

STATE'S REQUESTED CHARGE NUMBER 1

I charge you, Gentlemen of the Jury, that the power to take property for a public use is inherent in any government. The Constitution of the State of Alabama, 1901, Section 23, limits this inherent power only to the extent that just compensation will be paid for the lands or property condemned and, just compensation is determined by the fair market value of the subject property.

*Refused,
J. Fair J. Mallebrun
judge*

STATE'S REQUESTED CHARGE NUMBER 2

I charge you, Gentlemen of the Jury, that under Alabama Laws, land owners, whose property is condemned for public purpose, is entitled only to just compensation, which means equitable compensation, and is confined to present value of land.

Refused,
J. Fair J. Maschbauer
Judge.

STATE'S REQUESTED CHARGE NUMBER 3

I charge you, Gentlemen of the Jury, that compensation for the taking of property for public use must be determined as of the time of taking, and in this case the time of taking is 7 NOVEMBER, 1969.

*GIVEN,
J. J. Masles
Judge.*

STATE'S REQUESTED CHARGE NUMBER 4

I charge you, Gentlemen of the Jury, that the general rule in condemnation proceedings where only part of a tract of land is taken is that the owner is entitled to difference between value of entire tract immediately before taking and value of part of tract remaining after taking.

*Refused,
Jeffrey J. MacLennan
Judge*

STATE'S REQUESTED CHARGE NUMBER 5

I charge you, Gentlemen of the Jury, that in fixing compensation of condemnation of lands, possible, probably, or imaginary use are not to be considered.

Refused,
Jeffrey J. Macleod
Judge.

STATE'S REQUESTED CHARGE NUMBER 6

I charge you, Gentlemen of the Jury, that the final inquiry as to compensation, if any, to be awarded where a part of a tract of land is condemned for public highways, is the difference between the value of the entire tract immediately before the taking and the value of the part of the tract remaining after the taking, giving effect to any enhancement in value of part remaining resulting from the road construction.

Refused,
Jelfair J. Massie
Judge.

STATE'S REQUESTED CHARGE NUMBER

7

I charge you, Gentlemen of the Jury, that if you are reasonable satisfied from the evidence in this case that any witness has magnified or exaggerated the value of property acquired in the proceedings on account of his interest in the outcome of this action, or his prejudice, or want of knowledge or experience or truthfulness, then you have the right, and it is your duty, to disregard the evidence of such witness in so far as the same is unjustly magnified or unjustly increased, as to the value of this property.

Given
DeFair J. Marshall
Judge

STATE'S REQUESTED CHARGE NUMBER 8

I charge you, Gentlemen of the Jury, that market value is the price in terms of money the property would bring if offered for sale in the open market by a willing seller; with reasonable time to find a willing purchase buying with full knowledge of all the uses to which the property is adaptable and for which it is capable of being used at the time of the taking.

Given,
Jesse J. Madaleno
Judge

STATE'S REQUESTED CHARGE NO. 9

I charge you, Gentlemen of the Jury, that the test of market value of property condemned is what it would reasonable have sold for in the market at the time and place under like conditions, and is the price the property will bring when offered for sale by a willing seller, who is not forced to sell and is sought by a willing buyer, not required to buy, after due consideration of all elements effecting value.

Refused,
Jeffrey J. Maddeburn
Judge.

1.

The Court charges the jury that under the Constitution and laws of the State of Alabama when, as in this case, private property is taken or damaged for public purposes, just and adequate compensation must be paid to the property owner.

Refused
J. Fair J. Madison
Judge

2.

The Court charges the jury that when private property is taken or damaged for public purposes, the Constitution of Alabama is a guarantee to the owner that he shall have just compensation.

Refused,
J. J. Madison
Judge

3.

The Court charges the jury that the fact that the road to be built on the property condemned in this case will divide the remaining property of the landowner is a factor which you may properly consider in determining the value of the remaining lands.

Given
DeForest G. MacLennan
Judge

4.

The Court charges the jury that an easement or right-of-way for public road purposes is "property" for which, when taken, the owner is entitled to compensation under the Constitution of Alabama.

*Witness,
Deafair J. Maddox
Judge.*

6.

The Court charges the jury that the owner of a tract of land, a part of which is condemned for highway purposes, is entitled to be put in as good a position from a pecuniary standpoint as he would have occupied had his property not been taken.

Jury
Delvaire J. Marksburn
Judge