

Motion made, seconded and carried that County Clerk be authorized to issue Warrant on Gen. Fund for \$5.25 to E. H. Pool for transportation for Lester Oxford from Sanatorium to Gilmer.

J. P. Maberry
E A Cobb
W C Henderson
J M Holloway
M O Holmes

Sept. 23, 1940

Commissioners Court met in special Session County Judge and all Commissioners present. Motion made seconded & carried authorized County Treasurer to Sell \$7500.00 baby bonds at par plus interest same to be credited to road District #1 Avl. Fund.

Motion made seconded & carried authorizing County Judge to advertise for the purchase of 1 Motor Grader also for 1 grader - bids to be opened Oct. 18th, 1940.

J P Maberry
E A Cobb
W C Henderson
J. M. Holloway
M. O. Holmes

Motion made, seconded & carried authorizing a change in Judge of General Election of Grice from J. T. Allen to A. C. Kennington.

PETITIONS

THE STATE OF TEXAS

VS.

ANY AND ALL PERSONS CLAIMING ANY
RIGHT, TITLE OR INTEREST IN AND TO
LOT #3, of BLOCK 38, IN ORE CITY, TEXAS,
AND LOT #12 OF BLOCK 39, ORE CITY, TEXAS.

TO THE HONORABLE COUNTY JUDGE OF UPSHUR COUNTY: -

Comes now the State of Texas, acting herein by and through the Commissioners' Court of Upshur County, composed of J. P. Maberry, County Judge, and E. A. Cobb, Commissioner of Precinct No. 1, W. C. Henderson, Commissioner of Precinct No. 2; J. M. Holloway, Commissioner of Precinct No. 3; and M. O. Holmes, Commissioner of Precinct No. 4, of said County, hereinafter referred to as Petitioner, and complains of any and all persons claiming any right, title or interest in and to Lot #3 of Block 38 in Ore City, Texas, and Lot #12 of Block 39, Ore City, Texas; hereinafter called defendant(s), and represents and alleges:

1. That J. P. Maberry is the duly elected and qualified County Judge of Upshur County, Texas, and that E. A. Cobb, W. C. Henderson, J. M. Holloway and M. O. Holmes are the duly elected and qualified Commissioners of Upshur County, Texas; That the defendant resides ----- is unknown ---

2. That the State of Texas is now constructing and laying out and reconstructing a State Highway, designated as such by the Highway Commission of Texas, in Upshur County, Texas, which highway is known and designated as State Highway No. 26; that such construction and reconstruction upon said highway is surveyed through, across and upon, and will cross, run through and upon the following described real property, to-wit:

Lying and being situated in Upshur County, Texas, and Beginning at the North West corner of Lot 12 of Block 39, Ore City, Texas, said point being 35' from and opposite Survey Station 863/75 on State Highway 149; Thence S 70 deg 30' E 10'; Thence S 19 deg 30' W 150';

Thence N 70 deg 30' W 10' to the S W Corner of Lot 12; Thence N 19 deg 30' E 150' to the point of beginning and containing 0.03 acres of land, more or less. AND BEGINNING at the N W corner of Lot 3 of Block 38 Ore City, Texas, said point being 35 feet from and opposite survey Station 860/15 on State Highway 149; Thence S 70 deg 30' E 10'; Thence S 19 deg 30' W 50'; Thence N 70 deg 30' W 10' to the S W Corner of Lot 3; Thence N 19 deg 30' E 50' to the place of beginning, and containing 0.01 acres of land, more or less.

3. That in the judgment of said Commissioners' Court it is necessary, advisable and expedient to occupy the land hereinabove described, and to run a road across same, in the manner provided by law, for the purpose, use and benefit of a new and wider right of way for the purpose of opening, widening, straightening, constructing and building, improving and maintaining a state highway, to-wit, State Highway No. 26;

4. That for the reasons and purposes above set out, it is necessary that the State of Texas, through the Commissioners Court of Upshur County, acquire, take, hold, occupy and use and own the above described real estate for the purpose of directing, constructing and maintaining the aforesaid road and right-of-way for said State Highway, and that said Commissioners Court has attempted to but cannot agree with said defendant(s) upon the amount to be paid for said lands above described nor for the damages, if any there be due said defendant(s), and occasioned by use of said land, but the Commissioners court for the purposes aforesaid, have offered said defendant(s) the sum of - - - - Dollars, for said land and for damages, if any there be due said defendant(s), which said sum is the reasonable market value of said property, and is in excess of the damages which would be incurred, if any there be, by running said highway through defendant(s) land, but said defendant(s) have wholly refused to accept same or to agree with Petitioner upon the value of the land and the damages incurred thereby, if any there be, and Petitioner has been unable to compromise or settle with said defendant(s); by reason whereof said Commissioners' Court has been compelled to institute condemnation proceedings to condemn said lands, which are actually needed for said highway as hereinabove described, and all of which said lands your Petitioner is entitled by law to condemn.

WHEREFORE, your petitioner respectfully prays the County Judge of Upshur County, Texas, to forthwith, in the manner required by law, name, designate and appoint three (3) disinterested freeholders, citizens of Upshur County, Texas, as Special Commissioners to assess the value of said above described land and the amount of damages, if any, to be allowed said defendant(s), and that said decision of said commissioners when reported to the court, as required by law, be recorded in the Minutes of the County Court, as the judgment of the Court, and for all other and further relief, general and special, in law and in equity, to which it may be justly entitled.

Leo Fresnell, Attorney for the Commissioners'
Court of Upshur County, Texas.

Filed Sept. 16, 1940, Tommie Mitchell, County Clerk.

THE STATE OF TEXAS

VS.

C. H. MAUTHE

TO THE HONORABLE COUNTY JUDGE OF UPSHUR COUNTY: -

Comes now the State of Texas, acting herein by and through the Commissioners' Court of Upshur County, composed of J. P. Maberry, County Judge, and L. A. Cobb, Commissioner of Precinct No. 1, W. C. Henderson, Commissioner of Precinct No. 2; J. M. Holloway, Commissioner

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of Precinct No. 3; and M. O. Holmes, Commissioner of Precinct No. 4, of said County, hereinafter referred to as Petitioner, and complains of C. H. Mauthe hereinafter called defendant(s) and represents and alleges:

1. That J. P. Maberry is the duly elected and qualified County Judge of Upshur County, Texas, and that E. A. Cobb, W. C. Henderson, J. M. Holloway and M. O. Holmes are the duly elected and qualified Commissioners of Upshur County, Texas; that the residence of the defendant, C. H. Mauthe, is unknown;

2. That the State of Texas is now constructing and laying out and reconstructing a State Highway, designated as such by the Highway Commission of Texas, in Upshur County, Texas, which said highway is known and designated as State Highway No. 26, that such construction and reconstruction upon said highway is surveyed through, across and upon, and will cross, run through and upon the following described real property, to-wit:

Lying and being situated in Upshur County, Texas, and beginning at the N W Corner of Lot 2, of Block 38, Ore City, Texas, said point being 35' from and opposite Survey Station 860/85 on State Highway 149; Thence South 70 deg 30' E 10'; Thence S 19 deg 30' W 50'; Thence N 70 deg 30' W 10' to the S W Corner of Lot 2; Thence N 19 deg 30' E 50' to the place of beginning and containing 0.01 acres of land, more or less.

3. That in the judgment of said Commissioners' Court it is necessary, advisable and expedient to occupy the land hereinabove described, and to run a road across same, in the manner provided by law, for the purpose, use and benefit of a new and wider right-of-way for the purpose of opening, widening, straightening, constructing and building, improving and maintaining a State Highway, to-wit: State Highway No. 26;

4. That for the reasons and purposes above set out, it is necessary that the State of Texas, through the Commissioners' Court of Upshur County, acquire, take, hold, occupy, and use and own the above described real estate for the purpose of directing, constructing and maintaining the aforesaid road and right-of-way for said State Highway, and that said Commissioners' Court has attempted to but cannot agree with said defendant(s) upon the amount to be paid for said lands above described nor for the damages, if any there be due said defendant(s), and occasioned by use of said land, but the Commissioners' Court for the purposes aforesaid, have offered said defendant(s) the sum of ----- Dollars for said land and for damages, if any there be due said defendant(s), which said sum is the reasonable market value of said property, and is in excess of the damages which would be incurred, if any there be, by running said highway through defendant(s) land, but said defendant(s) have wholly refused to accept same or to agree with Petitioner upon the value of the land and the damages incurred thereby, if any there be, and Petitioner has been unable to compromise or settle with said defendant(s) by reason whereof said Commissioners' Court has been compelled to institute condemnation proceedings to condemn said lands, which are actually needed for said highway as hereinabove described, and all of which said lands your petitioner is entitled by law to condemn.

WHEREFORE, your petitioner respectfully prays the County Judge of Upshur County, Texas, to forthwith, in the manner required by law, name, designate and appoint three (3) disinterested freeholders, citizens of Upshur County, Texas, as Special Commissioners to assess the value of said above described land and the amount of damages, if any, to be allowed said defendant(s), and that said decision of said commissioners when reported to the court, as required by law, be recorded in the Minutes of the County Court, as the judgment of the court, and for all other and further relief, general and special, in law and in equity, to which it may be justly entitled.

Leo Presnell, Attorney for the Commissioners'
Court of Upshur County, Texas.

Filed Sept. 15, 1940, Tommie Mitchell,
Co. Clerk.

THE STATE OF TEXAS

VS.

HUGH L. LAIRD, CLAUD LAIRD, WILLIAM LAIRD,
MRS. MAMIE SCOTT AND EUGENE LAIRD, HEIRS
OF THE H. E. LAIRD ESTATE.

TO THE HONORABLE COUNTY JUDGE OF UPSHUR COUNTY: -

Comes now the State of Texas, acting herein by and through the Commissioners' Court of Upshur County, composed of J. P. Maberry, County Judge, and E. A. Cobb, Commissioner of Precinct No. 1; W. C. Henderson, Commissioner of Precinct 2; J. M. Holloway, Commissioner of Precinct No. 3; and M. O. Holmes, Commissioner of Precinct No. 4, of said County, hereinafter referred to as Petitioner, and complains of Hugh L. Laird, Claud Laird, William Laird, Mrs. Mamie Scott and Eugene Laird, heirs of the H. E. Laird Estate, hereinafter called defendant(s), and represents and alleges;

1. That J. P. Maberry is the duly elected and qualified County Judge of Upshur County, Texas, and that E. A. Cobb, W. C. Henderson, J. M. Holloway and M. O. Holmes are the duly elected and qualified Commissioners of Upshur County, Texas; that the residence of each of the above named defendants is unknown;

2. That the State of Texas is now constructing and laying out and reconstructing a State Highway, designated as such by the Highway Commission of Texas, in Upshur County, Texas, which said highway is known and designated as State Highway No. 26; that such construction and reconstruction upon said highway is surveyed through, across and upon, and will cross, run through and upon the following described real property, to-wit:

Situated in Upshur County, Texas, and Beginning at a point in the center of State Highway No. 149 at Survey Station 775/19, said point being on the North limit of the H. E. Laird tract in the R. Asher survey, the right of way being 120 ft. wide 60 ft. on either side of said center line; Thence Southeasterly along a 1 deg. curve with a central angle of 9 deg 00' left 191.6 ft to the end of curve at Survey Station 777/10.6; Thence S 17 deg. 32' E 1491.4 ft to the South limit of the said H. E. Laird tract at Survey Station 791/02, the right of way being 120 ft wide 60 ft on either side of said center line and containing 4.36 acres of land, more or less.

3. That in the judgment of said Commissioners' Court it is necessary, advisable and expedient to occupy the land hereinabove described, and to run a road across same, in the manner provided by law, for the purpose, use and benefit of a new and wider right-of-way for the purpose of opening, widening, straightening, constructing and building, improving and maintaining a state highway, to-wit, State Highway Number 26;

4. That for the reasons and purposes above set out, it is necessary that the State of Texas, through the Commissioners Court of Upshur County, acquire, take, hold, occupy and use and own the above described real estate for the purpose of directing, constructing and maintaining the aforesaid road and right-of-way for said State Highway, and that said Commissioners Court has attempted to but cannot agree with said defendant(s) upon the amount to be paid for said lands above described nor for the damages, if any there be due said defendant(s), and occasioned by use of said land, but the Commissioners Court for the purposes aforesaid, have offered said defendant(s) the sum of - - - - Dollars, for said land and for damages, if any there be due said defendant(s), which said sum is the reasonable market value of said property, and is in excess of the damages which would be incurred, if any there be, by running said highway through defendant(s) land, but said defendant(s) have wholly refused to accept same or to agree with Petitioner upon the value of the land and the damages incurred thereby, if any there be, and Petitioner has been unable to compromise or settle

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with said defendant(s); by reason whereof said Commissioners' Court has been compelled to institute condemnation proceedings to condemn said lands, which are actually needed for said highway as hereinabove described, and all of which said lands your Petitioner is entitled by law to condemn.

WHEREFORE, your petitioner respectfully prays the County Judge of Upshur County, Texas, to forthwith, in the manner required by law, name, designate and appoint three (3) disinterested freeholders, citizens of Upshur County, Texas, as Special Commissioners to assess the value of said above described land and the amount of damages, if any, to be allowed said defendant(s) and that said decision of said commissioners when reported to the court, as required by law, be recorded in the Minutes of the County Court, as the Judgment of the court, and for all other and further relief, general and special, in law and in equity, to which it may be justly entitled.

Leo Pressnell, Attorney for the Commissioners Court
of Upshur County, Texas.

Filed Sept. 16, 1940, Tommie Mitchell, Co. Clerk.

THE STATE OF TEXAS

VS.

LILLIE BERWALD

TO THE HONORABLE COUNTY JUDGE OF UPSHUR COUNTY: -

Comes now the State of Texas, acting herein by and through the Commissioners' Court of Upshur County, composed of J. P. Maberry, County Judge, and E. A. Cobb, Commissioner of Precinct No. 1; W. C. Henderson, Commissioner of Precinct No. 2, J. M. Holloway, Commissioner of Precinct No. 3; and M. O. Holmes, Commissioner of Precinct No. 4, of said County, hereinafter referred to as Petitioner, and complaining of Lillie Berwald hereinafter called defendant(s), and represents and alleges:

1. That J. P. Maberry is the duly elected and qualified County Judge of Upshur County, Texas, and that E. A. Cobb, W. C. Henderson, J. M. Holloway and M. O. Holmes are the duly elected and qualified Commissioners of Upshur County, Texas, that the residence of the defendant is unknown;

2. That the State of Texas is now constructing and laying out and reconstructing a State Highway, designated as such by the Highway Commission of Texas, in Upshur County, Texas, which said highway is known and designated as State Highway No. 26; that such construction and reconstruction upon said highway is surveyed through, across and upon, and will cross, run through and upon the following described real property, to-wit:

Situated in Upshur County, Texas, Beginning at the N W Corner of Lot 13 of Block 39, Ore City, Texas, said point being 35' from and opposite Survey Station 863/25 on State Highway 149; Thence S 70 deg 30' E 10'; Thence S 19 deg 30' W 50'; Thence N 70 deg 30' W 10' to the S W Corner of Lot 13; Thence N 19 deg 30' E 50' to the point of beginning and containing 0.01 acres of land, more or less.

3. That in the judgment of said Commissioners' Court it is necessary, advisable and expedient to occupy the land hereinabove described, and to run a road across same, in the manner provided by law, for the purpose, use and benefit of a new and wider right-of-way for the purpose of opening, widening, straightening, constructing and building, improving and maintaining a state Highway, to-wit, State Highway No. 26;

4. That for the reasons and purposes above set out, it is necessary that the State of Texas, through the Commissioners' Court of Upshur County, acquire, take, hold, occupy, and use and own the above described real estate for the purpose of directing, constructing and

maintaining the aforesaid road and right-of-way for said State Highway, and that said Commissioners' Court has attempted to but cannot agree with said defendant(s) upon the amount to be paid for said lands above described nor for the damages, if any there be due said defendant(s) and occasioned by use of said land, but the Commissioners' Court for the purposes aforesaid, have offered said defendant(s) the sum of ----- Dollars for said land and for damages, if any there be due said defendant(s), which said sum is the reasonable market value of said property, and is in excess of the damages which would be incurred, if any there be, by running said highway through devandant(s) land, but said defendant(s) have wholly refused to accept same or to agree with Petitioner upon the value of the land and the damages incurred thereby, if any there be, and Petitioner has been unable to compromise or settle with said defendant(s) by reason whereof said Commissioners' Court has been compelled to institute condemnation proceedings to condemn said lands, which are actually needed for said highway as hereinabove described, and all of which said lands your petitioner is entitled by law to condemn.

WHEREFORE, your petitioner respectfully prays the County Judge of Upshur County, Texas, to forthwith, in the manner required by law, name, designate and appoint three (3) disinterested freeholders, citizens of Upshur County, Texas, as Special Commissioners to assess the valud of said above described land and the amount of damages, if any, to be allowed said defendant(s), and that said decision of said commissioners when reported to the court, as required by law, be recorded in the Minutes of the County Court, as the judgment of the court, and for all other and further relief, general and special, in law and in equity, to which it may be justly entitled.

Leo Presnell, Attorneys for the Commissioners'
Court of Upshur County, Texas.

Filed Sept. 16, 1940, Tommie Mitchell, County Clerk.

THE STATE OF TEXAS

VS.

FERGUSON & PATE, A COPARTNERSHIP

TO THE HONORABLE COUNTY JUDGE OF UPSHUR COUNTY:-

Comes now the State of Texas, acting herein by and through the Commissioners' Court of Upshur County, composed of J. P. Maberry, County Judge, and E. A. Cobb, Commissioner of Precinct No. 1; W. C. Henderson, Commissioner of Precinct No. 2; J. M. Holloway, Commissioner of Precinct No. 3; and M. O. Holmes, Commissioner of Precinct No. 4 of said County, hereinafter referred to as Petitioner, and complains of Ferguson & Pate, a copartnership hereinafter called defendant(s), and represents and alleges;

1. That J. P. Maberry is the duly elected and qualified County Judge of Upshur County, Texas, and that E. A. Cobb, W. C. Henderson, J. M. Holloway and M. O. Holmes are the duly elected and qualified Commissioners of Upshur County, Texas; that the residence of the defendants is unknown;

2. That the State of Texas is now constructing and laying out and reconstructing a State Highway, designated as such by the Highway Commission of Texas, in Upshur County, Texas, which said highway is known and designated as State Highway No. 26; that such construction and reconstruction upon said highway is surveyed through, across and upon, and will cross, run through and upon the following described real property, to-wit:

Lying and being situated in Upshur County, Texas, and Beginning at the N W Corner of Lot 6 of Block 38, Ore City, Texas, said point being 35' from and opposite Survey Station 858/65 on State Highway 149; Thence S 70 deg 30' E 10'; Thence S 19 deg 30' W 150 feet; Thence S 70 deg 30' W 10' to the S W corner of Lot 4; Thence N 19 deg 30' E 150' to the place of

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beginning and containing 0.03 acres of land, more or less.

3. That in the judgment of said Commissioners' Court it is necessary, advisable and expedient to occupy the land hereinabove described, and to run a road across same, in the manner provided by law, for the purpose, use and benefit of a new and wider right-of-way for the purpose of opening, widening, straightening, constructing and building, improving and maintaining a state highway, to-wit, State Highway No. 26.

4. That for the reasons and purposes above set out, it is necessary that the State of Texas, through the Commissioners' Court of Upshur County, acquire, take, hold, occupy, and use and own the above described real estate for the purpose of directing, constructing and maintaining the aforesaid road and right-of-way for said State Highway, and that said Commissioners' Court has attempted to but cannot agree with said defendant(s) upon the amount to be paid for said lands above described nor for the damages, if any there be due said defendant(s), and occasioned by use of said land, but the Commissioners' Court for the purposes aforesaid, have offered said defendant(s) the sum of ----- Dollars for said land and for damages, if any there be due said defendant(s), which said sum is the reasonable market value of said property, and is in excess of the damages which would be incurred, if any there be, by running said highway through defendant(s) land, but said defendant(s) have wholly refused to accept same or to agree with Petitioner upon the value of the land and the damages incurred thereby, if any there be, and Petitioner has been unable to compromise or settle with said defendant(s); by reason whereof said Commissioners' Court has been compelled to institute condemnation proceedings to condemn said lands, which are actually needed for said highway as hereinabove described, and all of which said lands your petitioner is entitled by law to condemn.

WHEREFORE, your Petitioner respectfully prays the County Judge of Upshur County, Texas, to forthwith, in the manner required by law, name, designate and appoint three (3) disinterested freeholders, citizens of Upshur County, Texas, as Special Commissioners to assess the value of said above described land and the amount of damages, if any, to be allowed said defendant(s), and that said decision of said commissioners when reported to the court, as required by law, be recorded in the Minutes of the County Court, as the judgment of the court, and for all other and further relief, general and special, in law and in equity, to which it may be justly entitled.

Leo Prensell, Attorney for the Commissioners'
Court of Upshur County, Texas.

Filed Sept. 16, 1940, Tommie Mitchell, County Clerk.

THE STATE OF TEXAS

VS.

PHRONIA E. PACK AND H. C. McDANIEL

TO THE HONORABLE COUNTY JUDGE OF UPSHUR COUNTY: -

Comes now the State of Texas, acting herein by and through the Commissioners' Court of Upshur County, composed of J. P. Maberry, County Judge and E. A. Cobb, Commissioner of Precinct No. 1; W. C. Henderson, Commissioner of Precinct No. 2; J. M. Holloway, Commissioner of Precinct No. 3; and M. O. Holmes, Commissioner of Precinct No. 4, of said County, hereinafter referred to as Petitioner, and complaining of Phronia E. Pack and H. C. McDaniel hereinafter called defendant(s), and represents and alleges:

1. That J. P. Maberry is the duly elected and qualified County Judge of Upshur County, Texas, and that E. A. Cobb, W. C. Henderson, J. M. Holloway and M. O. Holmes are the duly elected and qualified Commissioners of Upshur County, Texas; that the defendants

residence of each of the above named defendants is unknown;

2. That the State of Texas is now constructing and laying out and reconstructing a State Highway, designated as such by the Highway Commission of Texas, in Upshur County, Texas, which said highway is known and designated as State Highway No. 26; that such construction and reconstruction upon said highway is surveyed through across and upon, and will cross, run through and upon the following described real property, to-wit:

Situated in Upshur County, Texas, and Beginning at the N W Corner of Lot 13 of Block 40 Ore City, Texas, said apoint being 35' from and opposite Survey Station 867/75 on State Highway 149; Thence S 70 deg 30' E 10'; Thence S 19 deg 30' W 50'; Thence N 70 deg 30' W 10' to the S W Corner of said Lot 13; Thence N 19 deg 30' E 50' to the point of beginning and containing 0.01 acres of land, more or less.

3. That in the judgment of said Commissioners' Court it is necessary, advisable and expedient to occupy the land hereinabove described, and to run a road across same, in the manner provided by law, for the purpose, use and benefit of a new and wider right-of-way for the purpose of opening, widening, straightening, constructing and building, improving and maintaining a State Highway, to-wit, State Highway No. 26;

4. That for the reasons and purposes above set out, it is necessary that the State of Texas, through the Commissioners' Court of Upshur County, acquire, take, hold, occupy and use and own the above described real estate for the purpose of directing, constructing and maintaining the aforesaid road and right-of-way for said State Highway, and that said Commissioners' Court has attempted to but cannot agree with said defendant(s) upon the amount to be paid for said lands above described nor for the damages, if any there be due said defendant(s) and occasioned by use of said land, but the Commissioners' Court for the purposes aforesaid, have offered said defendant(s), the sum of --- - Dollars for said land and for damages, if any there be due said defendant(s), which said sum is the reasonable market value of said property, and is in excess of the damages which would be incurred, if any there be, by running said highway through defendant(s) land, but said defendant(s) have wholly refused to accept same or to agree with Petitioner upon the value of the land and the damages incurred thereby, if any there be, and Petitioner has been unable to compromise or settle with said defendants(s); by reason whereof said Commissioners' Court has been compelled to institute condemnation proceedings to condemn said lands, which are actually needed for said highway as hereinabove described, and all of which said lands your petitioner is entitled by law to condemn.

WHEREFORE, your petitioner respectfully prays the County Judge of Upshur County, Texas, to forthwith, in the manner required by law, name, designate and appoint three (3) disinterested freeholders, citizens of Upshur County, Texas, as Special Commissioners to assess the value of said above described land and the amount of damages, if any, to be allowed said defendant(s), and that said decision of said commissioners when reported to the court, as required by law, be recorded in the Minutes of the County Court, as the Judgment of the Court, and for all other and furthe relief, general and special, in law and in equity, to which it may be justly entitled.

Leo Presnell, Attorneys for the Commissioners'
Court of Upshur County, Texas.

Filed Sept. 16, 1940, Tommie Mitchell, County Clerk.

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ORDER APPOINTING SPECIAL COMMISSIONERS

THE STATE OF TEXAS |
COUNTY OF UPSHUR |

In the Matter of Proceedings by the Commissioners Court of Upshur County, Texas, for the condemnation of certain property of C. H. Mauthe, Lillie Berwald; Phronia E. Pack and H. C. McDaniel; Ferguson & Pate, a copartnership; Hugh L. Laird, Claud Laird, William Laird, Mrs. Mamie Scott, and Eugene Laird, heirs of the H. E. Laird, Estate; and two tracts of land, owners unknown.

On this the 14th day of September, A. D. 1940, came on to be heard the application of the State of Texas, acting through the Commissioners Court of Upshur County, Texas, under authority of Article 6674n, Revised Statutes of 1925, asking for the appointment of special commissioners to assess damages for a right of way for State Highway No. 26, which is a public road and a State designated highway crossing and running over and across and to run over and across and through certain real estate, situated in Upshur County, Texas, fee simple title to which is owned by C. H. Mauthe; Lillie Berwald; Phronia E. Pack and H. C. McDaniel; Ferguson & Pate, a copartnership; Hugh L. Laird, Claud Laird, William Laird, Mrs. Mamie Scott, and Eugene Laird, heirs of the H. E. Laird Estate; and the said land and the relief prayed for is fully described and set out in plaintiff's petition on file in this cause, reference to which petition is here made.

And it appearing to the Court that the Commissioners have not been agreed upon by said parties, the court here and now appoints L. Penick, C. O. Baugh and Dewey Ferguson, all disinterested freeholders of Upshur County, Texas, to be special commissioners to assess the damages in said condemnation proceedings, reference to which is here made.

J. P. Maberry, County Judge,
Upshur County, Texas.

Filed Sept. 16, 1940, Tommie Mitchell, County Clerk.

OATH OF COMMISSIONERS

THE STATE OF TEXAS |
COUNTY OF UPSHUR |

We do solemnly swear that, as special commissioners appointed by J. P. Maberry, County Judge of Upshur County, Texas, for the assessment of damages occasioned by condemnation by Upshur County, Texas, of certain right of way on and across the lands of C. H. Mauthe; Lillie Berwald; Phronia E. Pack and H. C. McDaniel; Ferguson & Pate, a copartnership; Hugh L. Laird, Claud Laird, William Laird, Mrs. Mamie Scott and Eugene Laird, heirs of the H. E. Laird Estate; and two tracts of land, owners unknown; that he will assess said damages fairly and impartially and in accordance with law; So Help us God.

L. Penick
C. O. Baugh
Dewey Ferguson

Filed Sept. 17, 1940, Tommie Mitchell, County Clerk.

ORDER SETTING DATE OF HEARING BEFORE COMMISSIONERS

THE STATE OF TEXAS |
COUNTY OF UPSHUR |

In the Matter of Proceedings by the Commissioners' Court of Upshur County, Texas, for the Condemnation of certain property belonging to C. H. Mauthe; Lillie Berwald; Phronie E. Pack and H. C. McDaniel; Ferguson & Pate, a copartnership; Hugh L. Laird, Claud Laird, William Laird, Mrs. Mamie Scott, and Eugene Laird, heirs of the H. E. Laird Estate; and two tracts of land, owners unknown.

This the 14th day of September, A. D. 1940, in the above entitled matter, we, the special commissioners appointed by the County Judge of Upshur County, Texas, by order dated the 14th day of September, A. D. 1940, finding that the 11th day of October, A. D. 1940 is the earliest practicable day for hearing the parties to such proceedings and that the Court House of Upshur County, in Gilmer, Texas, is a place as near as practicable to the property in controversy, do hereby set such time and place for hearing such parties, to commence at 10 o'clock A. M.

C. O. Baugh
L. Fenick
Dewey Ferguson,
Special Commissioners

Filed Sept. 17, 1940, Tommie Mitchell, County Clerk.

DECISION OF SPECIAL COMMISSIONERS

THE STATE OF TEXAS |
COUNTY OF UPSHUR |

In the Matter of Proceedings by the Commissioners Court of Upshur County, Texas, for the condemnation of certain property of C. H. Mauthe, Lillie Bernwald; Phronia E. Pack and H. C. McDaniel; Ferguson & Pate, copartnership; Hugh L. Laird, Claud Laird, William Lair, Mrs. Mamie Scott, and Eugene Laird, heirs of the H. E. Laird Estate; and two tracts of land, owners unknown.

WHEREAS, on the 14th day of September, A. D. 1940, the State of Texas, County of Upshur, acting by and through its Commissioners' Court, as Petitioner, filed a certain statement with the County Judge of Upshur County, Texas, wherein, upon the facts alleged, it sought condemnation of a right of way upon certain land in said county belonging to the defendants; and, whereas, upon consideration of said statement, and forthwith upon its filing, to-wit, on the 14th day of September, 1940, the said Judge appointed the undersigned three disinterested freeholders of such county as special commissioners to assess the damages occasioned by the condemnation of such land.

WHEREFORE, we, the undersigned commissioners so appointed, duly qualified as such on the 14th day of September, A. D. 1940, each taking the oath as prescribed by law. And on the said 14th day of September, A. D. 1940, by an order duly issued and signed by each of us, we appointed the 11th day of October, A. D. 1940, at the Court House in the City of Gilmer, Upshur County, Texas, as the day and place for hearing said parties, such day being the earliest practicable, and such place being as near as practicable to said property in controversy, said place being at the County Seat of the county in which said property in controversy is situated, of which time and place of hearing we issued a notice in writing to each of said parties. Said notice was served upon each of the defendants C. H. Mauthe, Lillie Berwald, Phronia E. Pack and H. C. McDaniel; Ferguson & Pate, a copartnership; Hugh L. Laird, Claud Laird, William Laird, Mrs. Mamie Scott, and Eugene Laird, heirs of the H. E. Laird

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Estate, and the unknown owners of two tracts of land, by publication, at least five days before the said day of hearing, exclusive of the date of service.

And on the 11th day of October, 1940, upon the day and at the place so appointed for such hearing, service of such notice having been perfected, none of the parties appeared; whereupon we proceeded fully to hear evidence as to the value of the property sought to be condemned, and as to the damages which will be sustained by the owners by reason of such condemnation, and as to the benefits that will result to the remainder of the property belonging to such owners by reason of the condemnation of the said property, and its employment for the purpose to which it is to be condemned, all as required by law, excluding from consideration and from our estimate those injuries or benefits which said owners sustain or receive in common with the community generally, and which are not peculiar to them and connected with their ownership, use and enjoyment of the particular parcel of land.

And thus, having estimated the injuries sustained and the benefits received by the owners by reason of such condemnation, we do accordingly assess the actual damage which will accrue to such owners by such condemnation, as follows:

- H. E. Laird Estate, 4.36 acres - - - - - \$100.00
- Owner Unknown, Lot 3, Block 38, Ore City, Texas, .01 acre - - - - - 10.00
- Owner Unknown, Lot 12, Block 39, Ore City, Texas (.03 acre) - - - - - 10.00
- Phronia E. Paek and H. C. McDaniel, Lot 13, Block 40, Ore City, Texas, (.01 acre) 10.00
- Ferguson & Pate, Lot 6, Block 38, Ore City Texas, .03 acre (.03 acre) - - - - - 10.00
- Lillie Berwald, Lot 13, Block 39, Ore City, Texas, .01 acre, - - - - - 10.00
- C. H. Mauthe, Lot 2, Block 38, Ore City, Texas, .01 acre - - - - - -10.00

And we do now on this the 11th day of October, A. D. 1940, reduce this our decision to writing, and do hereby state, decide and order that the amount of actual damages due said owners of such condemned property by the said State of Texas, County of Upshur, petitioner, is as above specified.

In Testimony Whereof, we have signed this decision and dated it this the 11th day of October, A. D. 1940.

L. Penick
 Dewey Ferguson
 C. O. Baugh, Special Commissioners

Filed Oct. 12, 1940, Tommie Mitchell, County Clerk.

Oct. 12, 1940.

Commissioners Court met in Special session County Judge J. P. Maberry, Commissioner E. A. Cobb, W. C. Henderson and M. O. Holmes & J. M. Holloway being present:

Bids on purchase of One Motor Grader and one Power Control Grader were opened and the bids of J. B. Adams & Co. were accepted as follows: On Deisel Motor Grader \$5189.30 Less one second hand Adams 301 Motor Grader taken in on exchange at \$1125.00, leaving balance of \$4064.30 and the bid of \$2790.00 for Adams leaving wheel grader less one second hand Adams #125 Grader taken in exchange for \$779.30 leaving a balance of \$2010.70 or a total net difference of \$8075.00 to be on the two machines.

J. P. Maberry
 E. A. Cobb
 W. C. Henderson
 J. M. Holloway
 M. O. Holmes