

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.

C H A P.
LXXVII.

IV. AND BE IT ENACTED, That the said road, when laid out, opened, and returned to the clerks of Prince-George's and Montgomery county courts as aforesaid, shall not be deemed to be a public road, to be kept in repair at the expense of the counties, unless the said road shall have been opened, cleared and 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.

Road not to be deemed public, &c.

C H A P. LXXVIII.

An ACT to prevent persons from staking out seines across the river Wiccomico, in Somerset county.

Passed 24th of Dec. 1808.

BE IT ENACTED, by the General Assembly of Maryland, That if any person or persons, after the passage of this act, shall stake out or fix any seine or seines across the river Wiccomico, in Somerset county, or aid and assist therein, by which fish may be obstructed in going up or coming down said river, every such person or persons, so offending, shall forfeit and pay the sum of twenty dollars for every such offence, one half of which sum shall be given to the informer, and the other half thereof to be paid to the sheriff of the county where the recovery shall be had, to be by him paid and accounted for to the justices of the levy court of said county, and by them applied towards defraying the public charges of said county, to be recovered by action of debt, bill, plaint or information, with full costs of suit, in any county court of this state where such offender or offenders shall be apprehended or reside.

Penalty for staking out seines, &c.

II. AND BE IT ENACTED, That if any slave shall fix any seine or seines across said river, by which fish may be obstructed as aforesaid, such slave shall be punished for such offence, on conviction thereof before any justice of the peace, by the oath of one or more credible witness or witnesses, by whipping on his back, in the discretion of the said justice, not exceeding, for each offence, the number of thirty-nine lashes; provided always, that the master or mistress of said slave, or any other person, may release said slave, so convicted, on payment of thirty dollars, one half to the informer, and the other half to be paid to the justice, and by him applied as hereafter directed; and provided further, that if such slave shall act as aforesaid by the order of his owner or employer, he shall not be subject to whipping as aforesaid, but the owner or employer giving him the order shall be subject to the penalty of twenty dollars.

And on slaves offending, &c.

III. AND BE IT ENACTED, That it shall and may be lawful for any person or persons whatsoever, to destroy or remove any seine or seines staked or fixed across said river to obstruct the passage of fish as aforesaid.

Seines may be destroyed, &c.

IV. AND BE IT ENACTED, That if any person shall be sued or impleaded for destroying any such seine or seines fixed across said river contrary to the true intent and meaning of this act, it shall and may be lawful for such person or persons to plead the general issue, and give this act and the special matter in evidence, and if upon trial the plaintiff or plaintiffs shall be nonsuited, or shall discontinue his or their suits, then and in such case the defendant or defendants shall recover costs.

General issue pleadable.

V. AND BE IT ENACTED, That every justice of the peace shall, at the levy court of his county, account for all sums of money recovered by virtue of this act, under the penalty of one hundred dollars.

Justices to account, &c.