

CHAP. 104.

weights, lay rails, take and use any earth, timber, gravel, stone or other materials for the construction or repair of any part of said work, and may make and construct or erect all works necessary for the completion of said road.

Method of obtaining land and materials.

Sec. 9. *And be it enacted*, That the President and Directors of said company or a majority of them, or their agents may agree with the owner or owners of any land, earth, timber, gravel, stone or other materials, or any improvements, for the construction or repair of said road or its works, for the purchase or use and occupation of the same, and in case they cannot agree, or if the owner or owners or any of them be a feme covert, under age, non compos mentis, or out of the county in which the property wanted may lie, when such land or materials may be needed, on application to a justice of the peace of such county, he shall issue his warrant under his hand and seal, directed to the sheriff of said county, requiring him to summon a jury of twenty inhabitants of said county, to meet on the land to be valued on a day specified in said warrant, not less than five, nor more than ten days after issuing the same, and in case any of the jurors aforesaid, do not attend, the said sheriff shall instantler summon as many jurors as may be necessary with the jurors in attendance to furnish a pannel of twenty jurors in attendance, and from them each party, his, her or their agent, and if either be not present in person or by agent, the sheriff may strike off four jurors, for each of the absent parties, and the remaining twelve shall act as the jury of inquest of damages, and before they act as such, the said sheriff shall administer to each of them an oath or affirmation as the case may be, that he will justly and impartially value the damages which the owner or owners of said land will sustain by the use or occupation of the same, required by the company, and the jury in estimating such damages shall take into the estimate, the benefit resulting to the said owner or owners from conducting such Rail road through, or along the property of the said owner or owners, but only in extinguishment of the claim of damages, and the said jury shall reduce their inquisition to writing, and shall sign and seal the same, and it shall then be returned by said sheriff to the clerk of his county, and by such clerk filed in his court, and shall be confirmed by said court, at its next session, if no sufficient cause to the contrary be shewn, and when confirmed shall be recorded by said clerk at the expense of the said company, but if set aside the said court may direct another inquisition to take place in the mode before prescribed, and such inquisition shall describe the property taken, or the bounds of the land condemned, and the