

CHAP. 304. bed of the rail road company, or taken by them, or any of their agents or employees, for the use of said rail road, without the consent of the owner or owners; And *Provided further*, that all costs and expenses that may accrue in consequence of the condemnation of any lands or materials for the use of said rail road, shall be paid by said rail road company.

Property to be
condemned

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, gravel or stone, which may be wanted for the construction or repair of any of said roads, or any of its works, for the purchase or use and occupation of the same, and if they cannot agree, and if the owner or owners, or any of them, be a 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 his 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 anywise 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 nor 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 panel of twenty jurors in attendance, and from them, each party, or its, his, her or their agents, or if either be not present in person or by agent, the sheriff for him, her, 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 and occupation of the same, required by the company; and if required by the party or parties whose lands are to be affected by their proceedings, the jury shall cause to be summoned such witnesses as the parties may require, and shall examine them, on oath, in relation to the value of property to be condemned, and the damages to that adjoining, and they shall reduce the testimony, if any is taken by them, to writing, and after the testimony is closed, in each case, and without any unnecessary delay, and before proceeding to the examination of