

or should any be married women, infants, *non compotes mentis*, or non-residents of the county or counties where the swamp or low lands are situated, they, or any of them may petition the county commissioners, sitting in the county where such swamp or low lands or any part thereof are situated, for the appointment of commissioners to locate or lay out a ditch or ditches for the purpose; and when such swamp or low lands are situated in two or more adjoining counties, the county commissioners of the county to which application shall first be made as aforesaid by petition shall have exclusive jurisdiction of the subject-matter, who shall thereupon appoint a board of three or more commissioners to be composed of judicious and impartial freeholders, to be taken from the neighborhood or vicinity of said swamp or low lands, one of whom at least shall be taken from each of said adjoining counties where the swamp or low lands lie or are situated in two or more adjoining counties.

Cited but not construed in *Miles v. Stevenson*, 80 Md. 367.  
See notes to sec. 21.

An. Code, sec. 37. 1904, sec. 36. 1888, sec. 36. 1858, ch. 271, sec. 2.

**39.** The commissioners so appointed, being first duly sworn to execute their duties faithfully and impartially, shall call to their assistance a skillful surveyor, sworn in like manner, and shall go upon and view the swamps or low grounds mentioned in the petition, and lay out, by specified courses and distances, breadths and depths, such ditch or ditches as shall be sufficient to drain the said swamps or low grounds.

See notes to sec. 21.

An. Code, sec. 38. 1904, sec. 37. 1888, sec. 37. 1858, ch. 271, sec. 2.

**40.** They shall estimate the probable costs or expenses, including damages, if any, of cutting such ditch or ditches, and the sum or proportion thereof which each owner or possessor, or person benefited, shall be bound to pay.

See notes to sec. 21.

An. Code, sec. 39. 1904, sec. 38. 1888, sec. 38. 1858, ch. 271, sec. 2.

**41.** They shall make out and return to the county commissioners, at their next meeting thereafter to which it may be practicable, a report in writing, under their hands, with a plat or map attached, containing a description by general delineation, without survey, of the boundary lines of the swamp or low ground mentioned in the petition, and also a delineation of each owner's or possessor's lot or parcel, with the estimated quantity of acres the same may contain, with the name of every person to whom they may award damages, and the amount thereof, and the sum or amount each owner or possessor, or person benefited, shall be bound to pay as his proportion of the cost or expense of cutting such ditch or ditches and of the damages, if any shall be awarded; and a majority of said commissioners may determine any matter.

See notes to sec. 21.