

Personal injuries.

The county commissioners are liable to one injured by reason of their failure to perform the duty imposed by this section, the same being imperative and not discretionary; neither the fact that a private corporation has contracted to keep the road or bridge in repair, nor that such corporation is responsible for its being out of repair, relieves the county commissioners from such liability. Bridge held to be a county bridge. *Eyler v. Allegany County*, 49 Md. 269; *B. & O. R. R. Co. v. Howard County*, 111 Md. 184; *Adams v. Somerset County*, 106 Md. 201; *Baltimore County v. Wilson*, 97 Md. 209; *Calvert County v. Gibson*, 36 Md. 229; *Baltimore County v. Baker*, 44 Md. 9; *Anne Arundel County v. Duckett*, 20 Md. 475.

What must be shown to hold the county commissioners liable for personal injury due to their failure to keep a road or bridge in repair? It is not necessary to trace knowledge of a defect to the commissioners—knowledge acquired by the road supervisor is imputed to them. The commissioners' liability is statutory, and they cannot excuse themselves by the fact that the road supervisor is also required to keep the road in repair. Misleading instructions. *Adams v. Somerset County*, 106 Md. 202; *Harford County v. House*, 106 Md. 442; *Baltimore County v. Wilson*, 97 Md. 209.

Where a private corporation is responsible for a road's being out of repair, and the county commissioners have been compelled to pay damages on account thereof, they have a right of action against the private corporation, and the fact that the commissioners knew that the road was out of repair and had failed for several years to remedy the same, is no defense to such action. When the judgment in the suit against the county commissioners is conclusive in the suit against the private corporation, and when it is only admissible as part of the plaintiff's case. *B. & O. R. Co. v. Howard County*, 111 Md. 184; *Eyler v. Allegany County*, 49 Md. 269.

A party injured by reason of a defective bridge or road, has his election whether he will sue the county commissioners, or the bond of the road supervisor. *Eyler v. County Commissioners*, 49 Md. 273; *Calvert County v. Gibson*, 36 Md. 235.

Generally.

Where county commissioners act within their jurisdiction in opening and closing roads, mere errors or irregularities in their proceedings are reviewed only upon appeal to the circuit court, and do not give rise to relief in equity. County commissioners held to have jurisdiction under this section and sections 2 and 12, and that their jurisdiction, when once attached, is exclusive. This section construed in connection with the local act of 1900, ch. 685 (applicable to Baltimore county). *Jenkins v. Riggs*, 100 Md. 436.

The provisions of this article are not repealed by a local law unless the two are in conflict. It is the duty of the county commissioners to have as many appointees as are necessary to keep up the bridges and supervise the roads, and they must see that their appointees do the work. The act of 1874, ch. 274, relating to Baltimore county, does not expressly or impliedly repeal the provisions of this article. County commissioners, held liable for injury due to their failure to repair a bridge. *Baltimore County v. Baker*, 44 Md. 9.

The powers and duties of county commissioners under this section, contrasted with the road system introduced by the Shoemaker law—see article 91, section 66, *et seq.*, particularly section 80. The two systems are distinct and independent and cannot be combined. *Anne Arundel County v. United Rys. Co.*, 109 Md. 385.

What is a "public road"? *State v. Price*, 21 Md. 454.

The control of the court house vested by this section in the county commissioners, can not be given to the court crier. *Prince George's County v. Mitchell*, 97 Md. 336.

The county commissioners being a corporation, embezzlement by their clerk, is within the scope of article 27, section 103 of the code of 1904. *Denton v. State*, 77 Md. 529; *State v. Denton*, 74 Md. 517.

This section, and sections 2 and 12, referred to in upholding the constitutionality of article 91, section 69, *et seq.* *Bonsal v. Yellott*, 100 Md. 500.

For a case involving the act of 1853, ch. 239, section 1, see *Anne Arundel County v. Duckett*, 20 Md. 475.