

REPORT OF VIEWERS.

To the Honorable, the Judges of the Court of Quarter Sessions of  
Cambria County, Pennsylvania.

We, the undersigned members of the permanent board of viewers of Cambria County, appointed by your honorable Court and upon the attached order directed to view and determine as to the necessity for a private road from the dwelling house of one Clyde F. Kruis to the public highway, in Reade Township, said county and state, known as the "Gill Hollow" road, and to estimate and determine the damages, if any, which should be sustained by the owner or owners of the land through and over which they should lay out same, respectfully report:

That having given due and legal notice of the view and of the time and place of meeting of the viewers to the Commissioners of Cambria County, the Supervisors of the township of Reade, to the petitioner and to the owner of the land through and over which the proposed road was desired to pass and having the Commissioners, the Supervisors and the petitioner accept service of notices hereto attached and marked Exhibits numbers 1, 2 & 3. Two copies of exhibit No. 3. were served on the owner of the land through and over whom the road as prayed for was desired to pass by leaving same with Mrs. N. B. Lithgow, wife of the owner of the premises, at least ten days prior to the date set for the view: said notice also contained a statement of the time and place of meeting of the viewers to hear testimony and determine the damages, if any, which should or would appear likely to be sustained by said N. B. Lithgow by reason of the use and enjoyment of the private road through and over his premises - this notice the said N. B. Lithgow, when he appeared before the viewers at the time and place set for the hearing, admitted having received and stated he had sent them to his sons but he refused to sign an acceptance of service of same.

Accordingly the viewers having been first duly sworn according to law to perform the duties of their appointment faithfully, impartially and to the best of their judgment and ability met in accord with the notices so given as aforesaid and in accord with ten notices posted in public and

conspicuous places along the Gill Hollow road and the road leading therefrom to the premises of the petitioner.

Having thus met as stated and gone over the situation carefully we agreed there was occasion and necessity for a private road from the dwelling house and premised to a public road and that the logical place for it would be through and over land of one N. B. Lithgow, all of the distance except about sixty two feet being on the right-of-way of the recently vacated public road, which for some time past has been worked and used by the petitioner as his only <sup>legal</sup> access to a public thoroughfare; and having on the 12th. of October listened to all the testimony the party over whom the private road was laid out had to offer we have estimated and determined that he would sustain damages not in excess of and accordingly we have fixed his damages at Ten (\$10.00) Dollars, which amount is to be paid to said N. B. Lithgow by Clyde F. Kruis, the petitioner,

A plot or draft, showing the location, courses and distances and the premises through and over which the road as laid out passes is hereto attached and made a part of this report. Said road begins on the Gill Hollow road just Westward from the residence of of N. B. Lithgow and then extends North 39° East 423 feet between open fields of said N. B. Lithgow to a bridge over a small stream, thence through unimproved woodland of said Lithgow for the following courses and distances, North 26° East 548.6 feet; North 39° East 749.2 feet; North 42° 05' East 749.4 feet, and North 10° East 62 feet to the line of land of the petitioner.

The viewers beg leave to suggest further that in their opinion the Court should direct that in the event of the use of the private road by the owner of the premises for any such purpose as hauling props, bark, timber or the like or the destruction or impairment of the bridge by reason of his use of same that he shall be responsible for a proportionate share of the maintenance, upkeep, repairs or re-construction of said road and bridge.

The viewers also recommend that the width of the road as laid out shall be fixed at twenty five feet, which is the width upon which they have estimated the damages fixed as the amount which will be sustained by the owner of the land over which it passes.

At the hearing two papers were exhibited, the first purporting to be an

agreement to purchase the land over which the road was laid out for twenty five hundred dollars if the public road were vacated and no other road laid out; the second paper was an absolute refusal to purchase the land provided a private road was laid out across same from farm of Clyde F. Kruis and ended by stating they would accept for fifteen hundred dollars.

The first paper referred to was dated about Aug., 10th., 1928 and the other about the date of the view for the private road, tho the owner of the land apparently had not received them or had them in his possession until after the view for the private road and upon the strength of these two papers he claimed he would be damaged to the extent of one thousand dollars.

The papers or communications referred to were or purported to be signed by four or five children of N. B. Lithgow, who he insisted were anxious to buy the property.

This claim however the viewers regarded as absurd and not deserving of serious consideration.

A. M. Shoemaker.

J. D. Ritter

Adam Shuman

Viewers.



NOTICE OF VIEW FOR PRIVATE ROAD.

Notice is hereby given that the viewers appointed by the Court of Quarter Sessions of Cambria County, Pa., to view and determine as to the necessity for a private road, in Reade Township, said county and state, to begin at the plantation or dwelling house of Clyde F. Kruis; on the line dividing the counties of Clearfield and Cambria; and to end on the public road, in said township of Reade, known as the "Gill Hollow" road: will meet AT THE POINT OF ENDING, above indicated, in the Township of Reade aforesaid, on the 10th. day of October, 1928, at 10:30 o'clock A. M., for the purpose of performing the duties of their appointment.

A. M. Shoemaker,

J. D. Ritter and

Adam Shuman,

Viewers.

Now, October 1928, service of the within notice is hereby  
accepted for the Commissioners of the County of Cambria, Penn'a.

*George E. Kerby*  
Clerk.

NOTICE OF VIEW FOR PRIVATE ROAD.

Notice is hereby given that the viewers appointed by the Court of Quarter Sessions of Cambria County, Pa., to view and determine as to the necessity for a private road, in Reade Township, said county and state, to begin at the plantation or dwelling house of Clyde F. Kruis; on the line dividing the counties of Clearfield and Cambria; and to end on the public road, in said township of Reade, known as the "Gill Hollow" road: will meet AT THE POINT OF ENDING, above indicated, in the Township of Reade aforesaid, on the 10th. day of October, 1928, at 10:30 o'clock A. M., for the purpose of performing the duties of their appointment.

A. M. Shoemaker,

J. D. Ritter and

Adam Shuman,

Viewers.

Now, October 1928, service of the above notice is hereby accepted by the undersigned Supervisors of the Township of Reade, Cambria County, Pennsylvania.

W. L. McElroy

Sam Powell

Supervisors.

NOTICE OF VIEW FOR A PRIVATE ROAD IN READE TOWNSHIP,  
CAMBRIA COUNTY, PENNSYLVANIA, and OF THE TIME AND PLACE OF MEETING  
OF VIEWERS TO DETERMINE AND ASSESS THE DAMAGES, IF ANY, WHICH SHALL  
BE SUSTAINED BY THE OWNER OR OWNERS OF THE LAND THROUGH AND OVER WHICH  
SAID PRIVATE ROAD SHALL BE LAID OUT.

Notice is hereby given that the Viewers appointed by the Court of  
Quarter Sessions of Cambria County, Pennsylvania, to view and deter-  
mine as to the necessity for a private road, in Reade Township, said  
county and state, to begin at the plantation or dwelling house of  
Clyde F. Krueis; on the line dividing the counties of Clearfield and  
Cambria; and to end on the public road, in said township of Reade,  
known as the "Gill Hollow" road; will meet to view and determine the  
necessity for said road and if they shall find there is occasion for  
private  
a road between the termini above indicated, to lay out the same ac-  
cording to law, on the 10th. day of October, 1928, at 10:30 o'clock  
a. m.; and the said viewers will meet at the same hour on the 12th.  
day of the same month; <sup>at Court House, Ebensburg, Pa.</sup> October 1928; to hear such testimony relative  
thereto and to ascertain and assess such damages as it may appear to  
them the party or parties through and over whom said road may be laid  
out shall sustain or suffer by reason of the opening and using of the  
same by the petitioner.

A. M. Shoemaker,

J. D. Ritter and

Adam Shuman,

Viewers.

Now, September 29<sup>th</sup> 1928, service of the above notice is hereby  
accepted by the petitioner.

Clyde F. Krueis  
Now, Oct 17<sup>th</sup> 1928, I hereby certify that the  
original; of which the above is an exact copy,  
was served on Sept 29<sup>th</sup> or within two days prior  
thereto, on N. B. Lithgow, by leaving same at his  
residence with his wife -  
A. M. Shoemaker.





# Cost of View.

**A. M. Shoemaker**  
 Preparing, posting & serving  
 notices of view and notifying  
 viewers - 2 days - \$24<sup>00</sup>  
 84 miles @ 10¢ per mi 8<sup>40</sup>  
 Stenographer - 2<sup>50</sup>  
 Day on view - 12<sup>00</sup>  
 84 miles - 8<sup>40</sup>  
 Day at Hearing - 12<sup>00</sup>  
 Engineering work, help and  
 transportation - 8<sup>75</sup>  
 Preparing & serving notices  
 of hearing; preparing & having  
 signed, assembling and filing  
 report of viewers - 24<sup>00</sup>  
 Stenographer - 3<sup>50</sup>  
\$182<sup>30</sup>

**J. D. Ritter**  
 3 Days @ 12<sup>00</sup> per day - \$36<sup>00</sup>  
 174 miles (three trips) at 10¢ - 17<sup>40</sup>  
\$53<sup>40</sup>

**Adam Sherman**  
 3 Days @ 12<sup>00</sup> per day - 36<sup>00</sup>  
 234 miles (three trips) - 23<sup>40</sup>  
\$59<sup>40</sup>

APPROVED FOR PAYMENT  
  
  
 COMMISSIONERS

CERTIFIED  
 J. P. Caeser  
 COUNTY CONTROLLER

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA.

No. 1 September Sessions, 1928.

In re Petition for View to lay out a Private Road in Reade Township.

To the Honorable, the Judges of the Court of Quarter Sessions of Cambria County, Pennsylvania.

The Petition of Clyde F. Kruis respectfully represents:

That he is a citizen of Clearfield County, Pennsylvania, and the owner of a certain farm in said county, whereon he has been and now is residing.

That said farm consists of approximately one hundred acres of farm land wherefrom your petitioner has gained his living for himself and his family by cultivating same.

That said farm is bounded on the Southerly side by the line dividinf the townships of Beccaria, Clearfield County, Pa., and Reade Township; Cambria County, Pa., and the counties of Clearfield, and Cambria.

That he labors under great inconvenience for want of a road or outlet from his farm to the public highway.

That for some years past and until a very recent date his outlet has been over a public road from his farm to the public road in Reade Township, Cambria County; known as the "Gill Hollow" road.

That under date of August 13th, 1928, viewers were appointed by your Honorable Court to view and determine as to the propriety of vacating said public road from the Clearfield- Cambria County line which is from the property line of the farm of your petitioner; to the "Gill Hollow" road, and by their report, filed in the Court of ~~the~~ Quarter Sessions of Cambria County, Pa., September 5th, 1928, said piece pf road was reported by said viewers to be unnecessary for a public road and recommended to be vatated.

That on the final confirmation of the report of viewers, the first week of December, 1928, your petitioner will be without an outlet to any public highway and, tho he has endeavored to procure a private right of way - over the piece of road being vacated - he has been unsuccessful in so doing and therefore will be without any outlet from his premises to market or elsewhere.

Your petitioner, the above named Clyde F. Kruis, therefore prays your Honorable Court to appoint three members from the Permanent Board of Viewers of Cambria County to view the premises and if they deem the same to be necessary to lay out a private road from your petitioners plantation or dwelling house to the public road in Reade Township, Cambria County, Pennsylvania, known as the "Gill Hollo" road, and that if they shall determine the same to be necessary and do lay out a road, to be used as a private road, as prayed for, that they shall be directed to ascertain and fix the damages, if any, which may result to the owner of the land through and over which said piece of road as laid out by them shall pass, and he will ever pray, etc.

Clyde F. Kruis.

No. 1. Sept. Sessions 1928

In the Court of Quarter  
Sessions of Cambria  
County, Pennsylvania

In re Private Road  
from farm or dwell-  
ing house of Clyde  
F. Keen to the "Gill  
Hollow" road in  
Reade Twp., Cambria  
Co., Pa.

Order to View

and

Report of Viewers

Dated 19 October 1928

**CERTIFIED**

*George F. [Signature]*

COUNTY

2

10 Dec. 1928 Improved road width fixed at twenty five feet.

By the Court  
Evan P. J.

Now, September 24, A. D. 1928, the within petition being read and considered the Court does appoint A. M. Shoemaker, Esq., surveyor, and Adam Shuman and J. D. Ritter, as viewers to view and determine as to the necessity for a private road from the dwelling house of Clyde F. Kruis, at the line between the Counties of Clearfield and Cambria, to the Gill Hollow road, in Reade Township, Cambria County, Pa., and if they shall find there is occasion for such road to lay out same according to law and to estimate and determine what damage, if any, are sustained by the party or parties through and over whom the same shall be laid out and that they shall report to the next regular session of the Court of Quarter Sessions whether or not a private road as prayed for is necessary, if so whether or not same has been laid out according to law, return a plot or draft therewith showing where same has been laid out, and the amount of damages, if any, which they shall estimate shall be sustained by the party or parties through and over whose land the same shall pass.

By the Court,

Evans, P. J.

By the Court,

Extract from the Record.

Certified this 27th day

of September, A. D. 1928.

Franklin L. Robb

Clerk of the Court of Quarter  
Sessions.

IN THE COURT OF QUARTER SESSIONS  
OF CAMBRIA COUNTY, PA.

IN RE: PRIVATE ROAD FROM FARM  
OR DWELLING HOUSE OF CLYDE E.  
KRUIS, TO THE "GILL HOLLOW"  
ROAD IN READE TOWNSHIP, CAMBRIA  
COUNTY, PENNSYLVANIA.

O P I N I O N

*Filed 25 November 1929*

**CLAIR W. LÜTHER**  
**OFFICIAL STENOGRAPHER**  
FOR THE  
**FORTY-SEVENTH JUDICIAL DISTRICT**  
**PENNSYLVANIA**

IN RE: PRIVATE ROAD FROM FARM  
OR DWELLING HOUSE OF CLYDE E.  
KRUIS, TO THE "GILL HOLLOW"  
ROAD IN READE TOWNSHIP, CAMBRIA  
COUNTY, PENNSYLVANIA.

IN THE COURT OF QUARTER SESSIONS  
OF CAMBRIA COUNTY, PA.  
No. 1 September Sessions, 1928.  
EXCEPTIONS TO REPORT OF VIEWERS.

OPINION OF THE COURT

Heard before Evans, P.J., McCann, J., Barnhart, J., and  
Reed, P.J., O.C., Specially Presiding.

EVANS, P.J:

Exceptions to the report of the viewers, which was  
favorable to the allowance of the private road, were filed by  
N.B. Lithgow, owner of the land over which the private road passes.

The first exception complains that the report is ir-  
regular in form because it fails to set forth in brief and concise  
paragraphic forms all findings of fact and conclusions of law as  
required by the Act of 1911, P.L. 1123, Section 9.

With this allegation we are unable to agree. The form  
of the report is a substantial compliance with the requirements  
of the Act of Assembly as we understand it.

The second exception complains that the report is de-  
fective because it fails to set forth what findings of fact or  
conclusions of law were considered by the Board of Viewers in  
fixing the damages sustained by the exceptant in the sum of ten  
dollars. The report does show what the viewers found upon the  
ground and the conditions, and sets forth their conclusion that  
the damage sustained by the exceptant is ten dollars. In our  
judgment, the report is sufficient in form and in fact.

The third exception complains that the report failed to



include~~any~~ findings of fact or conclusions of law as required by the Act of Assembly and that it did not take into consideration damages caused to the exceptant by reason of the constructing of the road in question over the right-of-way of a former public road which was vacated by an order of the Court of Quarter Sessions. We are unable to find anything in the report that indicates that the viewers failed to take into consideration everything that should have been considered in making their report as viewers.

The burden of the complaint of the exceptant seems to be that he was not allowed sufficient damages. If that is the real complaint, filing of exceptions to the report is not a method by which this complaint can be remedied. It must be by <sup>re</sup>view: In re, Road in Chartiers Township, 34 Pa. 413.

DECREE

And now, *Nov. 28*, 1929, after due consideration, exceptions overruled and report of viewers confirmed.

BY THE COURT:

*Evans*

\_\_\_\_\_  
President Judge.

EXCEPTION

To all of which counsel for exceptant excepts and prays that an exception be noted him and bill sealed; all of which is, the day and year aforesaid, accordingly done.

JOHN E. EVANS, P.J. (SEAL).

NO. I SEPT, SESSIONS 1928

IN THE COURT OF QUARTER  
SESSIONS OF CAMBRIA COUNTY,  
PENNSYLVANIA.

980

IN RE: PRIVATE ROAD FROM  
FARM OR DWELLING HOUSE OF  
CLYDE F. KRUIS, TO THE "GILL  
HOLLOW" ROAD IN READE TOWN-  
SHIP, CAMBRIA COUNTY, PENNSYL-  
VANIA.

EXCEPTIONS TO REPORT OF  
VIEWERS

Filed 9 March 1929.

JONES AND GRIFFITH  
ATTORNEYS AT LAW  
EBENSBURG,  
PENNA.

IN RE: PRIVATE ROAD FROM FARM : IN THE COURT OF QUARTER  
OR DWELLING HOUSE OF CLYDE F. KRUIS, : SESSIONS OF CAMBRIA COUNTY,  
TO THE "GILL HOLLOW" ROAD IN READE : PENNSYLVANIA.  
TOWNSHIP, CAMBRIA COUNTY, PENNSYLVANIA: NO. I SEPT. SESSIONS 1928  
:

EXCEPTIONS TO REPORT OF VIEWERS.

N. B. Lithgow, being the owner of the land over which the private road referred to in the above entitled case passes, excepts to the Report of the Viewers, and assigns the following reasons:-

I.

That the Report of the Board of Viewers is irregular for the reason that the said Report fails to set forth in brief and concise paragraphic forms all findings of fact and conclusions of law as required by the Act of 1911 P.L. 1123 Section 9.

II.

That the Report of said Viewers is fatally defective by reason of the fact that it fails to set forth what findings of fact or conclusions of law were considered by the said Board of Viewers in fixing the damage sustained by the exceptant at the sum of Ten(\$10.00) Dollars.

III.

The Board of Viewers, although their Report failed to include any findings of fact or conclusions of law as required by the Act of Assembly, obviously did not take into consideration the damages caused to exceptant by reason of the constructing of a part of the road in question over the right of way of a former public road which was vacated by order of the Court of Quarter Sessions of Cambria County, Pennsylvania, by proceedings filed to No. 4 June Sessions 1928 in said Court and confirmed absolutely December 10th, 1928.

*James Griffith*  
Attorney for Exceptant

COMMONWEALTH OF PENNSYLVANIA :  
COUNTY OF CAMBRIA : SS

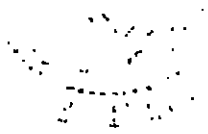
N.B.Lithgow being duly sworn according to law  
deposes and says that the statements contained in the foregoing  
Exceptions are true and correct.

N B Lithgow

Sworn and subscribed to  
before me this 9th day of March,  
A.D.1928.

Geo. W. Williams  
Notary Public

~~My Commission expires~~ Prothonotary



No. 1

*September*

December Term, 1928

IN THE COURT OF QUARTER  
SESSIONS OF CAMBRIA COUNTY.

PETITION FOR VIEW TO LAY  
OUT A PRIVATE ROAD IN  
READE TOWNSHIP, CAMBRIA  
COUNTY, PENNSYLVANIA.

*Filed 24 Sept. 1928*

ALBERT L. O'CONNOR  
ATTORNEY-AT-LAW  
TRUST COMPANY BUILDING  
EBENSBURG, PENNA.

PETITION FOR VIEW TO LAY OUT A PRIVATE ROAD IN READE TOWNSHIP,  
CAMBRIA COUNTY, PENNSYLVANIA.

To the Honorable, the Judges of the Court of Quarter Sessions of  
Cambria County, Pennsylvania.

The Petition of Clyde F. Kruis respectfully represents:

That he is a citizen of Clearfield County, Pennsylvania, and the owner of a certain farm, in said county, whereon he has been and now is residing.

That said farm consists of approximately one hundred acres of farm land wherefrom your petitioner has gained his living for himself and his family by cultivating same.

That said farm is bounded on the Southerly side by the line dividing the townships of Bēccaria, Clearfield County, Pa. and Reade Township Cambria County, Pa., and the counties of Clearfield and Cambria.

That he labores under great inconvenience for want of a road or outlet from his said farm to the public highway.

That for some years past and until a very recent date his outlet has been over a public road from his farm to the public road in Reade Township, Cambria County; known as the "Gill Hollow" road.

That under date of August 13th., 1928, viewers were appointed by your honorable Court to view and determine as to the propriety of vacating said public road from the Clearfield - Cambria County line: which is from the property line of the farm of your petitioner: to the "Gill Hollow" road, and by their report; file in the Court of Quarter Sessions of Cambria County, Pa. September 5th. 1928; said piece of road ~~was~~ reported, by said viewers, to be unnecessary for a public road and recommended to be vacated.

That on the final confirmation of the report of viewers, the first week of December, 1928, your petitioner will be without an outlet to any public highway and, tho he has endeavored to procure a private right of way - over the piece of road being vacated - he has been unsuccessful in so doing and therefore will be without any outlet from his premises to market or elsewhere.

Your petitioner; the above named Clyde F. Kruis: therefore prays your honorable Court to appoint three members from the Permanent Board of Viewers of Cambria County to view the premises and if they deem the same to be necessary to lay out a private road from your petitioners

plantation or dwelling house to the public road in Reade Township, Cambria County, Pennsylvania, known as the "Gill Hollow" road, and that if they shall determine the same to be necessary and do lay out a road, to be used as a private road; as prayed for; that they shall be directed to ascertain and fix the damages, if any, which may result to the owner of the land through and over which said piece of road as laid out by them shall pass, and he will ever pray &c.

Clyde F. Kruis

State of Pennsylvania)  
(SS.  
County of Cambria )

Before me, the subscriber, a Justice of the Peace in and for said county, ~~and state~~, personally came Clyde F. Kruis, the petitioner named hereinabove who, having been duly sworn according to law, deposes and says that the matters set forth in the foregoing petition are true and correct.

Clyde F. Kruis

Sworn and subscribed to before me this 19<sup>th</sup> day of September, A. D. 1928.

E. J. Drayce  
Justice of the Peace  
Jan. 1930

D E C R E E .

Now, September 24 A. D., 1928, the within petition being read and considered the Court does appoint Wm. Shrock Esq. surveyor, and Adam Shuman & J. D. Keith as viewers to view and determine as to the necessity for a private road from the dwelling house of Clyde F. Kruis, at the line between the Counties of Clearfield and Cambria, to the Gill Hollow road, in Reade Township, Cambria County, Pa., and if they shall find there is occasion for such road to lay out same according to law and to estimate and determine what damages, if any, are sustained by the party or parties through and over whom the same shall be laid out and that they shall report to the next regular session of the Court of Quarter Sessions whetehr or not a private road as prayed for is necessary, if so whether or not same has been laid out according to law, return a plot or draft therewith showing where same has been laid out, and the amount of damages, if any, which they shall estimate shall be sustained by the party or parties through and over whose land the same shall pass.

By the Court  
Evan P.