

C H A P.
LXXIX.

of such payment, and if the same, and the said additional penalty, shall remain unpaid for such space of time as that the accumulated penalties shall become equal to the sums before paid in part on account of such share or shares, the same shall be forfeited to the said company, and may and shall be sold and assigned by the president and managers of said company to any person willing to purchase the same, for such price as can be obtained for the same, and the purchaser or purchasers aforesaid shall have all the benefit and advantage of such assignment and purchase, as if he, she or they, had been an original stockholder.

X. AND BE IT ENACTED, That the said road be made in, over and upon, the bed of the present road, as laid out and used; provided always, that should it appear on a resurvey of any part of the said road by sworn surveyors, that a considerable saving in distance or in expence would arise to the company, that in all such cases it shall be lawful to depart from the tract of the road so originally laid down, and improve the shorter or less expensive route; provided also, that in all such deviations the road shall not be diverted or taken from any town or village through which it now passes, nor shall it pass through the meadows, gardens, orchards or grain fields, whilst the grain or crop is growing therein, without the consent of the proprietor or proprietors thereof; and provided also, that where the tract of the original road shall be departed from, the president, managers and company, shall agree with the owner or owners of the land through which the same may pass, for the purchase of the same, (if the owner shall require any compensation therefor,) and in case of disagreement, or case the owner should be a *feme-covert*, or *non compos*, or under age, or out of the state, in such case the compensation to the owner or owners aforesaid for the land aforesaid shall be ascertained and paid in the manner herein after provided for ascertaining and paying the value of materials for making said road, before the direction of the said road shall be altered or changed.

XI. AND BE IT ENACTED, That in all cases where stone, gravel, earth or sand, not already quarried or dug for the use of the owner, or for sale, shall be necessary for making or repairing of the said turnpike road, the president and managers of the company, or a majority of them, or any person authorised by them, may agree with the owner or owners of said materials for the purchase of the same, or with the said owner or owners of the land on which the same may be, for the purchase of said land, and in case of disagreement, or in case the owner should be a *feme-covert*, or *non compos*, or under age, or out of the state or county, the president of the company, or any person authorised by him for that purpose, shall apply to a justice of the peace for the county wherein the said materials may be, which 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 a place where the said materials may be, and the said sheriff shall qualify the said persons, either by oath, or affirmation, (as the case may be,) justly, truly and impartially, to value the damages which may be sustained by the owner or owners of the materials required by such company, and the said persons shall, after valuing the damage which may be sustained by the owner or owners of such materials, and return, under their hands and seals, to the justice who issued the warrant, one copy of their said valuation, one other copy to the president of the company, and another copy to the owner or owners of the said materials, if such owner shall reside in the county where the said materials may be, and shall not be under any legal disability to receive the money adjudged, and give sufficient discharges therefor, and the president and managers shall pay, or secure to be paid, the damages so adjudged, before they shall proceed to remove the said materials; and if the owner or owners of such materials shall reside out of the county, or be under any legal disability, then the president and managers shall enter into bond, conditioned for the payment of the damages assessed to the person or persons who may be duly authorised to receive the same, and shall lodge said bond, and a copy of the said valuation, in the office of the clerk of the county court, to be by him recorded, and upon such bond, or an office copy thereof, suit or suits may be instituted against the obligors therein named, by any person or persons entitled to receive such damages; and the justice and sheriff shall be entitled to receive the same fees for services under this act as they are allowed in similar cases; and the persons summoned as jurymen to value the damages sustained as aforesaid, shall each receive one dollar for every day he shall attend for that purpose, which fee and allowance shall be paid by the president and managers of the company at whose instance the persons may have been summoned.

XII. AND BE IT ENACTED, That the said president, managers and company, shall have power to erect permanent bridges over all the waters crossing the said road, wherever the same shall be found necessary, and shall cause the said road to be kept open to the same width, and in the same place, as they were originally laid out and used, and shall cause twenty feet thereof in breadth at least to be made an artificial laid, which shall be bedded with wood, stone or gravel, or any other hard substance, well compacted together, a sufficient depth to secure a solid foundation to the same.