

CHAP. 136. and its works; and if the owner or owners of said land, canals, waters, water-works, improvements, earth, timber, gravel, stone, or other materials, and the said president and directors, or their agents, cannot agree about the purchase of the same, or the price of a temporary use and occupation, or if such owner or proprietor be a *feme covert*, under age, *non compos mentis*, or out of the county in which such property, articles or materials wanted, may lie, application may be made to a justice of the peace of the said county, and such justice shall thereupon issue his warrant, under hand and seal, directed to the sheriff of the county, and requiring him to summon a jury of twenty-four inhabitants of said county, not related to the parties, nor in anywise interested, to meet on the land, or near to the canals, waters, water-works, improvements or materials, to be valued, and 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 least twenty of said jurors do not attend on said day and at said place, the sheriff shall have power to summon immediately as many as may be necessary, with the jurors first summoned and in attendance, to furnish a complete panel of twenty jurors in attendance, and from these both, the company, or its agents, and the owner or owners, or his, her, or their agent, or if either party be not present in person or by agent, the sheriff for it, him, her or them, may strike off four jurors, and the remaining twelve may and 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 faithfully, justly and impartially, value said land, canals, water, water-works, improvements or materials, to be valued, and all damages the owner or owners thereof will sustain by the use, occupation or destruction, of the same, to the best of his skill and judgment, and that in making such valuation he will not knowingly be actuated by fear of, or favour, affection, hatred, malice or ill-will, towards said company, or towards the person or persons whose property is to be valued; and the jury, in estimating such damages, shall consider and take into the estimate the benefits resulting to the owner or proprietors from conducting said canal, or its works, through or along or near to his land or property, but shall not estimate such benefits where they exceed the damage, except to the extinguishment of the claim for damages; and when the jury have agreed upon an estimate of the damages, their inquisition thereof shall be reduced to writing, and shall be signed by the jurors, and by the said sheriff returned to the clerk or prothonotary of his county, and by such clerk or prothonotary filed in the court of which he is a clerk or prothonotary, and at the next session of said court, if no sufficient cause be shewn for setting aside said inquisition, the same shall be confirmed by said court, and shall be recorded by such clerk or prothonotary amongst the records of his court, at the expense of said company; but if set aside by the court, the said court may in its discretion direct another inquisition to be taken in the manner above prescribed; and upon all valuations of property in the above manner, the inquisition of the jury shall prescribe the