

city of Baltimore; and thereupon the said judge, upon its being made to appear satisfactorily to him that said land or materials are necessary and proper to be condemned for the use of such corporation, shall issue his warrant, directed to the sheriff of said county or city, as the case may be, requiring him to summon a jury of twenty inhabitants of said county or city, as the case may be, not related to said owner, or in anywise interested in said land, and not stockholders in said corporation, to meet on the land or near the other property or materials to be valued and condemned, on a day named in said warrant, not less than ten, nor more than twenty days after issuing the same.

This section, *et seq.*, not repealed by art. 33A, as regards opening and closing highways. Decision of trial court final as to what. Power of condemnation of road directors of Allegany County. *Brady v. Road Directors*, 148 Md. 498.

This section and secs. 330-335 referred to in construing art. 89B, sec. 40. *Dunn v. State*, 162 Md. 283.

This section, *et seq.*, referred to in deciding that art. 91, secs. 28 and 40 of 1924 Code (now Art. 89B, sec. 3) so far as they confer the power and regulate the procedure of condemnation, were not repealed by the adoption of art. 33A of the Code, particularly in view of sec. 15 of art. 33A. *Koehler v. State Rds. Com.*, 125 Md. 446.

The objection that warrant to sheriff to condemn land for construction of a railroad by a mining company, instead of merely complying with the requirements of this section, directed summons as jurors of inhabitants "above the age of twenty-one years and qualified to act as jurors under the laws of this state" as required by sec. 206 relative to condemnations by railroad companies, should be made by a challenge to the array before jurors are sworn, followed by exceptions to ratification of inquisition founded on that specific ground; otherwise objection is waived. *New York Mining Co. v. Midland Mining Co.*, 99 Md. 516. And see *Moores v. Bel Air Water Co.*, 79 Md. 399.

Without considering whether this section applies to a condemnation by a railroad company (see sec. 206), owner is entitled to notice before the property is condemned, and notice of the pendency of inquisition in court for confirmation, is not in itself sufficient. *Baltimore, etc., R. R. Co. v. Baltzell*, 75 Md. 106. *Cf. George's Creek, etc., Co. v. New Central, etc., Co.*, 40 Md. 437.

Fact that co-owner is a public service corporation, does not enlarge its rights as such co-owner. This section provides how and in what manner right of condemnation may be exercised. *Susquehanna Co. v. St. Clair*, 113 Md. 672.

For note on condemnation of land by corporations, see *Hamilton v. Annapolis, etc., Ry. Co.*, 1 Md. 553.

As to condemnations by bridge companies, see sec. 153; by mining companies, sec. 185; by railway companies, sec. 206; by telegraph and telephone companies, secs. 296 and 335; by turnpike, plank road and passenger railway companies, sec. 319; by water companies, sec. 328.

See art. 38A and notes to secs. 332 and 335 (this article).

An. Code, 1924, sec. 332. 1912, sec. 400. 1904, sec. 361. 1888, sec. 249. 1868, ch. 471, sec. 171.

330. If at said time and place any jurors summoned do not attend, the sheriff shall immediately summon as many jurors as may be necessary, with the jurors in attendance, to make twenty jurors, and from them each party, or its, his, her or their agent, or if either party be not present in person or by agent, the sheriff for him, her, it or them may strike off four jurors, and from those remaining on the list the sheriff shall select twelve to act as the jury of inquest of damages.

See notes to secs. 329, 332, and 335.

An. Code, 1924, sec. 333. 1912, sec. 401. 1904, sec. 362. 1888, sec. 250. 1868, ch. 471, sec. 172.

331. The sheriff shall, before they proceed to act as such, administer to each of said jury an oath that he will justly and impartially value the damages which the owner will sustain by reason of the occupation of the said land or materials required by the occupation, and find whether or not the condemnation of such land or material is necessary and proper for the use of such corporation, for the due exercise and enjoyment of its corporate privileges.

See notes to secs. 329, 332, and 335.