

CHAP. 79.

Provision.

Cases it shall be lawful to depart from the tract of the road 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.

President and managers to agree with owners for stone, gravel, &c.

11. 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 one other 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