

CHAP. 122. 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 for ever thereafter be deemed a public highway, and kept in repair as other public roads in the said county.

Vacancies, how to be supplied.

3. 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.

Damages to be ascertained.

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 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 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 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 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 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 the will or consent of the owner, nor shall any field in which grain is growing be laid open until the crop is ripe and may be taken away.

Provisors

Allowance to commissioners.

5. AND BE IT ENACTED, That the said commissioners as aforesaid shall be allowed eleven shillings and three-pence for every day they shall be employed in discharge of their duty under this act, to be paid in the same manner as the amount of the valuation herein before directed to be made.