

Thereupon the petitioner showed to the court that when  
this proceeding was called at the hearing had on the motion of  
VIRGINIA: IN THE CIRCUIT COURT OF MADISON COUNTY  
AT MADISON, VIRGINIA

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

V. AT LAW NO. 82

D. F. Anderson and Others, and Fifty-Five Thousand  
(55,000) Acres, More or Less, of Land in Madison  
County, Virginia - - - - - Defendants.

On the 27<sup>th</sup> day of August, 1934, came the petitioner  
in the above styled proceeding, by counsel, and exhibited to the  
Court the record therein, including the report of the Board of  
Appraisal Commissioners; the order setting this proceeding for  
hearing on the 20th day of February, 1934, upon notice of petitioner  
of its intention to move and pray the Court to enter a judgment in  
rem condemning the numbered tracts of land mentioned in said notice  
and order to the use of the petitioner, and for such other and  
further relief as it might be advised; the certificate and affidavit  
of service of said notice and order, in the form and manner prescribed  
in the order, on all exceptants to the findings of said Board of  
Appraisal Commissioners relating to the numbered tracts of land  
mentioned in said notice and order; the judgment in rem entered  
herein on the 5th day of March, 1934, after the hearing of this  
proceeding had pursuant to the above mentioned notice and order;  
and the order entered on the same day and date, but immediately  
prior to the entry of said judgment in rem, under the terms of which  
order the Clerk of this Court was directed to file with the record  
the report of arbitrators mentioned in said order and to amend the  
findings in the report of the said Board of Appraisal Commissioners  
to conform with the findings of the said arbitrators, and under the  
terms of which order, as entered, the exceptions to the findings of  
the said Board of Appraisal Commissioners, filed by the exceptants  
shown in the "table" set out in said order, were dismissed.

Thereupon the petitioner showed to the Court that when this proceeding was called at the hearing had on the motion of petitioner for said judgment in rem, pursuant to said notice of motion and order, none of the exceptants to the findings in the report of the Board of Appraisal Commissioners appeared either in person or by counsel; that at the said hearing counsel for petitioner appeared and there and then showed to the Court that all exceptions to the findings in said report with reference to the numbered tracts mentioned in said order and notice of motion for judgment condemning the same had theretofore been dismissed, except only the exceptions to the findings relating specifically to the numbered tracts the value of which had been submitted to arbitration; that under the terms of the arbitration agreements set out in the report of the arbitrators, all questions as to value and damages raised by said exceptions had been withdrawn from the consideration of the Court and submitted to arbitration by the parties to the said arbitration agreements, and had been duly ascertained and determined by the arbitrators, and reported to the Court; and that on the record as it would stand after amendment of the findings in the report of the Board of Appraisal Commissioners to conform with the findings of the arbitrators, all the exceptions to the findings in the report of the Board of Appraisal Commissioners with reference to the numbered tracts the value of which had been reported by the arbitrators, whether or not the same had in fact been submitted to arbitration by each and all of the exceptants, should be dismissed on the said exceptions, the answers thereto, and the supporting affidavits, under the provisions of Section 35 of the Public Park Condemnation Act.

Counsel for the petitioner further showed to the court that there and then, at the said hearing, petitioner moved and prayed the Court to enter an order, amending the findings in the

said report of the Board of Appraisal Commissioners so as to conform with the findings in the said report of arbitrators and dismissing all the exceptions to the findings of the said Board of Appraisal Commissioners with reference to all the numbered tracts the value of which had been the subject of said arbitration, and thereupon to enter judgment condemning to the use of the petitioner the numbered tracts which were set out in the notice of motion for judgment and the order setting the proceeding for hearing on said motion.

Counsel further showed to the Court that thereupon, and at the said hearing, the Court sustained and granted the said motion for the entry of the order as moved and prayed by the petitioner, and immediately thereafter sustained and granted the motion and prayer of the petitioner for the entry of the above mentioned judgment in rem.

Counsel further showed to the Court that notwithstanding the fact that at the said hearing and immediately before ordering the entry of the said judgment in rem, the Court had sustained and granted the motion and prayer of the petitioner for the dismissal of all the exceptions to the findings in the report of the Board of Appraisal Commissioners with reference to the numbered tracts whose value had been reported by the arbitrators; and notwithstanding the fact that the record discloses the names of each and all of the exceptants who had filed the said exceptions; the table set out in the order actually entered in the order book giving a list of said numbered tracts followed by the names of exceptants to the findings as to each of the numbered tracts listed in said table, does not correctly set forth the names of all of said exceptants, so that the order actually entered does not fully conform to the judgment and order of the Court sustaining the prayer and motion of the petitioner for the dismissal of all the exceptions to the findings as to the said numbered tracts prior to the entry of the judgment in rem condemning the numbered tracts in that table to the use of the petitioner.

TABLE

Counsel further showed to the Court that the record of these proceedings discloses that the names of the exceptants who filed exceptions to the findings of said Board of Appraisal Commissioners with reference to the numbered tracts shown in said table set out in the said order are as shown in the following table:-

133	R. C. Deates
134	Waverly T. Dyer
135	Laraloba Mining and Development Company
135-I	Same exceptant as to tract no. 133
135-II	" " " " " "
135-III	" " " " " "
135-IV	" " " " " "
135-V	" " " " " "
135-VI	" " " " " "
136	Blue Ridge Copper Company
138	Same exceptants as to Tract No. 133
138-III	" " " " " "
138-IV	" " " " " "
140	" " " " " "
148-a	Noel B. Folsom and Edward A. Brown
148-a-I	Same exceptants as to Tract No. 148-a
148	" " " " " "

TABLE

TRACT  
NUMBER

74	R. C. Coates
94	Waverly T. Dyer
133	Laraloba Mining and Development Company
134	Same exceptant as to Tract No. 133
135	" " " " " " "
135-I	" " " " " " "
135-II	" " " " " " "
135-III	" " " " " " "
135-IV	" " " " " " "
135-V	" " " " " " "
135-VI	" " " " " " "
136	Blue Ridge Copper Company
138	Same exceptants as to Tract No. 133
138-III	" " " " " " "
138-IV	" " " " " " "
146	" " " " " " "
148-a	Noel B. Folsom and Edward A. Brown
148-a-I	Same exceptants as to Tract No. 148-a
181	" " " " " " "

Counsel for petitioner further showed to the Court that the inaccuracies or omissions in the listing of some of the names of the exceptants following the numbered tracts listed in the table set out in the said order, as actually entered, arose from a scrivener's mistake in inserting in the table included in the draft of the said order, which was initialled for entry, a preliminary and incomplete list of the names of said exceptants, in place of the completed and corrected list shown in the above set out table, which latter table correctly sets forth the names of the exceptants to the findings as to the numbered tracts shown in both tables, as disclosed by the record; and which completed and corrected table counsel for the petitioner believed was the table included in said draft of said order when it was initialled for entry, and so represented the fact to be to the Court; and which complete list of the names of each and all of said exceptants, as disclosed by the record, was the list of said names which the Court had good and sufficient reason to believe and did in fact believe was included in the table set out in said initialled draft of said order.

Upon consideration whereof the Court finds that the table set out as aforesaid in the said order entered in this proceeding on the 9th day of March, 1934, does not fully and accurately set forth the names of each and all the exceptants whose exceptions were ordered dismissed prior to the entry of the judgment in rem on said day and date, and at the above mentioned hearing, on the prayer and motion of the petitioner to dismiss all the exceptions to the findings of the Board of Appraisal Commissioners with reference to the numbered tracts the value of which was ascertained and determined by arbitrators, as disclosed in the above mentioned report of arbitrators filed with the record; that at the said hearing and prior to the entry of the above mentioned judgment in rem the Court sustained and granted the motion and prayer of the petitioner to dismiss all the exceptions to the findings in the report of the Board of Appraisal Commissioners

as to the numbered tracts whose value had been ascertained by said arbitrators; that when the Court initialled for entry a draft of said order, the Court understood that the table of numbered tracts set out therein showed the names of all the exceptants to the findings of the Board of Appraisal Commissioners with reference to the said list of numbered tracts set out in said table, as disclosed by the record; but that by inadvertence occasioned by a clerical error of the scrivener, the list of names set out in the table inserted in the said draft of said order did not correctly and accurately set out the names of each and all of said exceptants; and the Court further expressly finds that the record discloses the names of each and all of the said exceptants; that the names of the said exceptants are as shown in the above set out table; that at the above mentioned hearing the exceptions filed by each and all of the said exceptants were overruled and dismissed on the motion of the petitioner, and that the omission or inaccurate designation of the names of some of said exceptants in the table included in the said order as entered was an inadvertence occasioned by a clerical error of the scrivener.

WHEREFORE, upon motion of the petitioner, it is considered, adjudged and ordered that the above described order entered in this proceeding on the 9th day of March, 1934, should be, and it is hereby amended, nunc pro tunc, so as to make the list of exceptants set out in the above described table in said order include all the exceptants to the findings of the Board of Appraisal Commissioners with reference to the numbered tracts listed in said table, as disclosed by the record, and as shown in the above set out table of numbered tracts wherein the names of the said exceptants appear to be correctly set out after the number of the individual tracts with reference to which their respective exceptions were filed.

as to the numbered tracts whose value had been ascertained by said  
appraisers; that when the Court intitled for entry a draft of  
said order, the Court understood that the table of numbered tracts  
set out therein showed the names of all the exceptants to the findings  
of the Board of Appraisal Commissioners with reference to the said  
list of numbered tracts set out in said table, as disclosed by the  
record; but that by inadvertence occasioned by a clerical error of  
the scrivener, the list of names set out in the table inserted in  
the said draft of said order did not correctly and accurately set  
out the names of each and all of said exceptants; and the Court  
further expressly finds that the record discloses the names of each  
and all of the said exceptants; that the names of the said exceptants  
are as shown in the above set out table; that at the above mentioned  
hearing the exceptions filed by each and all of the said exceptants  
were overruled and dismissed on the merits of the petition and  
that the omission or inaccurate designation of the name of  
said exceptant in the table inserted in the said order as entered  
was an inadvertence occasioned by a clerical error of the scrivener.  
WHEREFORE, upon motion of the petitioner, it is considered,  
adjudged and ordered that the above described order entered in this  
proceeding on the 27th day of March, 1934, stands, and it is hereby  
amended, *in pro tunc*, so as to make the list of exceptants set out  
in the above described table in said order include all the exceptants  
to the findings of the Board of Appraisal Commissioners with reference  
to the numbered tracts listed in said table, as disclosed by the record,  
and as shown in the above set out table of numbered tracts wherein the  
names of the said exceptants appear to be correctly set out after the  
number of the individual tracts with reference to which their respective  
exceptions were filed.

BOOK 9  
LAW ORDER  
PAGE 258  
290.34 -  
Alvina

*E. J. [Signature]*

Aug. 31, 1934 # 4.50