

struction and repair of the said road or any of its works, and may make and construct all works, whatever, which may be necessary or expedient in order to the proper completion and maintainance of said road, and they may make or cause to be made, lateral railways in any direction whatever from the said railroad, and for the construction, repair and maintainance thereof, shall have all the rights and powers hereby given, in order to the construction and repair of the said principal railroad, and may also own and employ steamboats or other vessels to connect the said railroad or railroads with other points by water communication; provided that nothing herein shall be construed to authorize the said company to take private property for their use without the compensation agreed upon by the company and the owners thereof, or awarded by a jury as hereinafter provided, being first paid or tendered to the party entitled to receive such compensation.

Upon
failure to
agree may
condemn.

SEC. 12. That the said president and directors, or their agent or agents authorized by them, may agree with the owner or owners of any land, earth, gravel, stone, timber, streams or materials, or any improvements which may be wanted for the proper construction or repair of any of said roads, or for any of their works, for the purchase and use, and occupation or division of the same; and if they cannot agree, or if the owner or owners of any of them be an infant, *feme covert*, who is not possessed of the property to her sole and separate use, or authorized to contract in reference to the same, *non compos mentis*, or out of the county where such property wanted may lie when such property may be wanted, or for any other cause, be legally incapable of contracting, application may be made by the said company to any justice of the peace of such county, who shall thereupon issue his warrant under his hand and seal, to the sheriff of the county, requiring him to summon a jury of twenty of the inhabitants of said county above the age of twenty-one years not related to the parties, nor in any wise interested, to meet on the lands or near the materials, or other property wanted, on a day named in said warrant not less than ten nor more than twenty days after issuing the same, and if at said time and place any of the said jurors summoned do not attend, the sheriff shall immediately summon as many persons similarly qualified as together with those in attendance, will furnish a panel of twenty jurors in attendance, and from the panel each party, his, her, it or their agent, or attorney, or if either party be not present in person, or by agent or being present in person or by agent, refuse to strike, the sheriff for him, her, it or them may strike off four persons and the remaining twelve shall act as