

CHAP. 103. and Winbert Tschudy, be and they are hereby appointed commissioners, and they, or a majority of them, are hereby authorised and directed to lay out, mark and open, at the expense of the county, two roads not exceeding thirty feet wide, one of said roads to begin at or near Doctor Whittington's gate, on the road leading from Church-Hill, to Chester-Town, and thence to run in the best direction, and on the most eligible ground, to the lower Red Lion Mill, and thence in the best direction to the public road leading to the head of Chester; the other road to begin at the most proper and convenient part of the new road above mentioned, and to pass by Double Creek Meeting-house, in the straightest and best direction, to the road leading from Church-Hill to the head of Chester, so as to do as little injury as possible to the lands through which the said roads may pass; *Provided*, that the said roads shall not pass through any houses, gardens or orchards, without the consent of the owner thereof; and the said roads, when so laid out and opened, shall be recorded among the records of said county, and shall for ever thereafter be deemed public roads, and shall be kept in repair in the same manner as other public roads are kept in said county.

Provided

Damages to be ascertained.

2. AND BE IT ENACTED, That the commissioners aforesaid, or a majority of them, be and they are hereby authorised and directed, to ascertain and value what damages may be sustained by any person or persons through whose land either of the said roads may pass, by opening the same, taking into consideration all advantages and disadvantages in consequence thereof, 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 receive the same.

Persons conceiving themselves aggrieved on application may have jury summoned to ascertain damages

3. AND BE IT ENACTED, That if any person or persons through whose land either of the said roads may pass, or his or their guardian or trustee, shall 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 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 said 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 and valuation shall be final and conclusive, and the said constable shall return the inquisition of the jury aforesaid, under his hand and seal, to the levy court of said county; 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.