

essary rules and regulations for the erection or removal of gates and fences across or obstructing the public highways in their respective counties.

This section referred to in a case involving the right of a municipal corporation to an accounting from a county for a proportion of county road tax which should be paid to the city for its streets, etc. *Carroll County v. Westminster*, 123 Md. 199.

This section and sec. 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; *Richardson v. Kent County*, 120 Md. 155.

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.

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

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

This section was repealed as to Prince George's county by the act of 1900, ch. 346. *Blundon v. Crosier*, 93 Md. 358. (See also act 1910, ch. 90.)

See notes to sec. 1.

An. Code, sec. 2A. 1914, ch. 230.

3. All the provisions of this Article relating to public roads or roads shall be applicable to streets, lanes and alleys in unincorporated towns and villages.

An. Code, sec. 3. 1904, sec. 3. 1888, sec. 3. 1880, ch. 210.

4. 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 the advice and consent of the senate, appoint, and if such vacancy shall occur during the recess of the senate, he shall appoint a proper person or proper persons to fill such vacancy or vacancies; and the nomination of the person or persons thus appointed during such recess, or of some other person in his or their place, shall be made to the senate within thirty days after the next meeting of the legislature.

When an election of a county commissioner is declared void, the Governor should be notified so that he may fill the vacancy. *Handy v. Hopkins*, 59 Md. 172.

An. Code, sec. 4. 1904, sec. 4. 1888, sec. 4. 1804, ch. 73, secs. 3-6.

5. They may sue and be sued, and may sue for any injury done to the property of the county, or to recover possession thereof, or may be sued by any claimant of such property.

This section referred to in determining whether county commissioners were liable for personal injuries (see notes to sec. 1). *Anne Arundel County v. Duckett*, 20 Md. 475.

Cited but not construed in *Prince George's County v. Mitchell*, 97 Md. 339.

See notes to sec. 1.