

Dec. Ses. 1816

or dug for the use of, the owner or owners, or for sale, shall be necessary for making or repairing the said turnpike road, the president and managers of the Cumberland turnpike road company, or a majority of them, or any person authorised by them, may agree with the owner or owners of such land for such damages as may be sustained by the said road passing through the same, or with the owner or owners of said materials for the purchase of the same, or with the owner or owners of the land on which the same may be for the purchase of the said land; and in case of disagreement, or in case the owner shall be a *feme covert*, under age, or *non compos*, or out of the state or county, the president of the said company, or any person authorised by him for that purpose, shall apply to a justice of the peace of the county where such land shall lie, whose duty it shall be thereupon to issue his warrant, directed to the sheriff of the same county, commanding him to summon twelve persons who have no interest in the land or materials in question, and who are qualified to serve as jurors in the county court, to meet at the place where said land or materials may be, on a day in the said warrant to be specified, not exceeding sixty days after the day of application by the president aforesaid; 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 land through which said road may pass, or the materials required by said company, in which valuation the said jury shall take into consideration the advantages and disadvantages of the said turnpike to the said owner or owners; and the said jurors shall, after valuing the damages as aforesaid, return under their hands and seals, to the justice who issued the warrant, one copy of the said valuation, one other copy to the president of the company, and one other copy to the owner or owners of the said land or materials, if such owner shall reside in the county where the land lies, and shall not be under any legal disability to receive the money sustained as damages as aforesaid, and give sufficient discharges therefor; and the president and managers aforesaid shall pay, or secure to be paid, the damages so adjudged, before they shall proceed to open the said road, or remove the said materials; and if such owner or owners shall reside out of the county, or be under any legal disability, then the president, on the part of the said company, shall enter into bond, conditioned for the payment of the damages assessed, to the person or persons who may be legally entitled to, and 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 where the land lies, to be by him recorded, and upon such bond, or an office copy thereof, suit may be instituted against the obligor or 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 as are allowed in similar cases, and the persons summoned as jurors to value the damages sustained as aforesaid, shall each receive one dollar for every day he shall attend for that purpose; which fees and allowance shall be paid by the president and managers aforesaid, and the same proceedings shall be had, if required,

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