

ed so that it shall not exceed eighteen, nor be less than twelve feet, through the level ground it shall be raised in the middle, one twenty-fourth part of its breadth, but in passing along declivities it may be flat; bridges, side ditches, gutters and an artificial bed of stone or gravel, shall be dispensed with, except in such instances as the said president and directors may deem them necessary, the said president and directors first obtaining in writing the consent of the owners of the land through which said turnpike road shall pass, or if such consent cannot be had, and if it be necessary that said turnpike road should pass through the land of any person refusing his, her or their consent as aforesaid, then the president and directors on behalf of the company, shall apply to a justice of the peace for said county, which said justice shall thereupon issue his warrant, directed to the sheriff of the county, commanding him to summon twelve disinterested persons qualified to serve as jurors in the county court, to meet at the proper place as directed by the said sheriff, who shall qualify the said persons either by oath or affirmation, as the case may be, justly, truly and impartially to value damages which may be sustained by the owner or owners of said land, and make true inquisition and return of the amount of damages, taking into consideration the advantages and disadvantages, if any, which may be sustained by the owner or owners of said land, under their hands and seals to the justice who issued the warrant, and that the decision of the said jurors shall be final; *provided*, that the said turnpike road shall not pass through the house, yard, grist mill, or saw mill of any person.

Owners consent to be obtained

Justice to issue warrant

Sheriff to summon jury

Jury to award damages

Proviso.

SEC. 7. *And be it enacted*, That upon the president and directors paying, or tendering payment to the owners of the said land, the sum so awarded by the jurors aforesaid, as the case may be, they shall have power to cut, dig and make the turnpike road aforesaid, through such land in the same manner as if the consent of the owner had been given thereto, and that the said president and directors be empowered to erect and make bridges and viaducts over all such streams of water courses as may be thought necessary for the benefit of said turnpike road, so as not to obstruct the free current of said streams or water courses.

Upon payment

To make bridges and viaducts

SEC. 8. *And be it enacted*, That it shall not be lawful for the said Cumberland and Somerset Turnpike Road Company to use or occupy any portion of the lands that may be necessary for the accommodation of the works of the Chesapeake and Ohio Canal Company, or for the main route of the Baltimore and Ohio Rail Road, or that may be within the limits of either of the public roads there now existing except to cross these roads without injuring the same.

Not to occupy lands necessary for the construction of the C and O Canal.