

CHAP. 187

Method of ascertaining value and securing payment for materials

SEC. 15. *And be it enacted*, That the president and directors of said company, or a majority of them, or any person or persons authorised by a majority of them, may agree with the owner or owners of any land, earth timber, gravel or stone, or other materials, or any improvements which may be wanted for the construction or repair of any of said roads or any of their works, for the purchase or use and occupation of the same; and if they cannot agree, or if the owner or owners of any of them, be *feme covert*, under age, *non compos mentis*, or out of the county in which the property wanted may lie, when such land and material may be wanted, application may be made to any justice of the peace of such county, who shall thereupon issue his warrant under hand and seal, directed to the sheriff of said county, requiring him to summon a jury of twenty inhabitants of said county, not related nor in any wise 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 or more than twenty days after the issuing of the same, and if at said time and place, any of said jurors summoned do not attend, the said sheriff shall immediately summon as many jurors as may be necessary, with the jurors in attendance, to furnish a pannel of twenty jurors in attendance, and from them, each party, or its, his, her or their agent, if either be not present in person or by agent, the sheriff for him, her, it 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 will sustain by the use or occupation of the same, required by the company; and the jury in estimating such damages, shall take into the estimate the benefits resulting to the said owner or owners from conducting such rail road through, along, or near to the property of said owner or owners, but only in the extinguishment of the claim for damages; and the said jury shall reduce their inquisition to writing, and shall sign and seal the same, and it shall then be returned by the said sheriff to the clerk or prothonotary of his county, as the case may be, and by such clerk or prothonotary filed in his court, and shall be confirmed by the said court at its next session, if no sufficient cause to the contrary be shewn; and when confirmed shall be recorded by the said clerk or prothonotary at the expense of said company; but if set aside the said court may direct another inquisition to be taken in the manner above prescribed, and such inquisition shall describe the property taken, or the bound of the land condemned, and the quantity of duration of the interest in the same valued for the company, and such valuation when paid or tendered to the owner or owners of said property, or his, her or their legal representatives, shall entitle the said company to the estate and interest in the same, thus valued, as fully as if it had been conveyed by the owner or owners of the same, and the valuation if not received when tendered, may at any time thereafter be