

This section was repealed as to Prince George's county by the act of 1900, ch. 346. *Blundon v. Crosier*, 93 Md. 359. (See also, act 1910, ch. 90.)

Cited but not construed in Prince George's county *v. Commissioners of Laurel*, 51 Md. 461.

1904, art. 25, sec. 2. 1888, art. 25, sec. 2. 1888, ch. 467. 1906, ch. 249.

2. They shall also in their respective counties have control over all the public roads, streets and alleys, except in incorporated towns in their respective counties, and make such rules and regulations for repairing, cleaning, mending and perfecting the same, and providing for the payment of the cost of the same, as they may deem necessary; they shall also have power to levy a tax or license fee upon dogs and bitches owned, kept or harbored within their respective counties, and to provide for the enrollment of said dogs and bitches, and the collection of the tax or license fee thereon; and out of the tax or license fees so collected they may provide for reimbursing owners of sheep or cattle for losses sustained by the killing of sheep or cattle by dogs and bitches other than those owned, kept or harbored by the owner of said sheep or cattle; they may make all necessary rules and regulations for allowing and paying bounties for the killing of hawks, owls, crows, minks, foxes, wild-cats and other and like destructive and harmful wild animals and birds; they may make all necessary rules and regulations for the erection or removal of gates and fences across or obstructing the public highways in their respective counties.*

This section and section 1, confer the power and impose the duty upon the county commissioners to keep the public roads in a safe condition; hence, they are liable for injuries resulting from the failure so to do. This liability arises from these sections, and where they are prevailed over by a local law depriving the commissioners of such powers and duties, their liability no longer exists. *Baltimore County v. Wilson*, 97 Md. 209. And see *Bonsal v. Yellott*, 100 Md. 500.

What must be shown to hold the county commissioners liable for personal injuries due to their failure to keep the 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; *Baltimore County v. Wilson*, 97 Md. 209; *Harford County v. House*, 106 Md. 443.

The county commissioners have discretion to determine which public roads at any time need repairing, etc., and the amount to be expended. *Blundon v. Crosier*, 93 Md. 358.

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

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See notes to sec. 1.

Ibid. sec. 3. 1888, art. 25, sec. 3. 1880, ch 210.

3. In case any office of county commissioner shall become vacant in any county by death, resignation or otherwise, the governor, if such vacancy shall occur during the session of the senate, shall, by and with

*As to St. Mary's county, see acts 1908, ch. 381. As to Somerset county, see acts 1908, ch. 443, and 1910, ch. 274 (p. 1119). As to Prince George's county, see acts 1910, ch. 90 (p. 1039).