

CHAP. 12.

Commissioners appointed to lay out road.

2. BE IT ENACTED, by the General Assembly of Maryland, That William Ballenger, Silas Bayley and Lewis Duvall, or a majority of them, be and they are hereby appointed commissioners to survey, lay out and open, at the expense of such persons as may think proper to contribute thereto, a road twenty feet wide, in the best and straightest direction, taking all circumstances into consideration, from Liberty-town, in Frederick county, through the main square of the town of New-Market, and from thence to Hyatt's-town, in Montgomery county; and the commissioners shall make out a plot of that part of a road leading through Frederick county, and return the same to the clerk of the county court, to be recorded among the records of said county; they shall also make out a plot of that part of the road running through Montgomery county, and return the same to Montgomery county court, to be recorded among the records of said county; and the said road, when opened and recorded as aforesaid, and the valuation herein after directed to be made shall have been paid, or secured to be paid, shall for ever thereafter be deemed a public highway, and kept in repair in the same manner as other public roads in the said counties respectively.

How vacancies are to be filled.

3. AND BE IT ENACTED, That in case of death, resignation, disqualification, or refusal to act, of any of the commissioners aforesaid, the remaining commissioners, or a majority of them, shall and they are hereby authorised and directed to fill up such vacancy or vacancies.

Damages to be assessed.

4. AND BE IT ENACTED, That the commissioners aforesaid, or a majority of them, shall ascertain and value, if required, what damages may be sustained by a person or persons over whose land the said road may pass by opening the same, and the valuation shall be made, and the amount thereof paid as aforesaid to the parties respectively interested, before the said commissioners, or a majority of them, shall proceed to open the said road; *Provided always*, that if any person or persons through whose land the said road may pass, or his, her or their guardian or trustee, shall conceive themselves aggrieved by such valuation and assessment of damages by the said commissioners, or a majority of them, it shall and may be lawful for any justice of the peace of the county in which the land lies, on application of the party interested, or his, her or their guardian or trustee, to issue his warrant, under his hand and seal, directed to any constable of the county, commanding him to summon five freeholders, who do not hold lands through which said road may pass, to appear, on a day by the said justice to be appointed, on the land of the person or persons making application as aforesaid, or for whose benefit such application shall be made, and the said freeholders, having first made oath before said justice of the peace, that they will, without favour, affection or partiality, assess the damages sustained by the person or persons at whose request, or for whose benefit, such inquisition shall be taken, by reason of opening the aforesaid road through his, her or their land, shall thereupon proceed to assess and value the damages accordingly, of which the said commissioners, or a majority of them, shall have had at least five days notice, and shall return the damages so assessed to the said justice of the peace, and such inquisition and valuation shall be final and conclusive; *Provided always*, that no road shall be carried or conducted through any yard, garden or orchard, against

Proviso;