

the said commissioners, or a majority of them, shall make out a plot of said road, and return the same to the clerk of Dorchester 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, and the said commissioners or a majority of them shall have certified that the said road is in a condition to be received as a public road, shall forever thereafter be deemed a public highway, and kept in repair as other public roads in the said county.

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1814.

2. AND BE IT ENACTED, That in case of death, resignation 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.

Vacancies in  
the board of  
commission-  
ers.

3. AND BE IT ENACTED, That the commissioner's aforesaid, or a majority of them, shall ascertain and value, if required, what damages may be sustained by any 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 said road:

Damages—va-  
luation.

*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 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, sensible and discreet men, who do not hold land through which the 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 men so summoned having first made oath before said justice of the peace, that they will, without favor, 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 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 the said road shall not be carried or conducted through any yard, garden or orchard against the will or consent of the owner, nor shall any field in which grain is growing be laid open until the

Proviso.

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