

or other roads or ways, water courses or channel of transportation already constructed or hereafter to be constructed, with all the rights, powers, and franchises connected therewith, and it shall also be lawful for said company to own and navigate such steam and sailing vessels as it may desire in connexion with its business, and to subscribe for and take stock in any navigation or rail road company which it may deem expedient; *Provided however*, that the said company shall not be authorised to construct more than a single track of rail road through the gap in Will's Mountain, above the town of Cumberland in Allegany county.

Proviso.

Right to summon jury of inquest.

SEC. 9. *And be it enacted*, That the said company in locating and constructing any rail road or rail roads authorised by this act, shall have the right, if they cannot agree with the owners of any land, earth, gravel, stone or materials wanted for the construction or repairs of such road or roads for the purchase, use or occupation of the same, or if the owner or owners or any of them be a feme covert, under age or non compos mentis or out of the county, application may be made to any justice of the peace for Allegany county, who shall thereupon 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, not related to the parties, nor in anywise interested to meet on the land or near to the other property or materials to be valued, on a day named in said warrant, not less than ten nor more than twenty days after the issuing of the same, and if at the same time and place any of said jurors shall not attend, the sheriff shall immediately summon as many jurors as may be necessary with those in attendance, to furnish a panel of twenty jurors, and from them each party or his or their agents, or if either be not present in person or by agent the sheriff for him or them may strike off four jurors, 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, earth, gravel, stone, or other materials, will sustain by the use or occupying thereof by said company, and if required by the parties whose lands are to be effected by their proceedings, the jury shall cause to be summoned such witnesses as the parties may require, and shall examine them, on oath, in relation to the value of the property to be condemned, and they shall reduce the testimony, if any is taken by them, to writing, and after the testimony is closed