

to be made in the last preceding section, be made within thirty days after laying said railway.

41. On the application of the owners of any quarry over or through which any private rail road may pass, the county commissioners may have the location of said road altered, so as to avoid the interfering with the working of the quarry.

42. The county commissioners shall not appoint commissioners to lay out any private road until satisfactory proof shall have been produced that at least ten days' notice before the application had been given to the parties through whose lands the proposed road is to be located, which notice shall describe the location to be made.

43. If there shall be an estate for life or term of years, or tenancy from year to year, in the lands through which any private road may be located, the county commissioners shall apportion the damages awarded to the land owners among the parties interested in the land, according to their several interests, in possession, expectancy, remainder or reversion; and the several Circuit Courts, on appeal, shall have a similar power of apportionment.

44. The commissioners appointed to lay out a private road, shall each be entitled to two dollars per diem for every day they shall be necessarily engaged in locating such road; and the said commissioners may appoint a surveyor to assist in locating the same, and may allow him such compensation for his services as they may deem proper; and the per diem to the commissioners, and the compensation of the surveyor, shall be paid by the person applying for the road.

45. No such road shall be made through any garden, yard orchard or meadow.

46. Any person feeling himself aggrieved by the determination of the county commissioners, in granting or refusing any road, or in the amount of compensation awarded, or in any matter relating to the granting or refusing to grant any such road, may appeal, within the time prescribed by law, to the Circuit Court of the county in which such application shall be made, and either party may be entitled to a trial by jury, and the judgment in the case shall be final between the parties.