

1807. NOVEMBER.

L A W S O F M A R Y L A N D.

C H A P. LXXX.

An ACT to lay out and open a road in Frederick county.

Passed 20th of  
January, 1808.

Preamble.

WHEREAS it is represented to this general assembly, by the petition of Joshua Howard, of Frederick county, that he is subject to great inconvenience and expense for want of a public road from his mill in Frederick county, to intersect the Baltimore and Reister's-town turnpike road in or near Westminster; therefore,

Commissioners  
appointed, &c.

II. BE IT ENACTED, by the General Assembly of Maryland, That Jacob Sherman, Joshua Jones and Jacob Landis, be and they are hereby appointed commissioners to survey, lay out and open, at the expense of the petitioner, or other persons interested therein, who may subscribe to pay the expense, a road not exceeding thirty feet in width, in the best and straightest direction, taking all circumstances into consideration, from Joshua Howard's mills, in Frederick county, to intersect the Baltimore and Reister's-town turnpike road in or near Westminster; and the said commissioners shall make a plot of the road so as aforesaid directed to be laid out and opened, and return the same to the clerk of Frederick county court, to be recorded among the land records of said county; and the said road, when so laid out and opened at the expense of the petitioner, or others interested, and the valuation herein after directed shall be paid, or secured to be paid, to the individuals concerned, shall be thereafter deemed to be a public road for ever, and shall be kept in repair in the same manner as other public roads are directed to be kept in said county.

How vacancies  
are to be filled.

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.

Damages to be  
ascertained, &c.

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 any person or persons over whose lands the said road may pass, by opening the same, and the valuation shall be made before the said commissioners 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, it shall and may be lawful for any justice of the peace of said county, 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 twelve freeholders, uninterested in the opening of said road, 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, 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; and the party or parties in whose favour the valuation ascertained by the said commissioners, or the damages assessed by the said freeholders, shall be made, shall be entitled to receive the same from the said commissioners, or a majority of them; and the said commissioners shall pay, or secure the same to be paid, within the space of six months after the assessment of such valuation or damages, and before they shall proceed to affect the lands and tenements of the person or persons concerned; and upon the payment of the money, or securing the same to be paid, to the person or persons through whose land the said road is intended to pass, the said commissioners may open the said road through such person or persons land; provided, that the said road shall not pass through any house, yard, garden, meadow or orchard, unless with the consent of the owner or owners thereof, nor shall the said road be laid out or opened through any field in which grain, hemp, flax, tobacco, or other cultivated vegetables, shall be growing, until after the season for collecting and securing the crop.

Road not to be  
deemed public,  
&c.

V. AND BE IT ENACTED, That the said road, when laid out, opened and returned to the clerk of Frederick county court as aforesaid, shall not be deemed to be a public road, to be kept in repair at the expense of the county, unless the said road shall have been opened, cleared, improved and made a good and sufficient road, of a proper width, and so certified to be by the commissioners aforesaid, or a majority of them.