

together with the Mayor and President of the Council shall constitute a commission to examine and report on the proposed improvement; and if the said commission or a majority of them shall certify to the Mayor and Council that any land, material or other property belonging to any person or corporation or the removal thereof, is necessary or convenient for the construction of the proposed improvement, then the Mayor and Council may condemn such property, or may agree with the owner or owners thereof for the purchase, use, occupation or removal of the same, and if they can not agree, or if the owner or owners, or any of them be an infant or feme covert, who is not possessed of the property to her sole and separate use, or authorized to contract with reference to the same, non compos mentis, or out of the town when such property may be wanted, or for any cause be legally incapable of contracting, application may be made by the Mayor to any one of the judges of the Circuit Court for Worcester county, who shall thereupon issue his warrant to the sheriff of the county, requiring him to summon a jury of twelve qualified voters of said town, above the age of twenty-one years and qualified to act as jurors under the laws of this State, and not related to the parties, nor in any wise interested, to meet on the lands or near the material or other property wanted for the proposed improvement on a day named in said warrant, not less than ten nor more than twenty days after issuing the same; and if, at the 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, shall make up twenty, and from the panel each party, his, her, its 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 the jury of inquest of damages; and to each, before he acts as juror, the said sheriff shall administer an oath or affirmation that he will justly and impartially value the damage which the owner or owners will sustain by the use and occupation of the property required by the Mayor and Council, and assess the benefits to be derived by the owner thereof from the proposed improvement, and the said jury shall reduce their inquisition to writing and sign and seal the same; and it then shall be returned by the said sheriff to the Circuit Court for Worcester county, and shall be filed by the clerk in his office, and shall be confirmed by said court if no sufficient cause to the contrary be shown within thirty days after the time of filing the same, and when confirmed shall be recorded by the clerk at the expense of the