

C H A P.
XXXII.
How vacancies
are to be filled.

VI. AND BE IT ENACTED, That in case of the death, resignation, disqualification, or refusal to act, of any of the commissioners aforesaid, (except for Baltimore county,) the justices of the court of the county or counties where such vacancy or vacancies shall happen, in court sitting, may make other appointments to fill such vacancy or vacancies; and if such vacancy or vacancies shall happen during the recess of any court, then the senior justice of the county, with two other justices of the same county, shall have power to make such re-appointments, and such re-appointments shall be made from time to time as often as occasions shall require, until each and every of the said roads shall be surveyed, plotted, returned and recorded, as aforesaid; and after the return of any road as aforesaid shall be made and approved according to this act, the justices of the courts respectively shall order to be paid to the said commissioners, out of the monies to be levied as aforesaid, such reasonable compensations as to them shall seem meet, and the said commissioners respectively shall thereafter be dismissed; and for the effectual clearing, grubbing and forming, the roads of the width aforesaid, the justices of all the counties aforesaid, (except Baltimore,) are hereby empowered to appoint, at their next courts respectively, one supervisor for each county, to superintend, direct and contract for, the execution of the same in the most effectual, economical, and expeditious manner; and each and every of the supervisors so appointed shall give bond with sufficient security, to be approved by the courts respectively, in a penalty of at least double the estimated amount of one year's assessment for the said road or roads, in the county in which he shall be appointed, for the faithful discharge of his trust, and such appointments or re-appointments shall be made, and bonds as aforesaid shall be annually renewed, at the courts in which the monies aforesaid are to be levied, and the supervisors for the term preceding shall respectively lay before every such court, to wit, the last court in each year, just and true accounts upon oath, of all receipts and expenditures of monies by them received and expended in virtue of their appointments, and shall pay the balances, if any, to their successors, if superfeded or displaced; and the said supervisors shall respectively be allowed at the rate of five per centum upon the sums of money by them severally received and expended in the execution of this law.

Monies to be
appropriated,
&c.

VII. AND BE IT ENACTED, That the monies to be levied in virtue of this law in any of the aforesaid counties wherein there are two or more roads, shall, upon a due estimate thereof at the time of making the levy, be appropriated in equitable proportions by the justices of the courts respectively to the aforesaid several roads, and it shall be the duty of each and every of the supervisors aforesaid, to apply the same accordingly, and to render separate and distinct accounts upon oath, of the expences of each and every road, as vouchers to their respective accounts current with the said counties.

Justices to agree for damages, &c.

VIII. AND, whereas the streightening and widening the old and making the new roads, may cause damage to the proprietors of lands through which the same may pass, and it is reasonable and just that compensation be made to such proprietors, BE IT ENACTED, That in every case where the same shall be required of the justices aforesaid in court sitting, they shall be empowered to agree with the party injured for the amount of the damages sustained, not exceeding the rate of ten pounds current money per acre; but if such agreement doth not obtain, then the court to whom application shall be made shall issue their warrant, directed to the sheriff of the county, commanding him to summon and return a jury of twelve good and lawful men of the said county, to be and appear before one or more of the said justices, on the premises, at a certain day in the said warrant to be expressed; which jury, upon their oath, to be administered by some one of the justices aforesaid, shall inquire who is or are the owner or owners of the land over which any such road shall pass, and what damages such owner or owners will actually suffer from the passing of the road over the land as aforesaid, taking into due consideration all conveniencies and inconveniencies, advantages and disadvantages, arising from such circumstance, whether by the improvement of an old road, or in making a new one; and such sheriff shall return the inquest of the jury aforesaid, or of any eight of them agreeing, under their hands and seals, and attested by his official signature, to the next county court to be held for the county wherein such inquest shall have been taken, and the amount of damages therein expressed shall be paid by order of the said court, out of the monies to be levied as aforesaid, and appropriated to such road; provided, that no new road shall be made through any building, enclosed yard, garden or orchard, against the will of the owner, nor shall any field in which grain, hemp, flax, tobacco, or other cultivated vegetables, except grass, shall be growing, be laid open until after the season for collecting and securing the crop; but if it be expedient to lay out any such road through an enclosed yard, garden or orchard, and the owner will consent thereto, then the damages sustained thereby shall be adjusted and paid as in other cases, and the road may be made accordingly.

IX. AND