

1904, art. 23, sec. 353. 1888, art. 23, sec. 242. 1868, ch. 471, sec. 115. 1894, ch. 607. 1908, ch. 451. 1912, ch. 587. 1914, ch. 523.

392. It shall be the duty of all companies which may have been or may hereafter be incorporated under any law or laws of this State to make any turnpike, plank road or other toll road or roads, to keep and maintain the same in good order and repair and of such width as required by the terms of the law under or by which incorporated; and if any such company shall fail to keep its road in good order and repair or of the width required by the terms of its charter or of the provisions of this Article, if incorporated hereunder, for a space of fifteen days, any person or persons may file a petition under oath in the Circuit Court of the County and the Superior Court of Baltimore City, in which the part of such road not in good condition and repair or not of the width or of the material required by its charter, or by the laws by which it has been incorporated, lies, alleging the failure of such company to keep its road bed in good order and repair or of such required width, whereupon any Judge of the Court in which such petition may be filed may and shall pass an order directing the Sheriff to summon a jury of not more than six persons, who shall be freeholders, not interested in such roads, unless it be as the users thereof, to meet on the part or parts of the road mentioned in such petition, upon a day to be named in such order, and said jurors being first sworn by such Sheriff, true inquiry to make as to the condition of the road complained of, shall view the part or parts of the road complained of and determine upon such view and the evidence of such witnesses as may be produced by the petitioners or the company as to the condition of such road and the time such condition may have continued; and an inquisition in writing specifying with particularity the places and the character of such places in such road, if any, which are not in good order and repair or in the condition required by the terms of the law under and by which such company was incorporated, shall be signed and sealed by such jurors and returned by the Sheriff to the Clerk's Office of the Circuit Court for the county or the Clerk's Office of the Superior Court of Baltimore City; and if said inquisition shall find said road is not in good order and repair, or not of the width required by its Charter, any Judge of said Court may, within ten days after the return thereof, confirm the same and order that tolls shall not be charged by such company at the gates next to on either side of the place or places in said road so out of order, repair or of such insufficient width, until said road shall be put in good order and repair and properly widened, and until the further order of said Court.

The petitioners or the company may, before the confirmation of such inquisition, demand a trial by jury in Court whether said road is in good condition or repair, or of the proper width, or may move to quash the proceedings for matter of law, and the Court adjudge, on the finding of the jury, or otherwise, as may be just, in accordance with the principles of law, and may give judgment for costs against the peti-