

IV. AND BE IT ENACTED, That the said orphans court of Caroline county shall be authorised and empowered to take bond from the said George Downes, with such security as they may think proper, with condition that the said George Downes, the guardian aforesaid, shall duly apply the money arising from the sales of the said personal estate to the purposes before mentioned, and also to obtain a conveyance or conveyances in fee-simple to the said Benjamin Willson, of such lands as may be purchased agreeable to the provisions of this act.

C H A P.
XI.
And to take
bond, &c.

C H A P. XII.

An ACT to lay out and open a road through Frederick and Montgomery counties.

Passed January 5, 1805.

WHEREAS it is represented to this general assembly, by the petition of sundry inhabitants of Frederick and Montgomery counties, that a road leading from Liberty-town, in Frederick county, through the main square of the town of New-Market, in said county, from thence to Hyatt's-town, in Montgomery county, will be of great public utility and convenience; therefore,

Preamble.

II. BE IT ENACTED, by the General Assembly of Maryland, That William Ballenger, Silas Bayley and Lewis Duvall, or a majority of them, be and they are hereby appointed commissioners to survey, lay out and open, at the expence of such persons as may think proper to contribute thereto, a road twenty feet wide, in the best and straightest direction, taking all circumstances into consideration, from Liberty-town, in Frederick county, through the main square of the town of New-Market, and from thence to Hyatt's-town, in Montgomery county; and the commissioners shall make out a plot of that part of a road leading through Frederick county, and return the same to the clerk of the county court, to be recorded among the records of said county; they shall also make out a plot of that part of the road running through Montgomery county, and return the same to Montgomery county court, to be recorded among the records of said county, and the said road, when opened and recorded as aforesaid, and the valuation herein after directed to be made shall have been paid, or secured to be paid, shall for ever thereafter be deemed a public highway, and kept in repair in the same manner as other public roads in the said counties respectively.

Commissioners appointed, &c.

III. AND BE IT ENACTED, That in case of death, resignation, disqualification, or refusal to act, of any of the commissioners aforesaid, the remaining commissioners, or a majority of them, shall and they are hereby authorised and directed to fill up such vacancy or vacancies.

How vacancies are to be filled.

IV. AND BE IT ENACTED, That the commissioners aforesaid, or a majority of them, shall ascertain and value, if required, what damages may be sustained by a person or persons over whose land the said road may pass by opening the same, and the valuation shall be made, and the amount thereof paid as aforesaid to the parties respectively interested, before the said commissioners, or a majority of them, shall proceed to open the said road; provided always, that if any person or persons through whose land the said road may pass, or his, her or their guardian or trustee, shall conceive themselves aggrieved by such valuation and assessment of damages by the said commissioners, or a majority of them, it shall and may be lawful for any justice of the peace of the county in which the land lies, on application of the party interested, or his, her or their guardian or trustee, to issue his warrant, under his hand and seal, directed to any constable of the county, commanding him to summon five freeholders who do not hold lands through which said road may pass, to appear, on a day by the said justice to be appointed, on the land of the person or persons making application as aforesaid, or for whose benefit such application shall be made, and the said freeholders, having first made oath before said justice of the peace, that they will, without favour, affection or partiality, assess the damages sustained by the person or persons at whose request, or for whose benefit, such inquisition shall be taken, by reason of opening the aforesaid road through his, her or their land, shall thereupon proceed to assess and value the damages accordingly, of which the said commissioners, or a majority of them, shall have had at least five days notice, and shall return the damages so assessed to the said justice of the peace, and such inquisition and valuation shall be final and conclusive; provided always, that no road shall be 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 grass intended for hay, is growing, be laid open, until the crop is ripe and may be taken away.

Damages to be valued, &c.

V. AND BE IT ENACTED, That the said commissioners as aforesaid shall be allowed eleven shillings and three-pence for every day they shall be employed in discharge of their duty under this act, to be paid in the same manner as the amount of the valuation herein before directed to be made.

Commissioners allowance.