representing any of the said parties of record in these proceedings or any of said guardians ad litem or any of said infants, insane persons or person under other legal disability, to their respective addresses as shown in the record or otherwise known to the Petitioner; and thereafter Petitioner filed with the record a verified statement in writing showing the mailing of such copies of said order, to whom mailed and the date of mailing.

"(12) That all the provisions and requirements of said Public Park Condemnation Act, and specifically the provisions of

Section 11 and Section 38 thereof, have been complied with and the facts shown and disclosed by the record entitle the Petitioner to the judgment in rem condemning each of the said tracts to the use of Petitioner as moved and prayed by Petitioner.

"It is, accordingly, adjudged and ordered, upon the motion and prayer of the Petitioner, by counsel, that the fee simple estate in each of the several tracts described in the report of the Special Investigators and Board of Appraisal Commissioners filed with the record of this proceeding and numbered, shown and delineated on the County Ownership Map filed with and made a part of said report, the County Ownership Map number of which is set forth in the following table, is hereby condemned to the use of the Petitioner upon the Petitioner paying into the custody of this Court, for the use and benefit of the person or persons entitled thereto, the sum ascertained and determined as the value of the fee simple estate in said tract together with the amount of the incidental damages resulting from the condemnation thereof ascertained and determined by said Board of Appraisal Commissioners, which sum and amount of incidental damages are as shown and separately set out in the following table, which table constitutes an integral part of this judgment, and are here expressly stated as constituting the award for each of the said tracts herein contained, and upon the payment into the custody of this Court by Petitioner of the amount thus stated as constituting the award for any such tract the fee simple estate therein shall vest in the Petitioner as provided in Sections 13 and 38 of said Public Park Condemnation Act.

"But nothing herein contained shall be construed as requiring or obligating Petitioner to pay the said awards or any of them into the custody of the Court or to acquire all or any of said tracts, and Petitioner may at its election acquire any one or more of said tracts by payment into the custody of the Court of the amount stated herein as the award therefor.

"The following table sets forth in columns under appropriate explanatory headings:- First, under the heading 'Tract No.', the numbers of the several tracts designated by number and shown and delineated on the above mentioned County Ownership Map and described in the said report of the Special Investigators and the Board of Appraisal Commissioners filed with the record of this proceeding, each of which is condemned herein to the use of the Petitioner; Second, under the heading 'Value', the value of the fee simple estate in each of the said tracts as ascertained and determined by the said Board of Appraisal Commissioners; Third, under the heading 'Incidental Damages', the amount of the incidental damages ascertained and determined by said Board of Appraisal Commissioners which will result from condemnation hereunder of the numbered tract in the corresponding column of the table; Fourth, under the heading 'Aggregate', the aggregate of the value and of the amount of incidental damages ascertained and determined by the said Board of Appraisal Commissioners with reference to the numbered tract in the corresponding column of the table, which aggregate amount as shown in the table is stated and set out herein as constituting the award for the said tract upon its condemnation to the use of the Petitioner.

(A) The foregoing notwithstanding, it is further adjudged and ordered that the fee simple estate which may or shall be acquired by the Petitioner, hereunder, in any or all of the said tracts of land is and shall be subject nevertheless to such easement of passage and right of way therein or thereover as have heretofore been acquired or are now claimed by the United States of America, which easement and right of way is described in said report of the Board of Appraisal Commissioners, in Exception 1 of the body of said report as an easement of passage and right of way on or over a strip of land one hundred feet wide running through the tracts mentioned in said Exception 1 of said report, the value of which easement of passage and right of way was not ascertained or determined by the said Board of Appraisal Commissioners: and it further appearing from the said report that the said United States of America owns or claims the fee simple estate in said strip of land and that the value of the said fee simple estate in the said strip of land owned or claimed by the United States subject to said easement of passage and right of way thereon or thereover, has been ascertained and determined by the said Board to be one dollar, U. S. currency, the fee simple estate in said strip of land is hereby condemned to the use of the Petitioner subject to said easement of passage and right of way, upon the payment of the said amount of one dollar into the custody of the Court for the use and benefit of the person or persons entitled thereto, which said amount is hereby stated and set out as constituting the award for the fee simple estate in said strip of land subject to the said easement of passage and right of way.

(B) The foregoing notwithstanding, it is further adjudged and ordered that the fee simple estate which may or shall be acquired hereunder by the Petitioner in any or all of said tracts of land, is subject nevertheless to such rights of way and easements in, on or over such tracts or any of them for the erection, maintenance, repair, replacement and operation of poles and wires or other appliances or means for the transmission of electricity as have heretofore been acquired therein by the South East Public Service Corporation, to which reference is made in Exception 2 in body of said Report of the Board of Appraisal Commissioners; and by the Page Power Company of Virginia Incorporated, to which reference is made in Exception 3 in the body of said Report.

(C) The foregoing notwithstanding, this judgment in rem condemning tracts numbered 110-I; 111; 111-I; 111-II; 112; and 112-I; as shown on the said County Ownership Map and mentioned by number in the following table shall not be construed to have the effect and will not have the effect of condemning to the use of the Petitioner so much of said tracts shown and delineated on said County Ownership Map, as lies or is located North and East of the hereinafter described line: and the respective amounts set forth in said table as constituting the awards for said tracts numbered 110-I; 111; 111-I; 111-II; 112; and 112-I; shall be construed to constitute and shall constitute the respective awards for so much of said tracts respectively as do not lie or are not located North and East of said line, the Petitioner having expressly undertaken by way of compromise of a question raised as to the accuracy of the Northern and Eastern boundary lines of said tracts as shown on said maps, to seek no judgment condemning so much thereof as lies immediately North and East of said line, described as follows:-

Beginning at Station a- a butterwood on the north side of Greasy Run, corner to Jacob Dwyer and D. H. and D. B. Hershberger; thence up the north side of said Run with said Hershbergers S 42 W, - 6.50 Chains (True), To Station b- an ash on the north side of said Run; thence crossing Run at one chain, same course continued in all S 74 $\frac{1}{2}$  E, - 12.70 Chains, To Station c- a planted stone at the angle of a fence, thence S 16 W - 3.95 Chains, To Station d- a south gate post; thence N 85 $\frac{1}{2}$  W - 0.90 Chains, To Station e- a stake at the end of a fence on the south side of a road; thence S 15 $\frac{1}{2}$  W - 4.80 Chains, To Station f- an iron pin, 2 $\frac{1}{2}$  feet S 15 $\frac{1}{2}$  W from a marked locust, corner to Grove and Spitler's Tract #111; thence with same N 66 E - 42.00 Chains, To Station g- passing or crossing at 15 Chains a farm road, a stake; thence N 81 $\frac{1}{2}$  E - 13.00 Chains, To Station h- a large white oak tree, which is corner to Frank Compton's Tract shown as tract #112 on the County Ownership Map filed with the report of the Board of Appraisal Commissioners appointed in the Shenandoah National Park Condemnation proceedings in Rappahannock County.

TRACT NO.	VALUE	INCIDENTAL DAMAGES	AGGREGATE
4	\$759.00	None	\$759.00
5	420.00	None	420.00
6	552.00	None	552.00
7	596.75	None	596.75
8	2349.00	None	2349.00
9	4703.00	None	4703.00
10	722.50	None	722.50
11	1472.00	None	1472.00
11-I	600.00	None	600.00
12	4425.00	None	4425.00
19	1418.00	None	1418.00
20	658.00	None	658.00
20-a	6385.00	None	6385.00
21	1193.00	None	1193.00
22	310.00	None	310.00
25	330.00	None	330.00
28	908.00	None	908.00
29	127.00	None	127.00
31-a	325.00	None	325.00
32	1101.00	None	1101.00
33	11392.75	None	11392.75
33-I	34.00	None	34.00
34	6988.00	None	6988.00
42-b	15.00	None	15.00
43	750.00	None	750.00
44	2252.00	None	2252.00
45	57.00	None	57.00
46	80.00	None	80.00
47	125.00	None	125.00
48	1318.00	None	1318.00
49	772.00	None	772.00
50	1757.00	None	1757.00
51	1708.50	None	1708.50
52	2383.00	None	2383.00
52-I	8.00	None	8.00
53	2227.00	None	2227.00
53-a	1939.00	None	1939.00
55	28.00	None	28.00
56	2182.00	None	2182.00
58-I	279.00	None	279.00
58-II	316.00	None	316.00
59	5688.50	None	5688.50
59-a	1082.00	None	1082.00
59-I	607.00	None	607.00
59-II	832.00	None	832.00
59-III	284.50	None	284.50
59-V	67.00	None	67.00
60	496.00	None	496.00
65	1013.00	None	1013.00
67	560.00	None	560.00
68	4235.00	None	4235.00
68-I	872.50	None	872.50
69	12994.00	None	12994.00
72	1028.00	None	1028.00
72-I	200.00	None	200.00



TRACT NO.	VALUE	INCIDENTAL DAMAGES	AGGREGATE
72-II	\$140.00	None	\$140.00
73	484.00	None	484.00
73-a	1745.00	None	1745.00
73-b	10.00	None	10.00
77	69.75	None	69.75.
78-b	75.00	None	75.00
100	1608.00	None	1608.00
101	373.00	None	373.00
101-a	295.00	None	295.00
101-b	1297.00	None	1297.00
102	13003.00	None	13003.00
103	962.50	None	962.50
103-I	180.00	None	180.00
104	1024.00	None	1024.00
104-I	15.00	None	15.00
104-II	3951.00	None	3951.00
105	800.00	None	800.00
107-I	1580.00	None	1580.00
107-II	215.00	None	215.00
108-a	72.00	None	72.00
108-a-I	12.00	None	12.00
108-I	35.00	None	35.00
108-II	913.75	None	913.75
109-I	5409.40	None	5409.40
110-I	5366.35	None	5366.35
110-II	255.60	None	255.60
111	5642.00	None	5642.00
111-I	697.60	None	697.60
111-II	4253.08	None	4253.08
112	428.00	None	423.00
112-a	642.00	None	642.00
112-I	124.00	None	124.00
114-a	774.00	None	774.00
114-b	393.00	None	393.00
115	844.00	None	844.00
115-I	150.00	None	150.00
119	1166.00	None	1166.00
120	532.00	None	532.00
120-a	1897.00	None	1897.00
121	121.50	None	121.50
122	447.50	None	447.50
122-a	95.25	None	95.25
123	1597.00	None	1597.00
124	1535.00	None	1535.00
125	4129.33	None	4129.33
131	528.50	None	528.50
132	340.82	None	340.82
133	1113.50	None	1113.50
134	1592.00	None	1592.00
135	557.50	\$75.00	632.50
136	203.00	None	203.00
137	1649.50	None	1649.50
138	1503.00	None	1503.00
138-a	755.00	None	755.00
138-b	2417.00	None	2417.00

TRACT NO.	VALUE	INCIDENTAL DAMAGES	AGGREGATE
139	\$1879.50	None	\$1879.50
141	4934.66	None	4934.66
141-a	50.00	None	50.00
143	5332.74	None	5332.74
143-I	27.00	None	27.00
144	718.41	None	718.41
145	1058.00	None	1058.00
146	1235.00	None	1235.00
147	1421.09	None	1421.09
149	358.50	None	358.50
150	800.00	None	800.00
153	10488.80	None	10488.80
154	2055.00	None	2055.00
155	1100.00	None	1100.00
155-a	50.00	None	50.00
156	500.00	None	500.00
157	777.00	None	777.00
158	192.50	None	192.50
158-a	143.00	None	143.00
159	601.52	None	601.52
160	896.05	None	896.05
161	5917.78	None	5917.78
161-a	2488.00	None	2488.00
162	5442.75	None	5442.75
162-a	50.00	None	50.00
163	1841.00	None	1841.00
165	600.00	None	600.00
166	825.00	None	825.00
168	1574.50	None	1574.50
169-a	25.00	None	25.00
170	1738.25	None	1738.25
171	1094.00	None	1094.00
172	269.50	None	269.50
174	420.00	None	420.00
175	1592.00	None	1592.00
176	160.00	None	160.00
177	361.00	None	361.00
178	116.50	None	116.50
179	572.00	None	572.00
180	345.00	\$100.00	445.00
181	131.00	None	131.00
182	222.50	None	222.50
183	715.00	None	715.00
184	1405.00	None	1405.00
185	234.00	None	234.00
186	514.00	\$132.00	646.00
187	105.00	None	105.00
188	102.50	None	102.50
189	675.00	None	675.00
190	875.00	None	875.00
191	1087.00	None	1087.00
192	339.50	None	339.50
193	959.50	None	959.50
194	251.00	None	251.00

TRACT NO.	VALUE	INCIDENTAL DAMAGES	AGGREGATE
197	\$1645.50	None	\$1645.50
198	1631.20	None	1631.20
199	3060.25	None	3060.25
199-I	213.00	None	213.00
199-II	90.00	None	90.00
199-III	876.00	None	876.00
200	250.00	None	250.00
201	458.00	None	458.00
201-a	170.50	None	170.50
202	722.00	None	722.00
202-a	370.00	None	370.00
203	532.00	None	532.00
204	458.00	None	458.00
204-a	647.50	None	647.50
205	700.00	None	700.00
206	4617.50	None	4617.50
207	272.50	None	272.50
208	467.00	None	467.00
211	138.75	None	138.75
212	54.75	None	54.75
245	3880.75	None	3880.75
246	120.00	None	120.00
251	420.00	None	420.00
253	275.00	None	275.00
256	260.00	None	260.00
257	90.00	None	90.00
258	150.00	None	150.00
259	635.00	None	635.00
260	150.00	None	150.00
261	300.00	None	300.00
266	168.50	None	168.50
267	80.00	None	80.00
267-a	19.00	\$45.00	64.00
269	150.00	None	150.00
270	10.00	None	10.00

See Exception numbered One in the body of the report filed by the Board of Appraisal Commissioners with reference to the above set out values of tracts numbered 162, 166, 168, 199, and 199-III.

The Clerk of the Circuit Court of Rappahannock County, Virginia is ordered to enter this order as a vacation order.

Given under my hand in vacation this the 7th day of October, 1933.

W.S. Alexander Judge of  
the Circuit Court of Rappahannock County, Va.

VIRGINIA:

Clerk's Office of Rappahannock Circuit Court, Oct. 10, 1933.

The foregoing vacation order was this day received in the said office and entered as directed.

Teste: Jos. M. Settle, Clerk.

# 149

Park Commission  
vs - order  
Clyton Ayles, et als.

received as directed.  
The following association order was filed and received in the said office and  
filed in the office of the Commonwealth Circuit Court, Sep. 10, 1933.  
Virginia:  
The Circuit Court of the Commonwealth Court, Va.  
Judge of

Given under my hand in execution this 10th day of October, 1933.  
under this order a vacation order.  
The Clerk of the Circuit Court of the Commonwealth Court, Virginia is ordered to  
100-111\*  
above set out against of assets numbered 100-111, 100-100, 100-100 and  
the Board of Appraisal Commissioners with reference to the  
see Exception numbered one in the body of the report filed in

TRIAL NO.	AMOUNT	DATE	DEBIT	CREDIT
840	100.00	None		100.00
880	120.00	None		120.00
885-8	18.00	None		64.00
887	80.00	None		80.00
888	188.80	None		188.80
889	300.00	None		300.00
890	120.00	None		120.00
891	120.00	None		120.00
892	498.00	None		498.00
893	150.00	None		150.00
894	80.00	None		80.00
895	380.00	None		380.00
896	828.00	None		828.00
897	450.00	None		450.00
898	180.00	None		180.00
899	2890.00	None		2890.00
900	84.00	None		84.00
901	128.00	None		128.00
902	488.00	None		488.00
903	828.00	None		828.00
904	400.00	None		400.00
905	400.00	None		400.00
906	400.00	None		400.00
907	400.00	None		400.00
908	400.00	None		400.00
909	400.00	None		400.00
910	400.00	None		400.00
911	400.00	None		400.00
912	400.00	None		400.00
913	400.00	None		400.00
914	400.00	None		400.00
915	400.00	None		400.00
916	400.00	None		400.00
917	400.00	None		400.00
918	400.00	None		400.00
919	400.00	None		400.00
920	400.00	None		400.00
921	400.00	None		400.00
922	400.00	None		400.00
923	400.00	None		400.00
924	400.00	None		400.00
925	400.00	None		400.00
926	400.00	None		400.00
927	400.00	None		400.00
928	400.00	None		400.00
929	400.00	None		400.00
930	400.00	None		400.00
931	400.00	None		400.00
932	400.00	None		400.00
933	400.00	None		400.00
934	400.00	None		400.00
935	400.00	None		400.00
936	400.00	None		400.00
937	400.00	None		400.00
938	400.00	None		400.00
939	400.00	None		400.00
940	400.00	None		400.00
941	400.00	None		400.00
942	400.00	None		400.00
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979	400.00	None		400.00
980	400.00	None		400.00
981	400.00	None		400.00
982	400.00	None		400.00
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985	400.00	None		400.00
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994	400.00	None		400.00
995	400.00	None		400.00
996	400.00	None		400.00
997	400.00	None		400.00
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999	400.00	None		400.00
1000	400.00	None		400.00

VIRGINIA: IN THE CIRCUIT COURT OF RAPPAHANNOCK COUNTY.

The State Commission on Conservation and Development of the State of Virginia - - - - - Petitioner.

V. AT LAW NO. 149

Clifton Aylor and others and Thirty-Seven Thousand Four Hundred (37,400) Acres of land, More or Less, - -Defendants.

This day came the State Commission on Conservation and Development of the State of Virginia, the above named Petitioner, by counsel, and exhibited the record of the above styled proceeding, and announced its purpose and intention to move and pray the Court on the 23rd day of February, 1934, to enter Judgment in rem, in substantially the form, words and figures shown in a proposed draft thereof hereinafter set forth at length, (but with such modifications as to the amounts of "value" and "incidental damages" shown in the table included in said draft as may have been ordered at the date of entry of said judgment, under authority of Section 36 of the Public Park Condemnation Act) condemning to the use of the Petitioner each of the several tracts of land within the area described in the petition which are severally designated in the table included in said proposed draft of said judgment by the respective numbers thereof as shown, designated and delineated on the County Ownership Map filed with the report of the Board of Appraisal Commissioners appointed herein; and also to move for such other and further relief as Petitioner may be advised, including orders for the dismissal of this proceeding in respect of any or all the various tracts of land shown and delineated on said Map which Petitioner may decide not to acquire as authorized under Section 22 of the Public Park Condemnation Act; and thereupon Petitioner moved the entry of an order setting this proceeding for hearing on said date, and directing any and all the parties of record in this proceeding, if they desire to oppose the entry of said judgment in rem, to show cause, if any such cause there be, in writing filed with the record of this proceeding not later than five days prior to the said date, why the said judgment in rem should not be entered on the motion and prayer of the Petitioner.

It appearing from the said record that the respective values of the fee simple estate in each and all of the said tracts of land as to which Petitioner purposes to pray for judgment in rem, and the respective amounts of incidental damages which will result from the proposed condemnation thereof have been determined, ascertained and set forth in the report filed by the Board of Appraisal Commissioners heretofore appointed in this proceeding; and it appearing from the report of the said Board of Appraisal Commissioners and of the Special Investigators heretofore appointed in this proceeding that guardians ad litem have

been appointed and have appeared in this proceeding on behalf of all infants, insane persons, and persons under other legal disabilities who, after diligent search, were found and reported by said Special Investigators or otherwise shown to have any real claim of right, title, estate or interest in or to any of the lands described in the petition filed herein; and upon the motion of the Petitioner, by counsel, it is ordered that this proceeding be set for hearing on the said day and date, at 11:00 A. M. and that any or all of the parties of record in this proceeding, who purpose or desire to oppose the entry of the said judgment in rem, show cause, if any such cause there be, in writing filed with the record of this proceeding not later than five days prior to the said date, why the said judgment in rem should not be entered on the motion and prayer of the Petitioner.

It is further ordered that the Petitioner shall forthwith mail or cause to be mailed a copy of this order to all parties of record in the proceeding who have or appear to have any claim of right, title, estate or interest in or to any of said tracts of land, as set forth in said report filed by the Special Investigators and the Board of Appraisal Commissioners appointed herein, or who have excepted to the findings in said report with relation to said tracts of land, whose post office addresses have been filed with the record, as provided in Section 7 of the Public Park Condemnation Act, to their several post office addresses thus filed with the record; and to the guardians ad litem, appointed herein for all infants, insane persons, or persons under other legal disability who have or appear to have any claim of right, title, estate, or interest in or to any of the said tracts of lands or to the proceeds arising out of the condemnation thereof or to incidental damages arising from such condemnation, as set forth in the report filed by the Special Investigators and the Board of Appraisal Commissioners appointed herein, to the post office addresses of said guardians ad litem as shown by the record or otherwise known to the Petitioner, and further to the attorneys of record representing any of the parties of record in these proceedings or any of the said guardians ad litem, or any of said infants, insane persons, or persons under other legal disability, to their respective addresses as shown in the record or otherwise known to the Petitioner; and the Petitioner is further ordered to file with the record of this proceeding, a verified statement in writing showing the mailing of such copies of this order, to whom mailed and the date of said mailing.

The following is the proposed draft of the judgment in rem which the Petitioner purposes and intends to move and pray the Court to enter as aforesaid:

~~On this the 15<sup>th</sup> day of March, 1934~~  
On this the 14<sup>th</sup> day of March, 1934  
This day came the State Commission on Conservation and Development of the State of Virginia, the above named Petitioner, by counsel, and exhibited to the Court the record of the above styled proceeding, and showed to the Court:

"(1) That this proceeding has been conducted under the provisions of the Public Park Condemnation Act (Acts of the General Assembly of Virginia of 1928, page 1036: Code of 1930, Section 4388, et seq.)

"(2) That there was incorporated in the notice for publication herein, provided in Section 9 of the said Public Park Condemnation Act, the notice and warning touching incidental

damages set out in Section No. 20 of said Act;

"(3) That this proceeding was had upon newspaper publication of notice, warning 'all persons whomsoever' as provided in Section No. 12 of said Act;

"(4) That the report of the Special Investigators and the Board of Appraisal Commissioners heretofore appointed in this proceeding, filed herein discloses a final and conclusive ascertainment and determination of the value of the fee simple estate in each of the numbered tracts of land shown in the table hereinafter set out and for which judgment of award condemning the same to the use of the Petitioner is moved and prayed by Petitioner; and of the amount of incidental damages which will result from the condemnation of each of the said tracts for the use of Petitioner, on account of which any person who has appeared and is entitled to be heard, has submitted claims, or on account of which it appears from the said report of Special Investigators and the Board of Appraisal Commissioners, filed as aforesaid, any infant, insane person, or person under legal disability, or any person not entitled to be heard at the hearing provided in Section No. 12 of said Act, has a real and well founded claim, or on account of which it has been made to appear that any infant, insane person or person under other legal disability has any real and well founded claim;

"(5) That the record discloses an ascertainment and determination of said Board of Appraisal Commissioners, as shown by the said report filed as aforesaid, of the fact or facts of value of all, or substantially all, claims of right, title, estate, or interest by such owners or claimants, in or to each of the said respective tracts, and amount of any real claim which any of such persons, or any other person, or persons, who have appeared and are entitled to be heard, may have in the proceeds of each of said respective tracts;

"(6) That a longer period than six months has elapsed since the 'day certain' fixed by the order of the Court entered herein on or before which all interested persons were warned to appear and answer or plead as provided in Section No. 9 of said Act;

"(7) That a longer period than sixty days has elapsed since said report of Special Investigators and Board of Appraisal Commissioners was filed in the Clerk's Office of this Court;

"(8) That neither Petitioner, nor any other person has filed, or presented any motion praying this Court or the Judge thereof to decline to accept or to disapprove any of the findings of facts of value and incidental damages so ascertained and determined by said Board of Appraisal Commissioners as shown by their said report with reference to any of said tracts; or if any such motion or exception has been filed or presented with respect to said tracts or any of them, such motion or exception has been unconditionally overruled or dismissed, or withdrawn, or has been overruled, or dismissed, or withdrawn in so far as such motion or exception relates to the findings of value and incidental damages set forth in said report after amendment of such findings by consent of the Petitioner and the exceptant or movant, under the provisions of Section 36 of the Public Park Condemnation Act.

"(9) That each of said tracts is located wholly within

the boundary lines of the lands sought to be condemned and set forth and described in the petition filed herein, and is separately shown, delineated and designated by number on the County Ownership Map, and described in the above mentioned report of the Special Investigators and Board of Appraisal Commissioners, with which said County Ownership Map was filed and of which it forms a part;

"(10) That diligent inquiry and search was made by the Special Investigators appointed herein as to the existence of any land, or parcels or tracts of land, or right or title or interest or estate therein, within the boundary line set forth in the petition, or of any real claim in or to the proceeds of any such land, or right, or title, or estate, or interest in the event of its condemnation, owned by any infant, insane person, or person under other legal disability, or any property or properties owned by such person or persons which will be damaged by the taking of land within the boundary line set forth in the petition, beyond the peculiar benefits that will accrue to such property or properties of such persons from the acquisition of the land, or estate, or interest therein, sought to be condemned and the use of the same for a public park or for public park purposes; and the names of all such persons found by the said Special Investigators or otherwise known to the Board of Appraisal Commissioners, were reported in the said report of the Special Investigators and the Board of Appraisal Commissioners appointed herein; and guardians ad litem were appointed in this proceeding for each and all of such persons;

"(11) That Petitioner, in compliance with the order setting this proceeding for hearing on its motion and prayer for a judgment in rem condemning the hereinafter mentioned tracts of land to its use, and forthwith upon the entry of said order, mailed a copy thereof to all parties of record in this proceeding who appear to have any claim of right, title, estate or interest in or to any of the said numbered tracts of land, as set forth in said report filed by the Special Investigators, and the Board of Appraisal Commissioners appointed herein, or who have excepted to the findings in said report with relation to said tracts, whose post office addresses have been filed with the record, as provided in Section 7 of the Public Park Condemnation Act, to their several post office addresses thus filed with the record; and to the guardians ad litem appointed herein for all infants, insane persons, and persons under other legal disability, who appear to have any claim of right, title, estate, or interest in or to any of the said tracts of land, or to the proceeds arising out of the condemnation thereof or to incidental damages arising from such condemnation, as set forth in the said report filed by the Special Investigators and the Board of Appraisal Commissioners appointed herein after diligent search made for such persons as set out in said report, to the post office addresses of said guardians ad litem as shown by the record or otherwise known to the Petitioner; and further to the attorneys of record representing any of the parties of record in these proceedings or any of said guardians ad litem or any of said infants, insane persons or person under other legal disability, to their respective addresses as shown in the record or otherwise known to the Petitioner; and thereafter Petitioner filed with the record a verified statement in writing showing the mailing of such copies of said order, to whom mailed and the date of mailing,

and that this proceeding was called for hearing on the 23rd day of February, 1934, the day and date set

*The hearing in said order, whereupon the hearing was continued by order of this Court- and the proceeding again set for hearing on the 12th day of March, 1934, on which day and date this proceeding was again called for hearing in open court and a final judgment by order of the Court, and the proceeding again set for hearing on this day of March, 1934.*



"(12) That all the provisions and requirements of said Public Park Condemnation Act, and specifically the provisions of Section 11 and Section 38 thereof, have been complied with and the facts shown and disclosed by the record entitle the Petitioner to the judgment in rem condemning each of the said tracts to the use of Petitioner as moved and prayed by Petitioner.

"It is, accordingly, adjudged and ordered, upon the motion and prayer of the Petitioner, by counsel, that the fee simple estate in each of the several tracts described in the report of the Special Investigators and Board of Appraisal Commissioners filed with the record of this proceeding and numbered, shown and delineated on the County Ownership Map filed with and made a part of said report, the County Ownership Map number of which is set forth in the following table, is hereby condemned to the use of the Petitioner upon the Petitioner paying into the custody of this Court, for the use and benefit of the person or persons entitled thereto, the sum ascertained and determined, and shown and disclosed in the report of the Special Investigators and the Board of Appraisal Commissioners appointed herein as filed herein, or as modified under the provisions of Section 36 of the Public Park Condemnation Act, to be the value of the fee simple estate in said tract together with the amount of the incidental damages resulting from the condemnation thereof ascertained and determined by said Board of Appraisal Commissioners, which sum and amount of incidental damages are as shown and separately set out in the following table, which table constitutes an integral part of this judgment, and are here expressly stated as constituting the award for each of the said tracts herein contained, and upon the payment into the custody of this Court by Petitioner of the amount thus stated as constituting the award for any such tract the fee simple estate therein shall vest in the Petitioner as provided in Sections 13 and 38 of said Public Park Condemnation Act.

"But nothing herein contained shall be construed as requiring or obligating Petitioner to pay the said awards or any of them into the custody of the Court or to acquire all or any of said tracts, and Petitioner may at its election acquire any one or more of said tracts by payment into the custody of the Court of the amount stated herein as the award therefor.

"The following table sets forth in columns under appropriate explanatory headings:- First, under the heading 'Tract No.', the numbers of the several tracts designated by number and shown and delineated on the above mentioned County Ownership Map and described in the said report of the Special Investigators and the Board of Appraisal Commissioners filed with the record of this proceeding, each of which is condemned herein to the use of the Petitioner; Second, under the heading 'Value', the value of the fee simple estate in each of the said tracts as ascertained and determined by the said Board of Appraisal Commissioners; Third, under the heading 'Incidental Damages', the amount of the incidental damages ascertained and determined by said Board of Appraisal Commissioners which will result from condemnation hereunder of the numbered tract in the corresponding column of the table; Fourth, under the heading 'Aggregate', the aggregate of the value and of the amount of incidental damages ascertained and determined by the said Board of Appraisal Commissioners with reference to the numbered tract in the corresponding column of the table, which

aggregate amount as shown in the table is stated and set out herein as constituting the award for the said tract upon its condemnation to the use of the Petitioner. But in any instance wherein the original findings of said Board as to value or damages set forth in said report have been modified in arbitration proceedings, or by stipulation or otherwise, under authority of Section 36 of the Public Park Condemnation Act, this table shows under the respective headings of "value" and "incidental damages" and "aggregate" the original findings of said Board stricken out by a line running through such findings and aggregate and the modified findings and aggregate have been inserted in the table in lieu of the original findings and aggregate thus stricken from the table.

(A) The foregoing notwithstanding, it is further adjudged and ordered that the fee simple estate which may or shall be acquired by the Petitioner, hereunder, in any or all of the said tracts of land is and shall be subject nevertheless to such easement of passage and right of way therein or thereover as have heretofore been acquired or are now claimed by the United States of America, which easement and right of way is described in said report of the Board of Appraisal Commissioners, in Exception 1 of the body of said report as an easement of passage and right of way on or over a strip of land one hundred feet wide running through the tracts mentioned in said Exception 1 of said report, the value of which easement of passage and right of way was not ascertained or determined by the said Board of Appraisal Commissioners; and it further appearing from the said report that the said United States of America owns or claims the fee simple estate in said strip of land and that the value of the said fee simple estate in the said strip of land owned or claimed by the United States subject to said easement of passage and right of way thereon or thereover, has been ascertained and determined by the said Board to be one dollar, U. S. currency, the fee simple estate in said strip of land is hereby condemned to the use of the Petitioner subject to said easement of passage and right of way, upon the payment of the said amount of one dollar into the custody of the Court for the use and benefit of the person or persons entitled thereto, which said amount is hereby stated and set out as constituting the award for the fee simple estate in said strip of land subject to the said easement of passage and right of way.

(B) The foregoing notwithstanding, it is further adjudged and ordered that the fee simple estate which may or shall be acquired hereunder by the Petitioner in any or all of said tracts of land, is subject nevertheless to such rights of way and easements in, on or over such tracts or any of them for the erection, maintenance, repair, replacement and operation of poles and wires or other appliances or means for the transmission of electricity as have heretofore been acquired therein by the South East Public Service Corporation, to which reference is made in Exception 2 in body of said Report of the Board of Appraisal Commissioners; and by the Page Power Company of Virginia Incorporated, to which reference is made in Exception 3 in the body of said Report.

TRACT NO.	VALUE	INCIDENTAL DAMAGES	AGGREGATE
See footnote a24	<del>\$5974.30</del>	6374.00 None	<del>\$5974.30</del> 6374.00
" " a 54	<del>14276.00</del>	22349.00 None	<del>14276.00</del> 22349.00
" " b 54-I	260.00	None	260.00
" " " 54-II	8.00	None	8.00
" " " 57	1186.50	None	1186.50
" " c 59-IV	8.00	None	8.00
" " a 70-I	<del>1095.00</del>	1200.00 None	<del>1095.00</del> 1200.00
" " b 71-I	1110.00	None	1110.00
" " "103-a	224.00	None	224.00
" " "106-I	60.00	None	60.00
" " "106-II	2135.00	None	2135.00
" " a142	<del>1855.00</del>	2004.71 None	<del>1855.00</del> 2004.71
" " b142-a	395.29	None	395.29
" " a148	<del>1502.50</del>	3337.77 None	<del>1502.50</del> 3337.77
" " "151	<del>16500.00</del>	20023.00 None	<del>16500.00</del> 20685.00
" " "151-a	<del>307.75</del>	315.85 None	<del>307.75</del> 315.85
" " "152	<del>1510.00</del>	1650.00 None	<del>1510.00</del> 1650.00
" " "164	<del>2993.00</del>	3040.00 None	<del>2993.00</del> 3040.00
" " "164-a	<del>1000.00</del>	1500.00 None	<del>1000.00</del> 1500.00
" " b164-b	150.00	None	150.00
" " c166	825.00	None	825.00
" " b167	115.50	None	115.50
" " "169	853.00	None	853.00
" " a173	<del>2107.34</del>	2607.00 None	<del>2107.34</del> 2607.00

See Exception numbered One in the body of the report filed by the Board of Appraisal Commissioners with reference to the above set out values of tracts numbered 151-a, 164, 166 and 167.

- Footnote a: Arbitration findings. See order entered March <sup>(4)</sup>~~12~~, 1934.  
Footnote b: Arbitration findings. No change.  
Footnote c: See Table II Report of the Board of Appraisal Commissioners.

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March 14, 1934

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Order

March 14, 1934

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