

than two rod nor more than three rod wide, and all and every new road before expressed shall be by them laid out, marked and bounded, in as streight a direction as the nature of the ground will admit, at the same time considering all advantages and disadvantages which may result therefrom to the public and individuals ; provided, that the said road shall not be carried through any building, orchard, garden or yard, without the consent of the owner or possessor thereof.

C H A P.
LXX.

XI. **And**, whereas the ground which will necessarily be taken up in laying out the roads aforesaid, and streightening and widening the said roads, may materially injure the proprietors ; and it being reasonable to compensate the owners therefor, **Be it enacted**, That the said commissioners may agree with the owner or owners of such land, or his, her, or their guardian or trustee, upon the sum of money to be paid for the damages sustained by opening any of the said roads, taking into consideration all advantages and disadvantages which may arise to such owner or owners by opening the said roads, and the real value of such soil ; and if the said commissioners cannot agree with such owner or owners, or his, her, or their guardian or trustee, or on refusal of such owner to dispose of such land as may be thought necessary for the passage of any of the said roads, the said commissioners, or the owner or owners of such land, may apply to some justice of the peace, who shall thereupon issue his warrant, directed to the constable of the hundred where such land lies, commanding him to summon five substantial freeholders, not related to the party, or in any manner interested, to be and appear before one or more justice of the peace for the said county, on a certain day in the said warrant expressed ; which said freeholders, upon their oath, to be administered by some justice of the peace, shall inquire who are or is the owner or owners of the land over which the road runs or passes, and what damages such owner or owners will sustain by reason and occasion of carrying such road over and through the said lands ; and the said jury are hereby required to consider the convenience, benefit and advantage, (if any) by reason of such road passing over such land ; and the constable shall return the verdict of the said jury, or of the majority of them, under their hands and seals, to such justice or justices, who shall award accordingly ; and if such jury shall not award a larger sum of money, as restitution for damages sustained as aforesaid, than was actually offered by the commissioners, the party refusing to make sale, or refusing the price offered by such commissioners, shall pay the costs of such inquiry, but in case the same shall exceed the sum offered by the said commissioners, then the same shall be paid out of the monies raised in virtue of this act for opening the said roads : Provided always, that no road shall be newly carried or conducted through any yard, garden or orchard, against the will or consent of the owner, nor shall any field in which grain, tobacco, or grafs intended for hay, is growing, be laid open until the crop is ripe and may be taken away.

Agree for da-
mages, &c.

XII. **And be it enacted**, That the said commissioners, or a majority of them, met as aforesaid for the purposes aforesaid, shall, as soon as may be after the passage of this act, and within twelve months after the first day of January next, lay out, survey, mark and bound, the several public roads herein before mentioned, of the width of not less than two rods and not more than three rods, in as streight a direction and advantageous a manner as the nature of the ground and legal restrictions will admit, and, without delay, shall execute, sign and seal, plain plots of the same, with explanations thereof, and such plots and explanations shall be delivered to the clerk of the county, and by him recorded among the records of the said county, in testimony of the same being established by law ; for all which services rendered by the said commissioners they shall be entitled to receive, out of the county assessment, the sum of seven shillings and six-pence for each day they shall attend as commissioners in discharge of the aforesaid trust, and the said justices may and shall, at their levy courts, allow such charge, and levy the same as other public expences are usually levied.

And lay out
and survey the
several roads,
&c.

XIII. **And be it enacted**, That all contracts entered into by the said commissioners with the owner or owners of land through which any public roads may pass, shall be paid out of the money assessed for the purpose of clearing and amending

Contracts to
be paid, &c.