

CHAP. 2.

Proviso.

Atkins's, so as to do as little injury as possible to the lands through which it may pass; *Provided*, that the said road shall not pass through any houses, gardens, orchards or meadows, without the consent of the owners thereof, and that the said road, when so laid out and completed, shall be recorded among the land records of the said county, and be thereafter deemed and taken to be a public road, and shall be kept in repair as other roads in the said county are directed to be.

Damages to be ascertained.

2. AND BE IT ENACTED, That the commissioners aforesaid, or a majority of them, shall value and ascertain the damages that may be sustained by any person or persons through whose land the said road may pass by opening of the same, and the damages so ascertained, or in the event of their being ascertained by a jury, shall be levied and assessed as other county charges are, and shall be paid over to the person or persons entitled to the same.

Persons aggrieved may have jury summoned.

3. AND BE IT ENACTED, That if any person or persons through whose land the said road may pass, or his or their guardian or trustee, conceive himself, herself or themselves, aggrieved by such valuation or assessment of damages by said commissioners, it shall and may be lawful for a justice of the peace of the said county, on his or their application, to issue his warrant, under his hand and seal, directed to the constable of the hundred, commanding him to summon twelve disinterested men, qualified by law to serve as jurors in the county court, to meet upon the premises upon a certain day, of which ten days notice shall be given to the party or parties interested; and that the said jurors, when so met, and having each first taken an oath before some justice of the peace, that he will, without favour or affection, prejudice or partiality, assess the damages sustained by the person or persons at whose request such inquisition shall be taken, by reason of opening the aforesaid road through his, her or their lands, shall thereupon proceed to assess and value the damages accordingly, taking into consideration the advantages and disadvantages, (if any,) and such inquisition or valuation shall be final and conclusive; but should the jury award a smaller sum for damages than the commissioners had previously done, then and in that case the person or persons at whose instance it was held, shall pay all the legal costs and charges of said inquisition, but if on the contrary they should award a larger sum, then the costs of such inquisition shall be paid by the county; *Provided*, that the said commissioners, or a majority of them, shall not be bound to lay out the road aforesaid, from New-Town to Buckley's-Town, on the route as now located, provided a better or nearer way may be discovered, and which may be offered to said commissioners, for the use of said road, by the person or persons whose land it may pass through, without any charge to the county, but in such case the commissioners as aforesaid may depart from such location.

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Commissioners to take an oath.

4. AND BE IT ENACTED, That the said commissioners before they shall proceed to act, shall take an oath before some justice of the peace, of the same tenor and effect as is heretofore directed to be taken by the jurors.

Persons who have signed petition for road not to be entitled to damages.

5. AND BE IT FURTHER ENACTED, That no person or persons, through whose land the said road shall pass, and who have agreed or signed the petition for the same, shall be entitled to any damages by this act.