

Nos. 4191 ~~to~~ 4198 Equity.

Report of trustees  
for the year 1919.

Filed March 3, 1930

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY.

x-----x  
George S. Brown et al,  
Trustees,  
  
v.  
  
The Chesapeake & Ohio Canal Co. et al.  
x-----x

:  
: Nos. 4191 and 4198.  
:  
: Consolidated  
: Causes.

Report of Hugh L. Bond, Jr., George A. Colston and  
Herbert R. Preston, Trustees.

To the Honorable, the Judges of the Circuit Court for Washington  
County:

In accordance with decree of this Court entered on the  
twenty-seventh day of December, 1905, the undersigned Trustees  
respectfully report to the Court their receipts and disbursements  
for the year ended December thirty-first, nineteen hundred and  
nineteen, as such Trustees, and file herewith and make part hereof  
the following statements and accounts:

1. Statement of receipts and disbursements for the  
year ended December 31, 1919.
2. Statement of profit and loss account, December  
31, 1919.
3. Balance sheet, December 31, 1919.

Respectfully submitted,

*Hugh L. Bond Jr.*  
*George A. Colston*  
*Herbert R. Preston*  
Trustees.

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY.  
RECEIPTS AND DISBURSEMENTS FOR YEAR ENDED DECEMBER 31, 1919.

Balance, January 1, 1919 \$ 6,564.84

Receipts:

Earnings,	\$66,087.42	
Received from		
Chesapeake & Ohio		
Transportation		
Company to cover		
deficit in		
operation,	<u>84,710.15</u>	<u>150,797.57</u>

Gross receipts, \$157,362.41

Disbursements:

Operating expenses,	<u>150,797.57</u>
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\$ 6,564.84

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY.

PROFIT AND LOSS ACCOUNT, DECEMBER 31, 1919.

Balance, January 1, 1919 \$ 6,564.84

Earnings:

Tolls,	\$47,346.95	
Rents, water	11,970.00	
Rents, Houses and lands,	6,768.47	
Fines,	<u>2.00</u>	
Total earnings,		\$66,087.42

Expenses:

Operating expenses	<u>150,797.57</u>	
Loss from operation for year,	84,710.15	
From Chesapeake & Ohio Transportation Company to cover deficit in operation,	<u>84,710.15</u>	
		\$6,564.84

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY.  
BALANCE SHEET FOR THE YEAR ENDED DECEMBER 31, 1919.

BONDS OF 1878.

Assets.

Bonds of 1878 acquired,	\$132,500.00
Farmers' & Merchants' National Bank, Baltimore, to meet out- standing coupons and interest as per court's orders,	858.78
Interest accrued from August 30, 1912, to December 31, 1919,	<u>58,327.57</u> \$191,686.35

Liabilities.

Purchase money unpaid, bonds of 1878,	\$132,500.00
Outstanding coupons, bonds of 1878,	750.00
Interest on outstanding coupons, bonds of 1878,	108.78
Interest accrued on unpaid purchase money, August 30, 1912, to December 31, 1919,	<u>58,327.57</u> \$191,686.35

nos. 4191 & 4198 Equity.

Report of Hugh L.  
Bond Jr. et al. trustees  
for the year 1920.

Filed Mch. 26, 1921.

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY

.....  
· George S. Brown, et al., ·  
· Trustees, · Nos. 4191 and 4198.  
· v. ·  
· The Chesapeake & Ohio Canal Company, et al. · Consolidated  
· Causes.  
·  
.....

Report of Hugh L. Bond, Jr., George A. Colston and  
Herbert R. Preston, Trustees.

To the Honorable, the Judges of the Circuit Court for Washington  
County:

In accordance with decree of this Court entered on the  
twenty-seventh day of December, 1905, the undersigned Trustees  
respectfully report to the Court their receipts and disbursements  
for the year ended December thirty-first, nineteen hundred and  
twenty, as such Trustees, and file herewith and make part hereof  
the following statements and accounts:

1. Statement of receipts and disbursements for the  
year ended December 31, 1920.
2. Statement of profit and loss account, December  
31, 1920.
3. Balance Sheet, December 31, 1920.

Respectfully submitted,

*Hugh L. Bond Jr.*  
*Herbert R. Preston*  
*George A. Colston*  
Trustees.

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY.  
RECEIPTS AND DISBURSEMENTS FOR YEAR ENDED DECEMBER 31, 1920.

Balance, January 1, 1920, \$ 6,564.84

Receipts:

Earnings, Received from Chesapeake & Ohio Transportation Company to cover deficit in operation,	\$ 81,935.97	
	<u>92,810.05</u>	<u>174,746.02</u>

Gross receipts, \$ 181,310.86

Disbursements:

Operating expenses,		<u>174,746.02</u>
		\$ 6,564.84

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY.

PROFIT AND LOSS ACCOUNT, DECEMBER 31, 1920.

Balance, January 1, 1920, \$ 6,564.84

Earnings:

Tolls,	\$ 62,102.38
Rents, water	12,270.00
Rents, houses and lands,	7,008.59
Miscellaneous earnings,	<u>555.00</u>
Total earnings,	\$ 81,935.97

Expenses:

Operating expenses	<u>174,746.02</u>
Loss from operation for year,	92,810.05
From Chesapeake & Ohio Transportation Company to cover deficit in operation,	<u>92,810.05</u>
	\$ 6,564.84

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY.

BALANCE SHEET FOR THE YEAR ENDED DECEMBER 31, 1920.

BONDS OF 1878.

Assets.

Bonds of 1878 acquired,	\$ 132,500.00	
Farmers' & Merchants' National Bank, Baltimore, to meet out- standing coupons and interest as per court's orders,	858.78	
Interest accrued from August 30, 1912, to December 31, 1920,	<u>66,277.57</u>	\$ 199,636.35

Liabilities.

Purchase money unpaid, bonds of 1878,	\$ 132,500.00	
Outstanding coupons, bonds of 1878,	750.00	
Interest on outstanding coupons, bonds of 1878,	108.78	
Interest accrued on unpaid purchase money, August 30, 1912, to December 31, 1920,	<u>66,277.57</u>	\$ 199,636.35

Nos. 4191 + 4198 Equity.

Petition of trustees for  
the approval of modifi-  
cation of existing contracts  
for water at Dams No. 4  
and No. 5.

Filed May 2, 1921.

THIS AGREEMENT made this ninth day of July, 1913, between Hugh L. Bond, Jr., George A. Colston and Herbert R. Preston, Trustees of the Chesapeake and Ohio Canal Company, hereinafter called the "Trustees", and the Martinsburg Power Company, hereinafter called the "Power Company".

WHEREAS the Trustees have heretofore made an agreement with the Power Company for water power at Dam No. 4 on the Potomac River and the Power Company desires to put flash boards upon said dam so as to increase its capacity, these boards to be designed so that, when the water in the river reaches a maximum of two feet over the top of the boards, they will collapse, and the Trustees are willing to permit this to be done upon the following terms:

NOW, THEREFORE, it is agreed that the Power Company shall have the right to put flash boards upon said dam upon a plan approved by the General Manager of the Trustees, the work to be done subject to the approval of said General Manager, and said General Manager to have the right from time to time to require such changes thereon as he may think necessary, and, in consideration of this permission, the Power Company agrees to repair and maintain the timber work on top of the masonry dam so long as it maintains the flash boards thereon, and to be responsible for any damages that may be caused by placing said flash boards on said dam, provided that the obligation to repair and maintain the timber work on top of the masonry dam and to be responsible for damages shall not require

the Power Company to restore the same if destroyed or injured by extraordinary floods.

This agreement shall continue as long as the Power Company takes water from said dam, provided that the Trustees may require the removal of the flash boards and all work put up in connection therewith if, in the opinion of their General Manager, said flash boards are or are likely to be injurious to said dam or the works of the canal.

Hugh L. Bond, Jr.  
George A. Colston,  
Herbert R. Preston,  
Trustees,

By

G.L.Nicolson  
General Manager.

THE MARTINSBURG POWER COMPANY

BY

S.N.Myers, Presdt.

THIS AGREEMENT made this Eighth day of August, 1918, between Hugh L. Bond, Jr., George A. Colston and Herbert R. Preston, Trustees of the Chesapeake and Ohio Canal Company, through G. L. Nicolson, General Manager, the first party, and the Potomac Light & Power Company, the second party.

WITNESSETH, that the parties hereto have agreed to renew the top of Dam No. 5 on the following basis:

The crest of the new concrete top of the dam shall be built 6 inches higher than the present crest, with flash-boards, which would raise the level of the water 2 feet 6 inches above the new concrete crest, and all the work shall be done in accordance with the blue-print attached and subject to the approval of said Nicolson.

The first party will pay to the second party, when the work is completed to the satisfaction of said Nicolson, the sum of \$3,000.00, and the second party will undertake the execution of the work and pay all the balance of the cost.

The second party will maintain the new concrete crest in good condition and repair, but shall not be required to repair and stop leaks through the dam or its abutments, nor repair any break or damage to the dam, other than the crest, which may occur from floods, ice or other causes.

TRUSTEES OF CHESAPEAKE & OHIO CANAL COMPANY  
BY

General Manager.

POTOMAC LIGHT & POWER COMPANY  
BY

President.

ATTEST:

Secretary.

George S. Brown, et al,	)	In the Circuit Court for
Trustees,	)	
	)	Washington County -
vs	)	
	)	Nos. 4191 and 4198 -
The Chesapeake and Ohio Canal	)	
Company, et al.	)	Consolidated Causes.

-----

REPORT AND PETITION OF HUGH L. BOND, JR.,  
GEORGE A. COLSTON AND HERBERT R. PRESTON,  
TRUSTEES.

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To the Honorable the Judges of the Circuit Court for Washington  
County, in Equity:

Your petitioners respectfully show:

On or about June 16th, 1906, Messrs. Bryan and Bond, surviving trustees, filed in this cause their petition asking the approval of a contract to be made with the Martinsburg Power Company for furnishing water from Dams Nos. 4 and 5, and this Court by its order entered August 28th, 1906, authorized the execution and delivery of said contract, which was done. Thereafter, on July 9th, 1913, your petitioners made an agreement with the Martinsburg Power Company permitting it to put certain flash-boards upon Dam No. 4 to improve the water supply.

On June 19th, 1916, the Potomac Light and Power Company purchased the property of the Martinsburg Power Company at bankruptcy sale, including its rights under the contracts above mentioned.

On August 8th, 1918, your petitioners made an agreement with the

Potomac Light and Power Company for the renewal of the top of Dam No. 5 and the placing of flash-boards thereon.

Application is now made by the Potomac Light and Power Company to your petitioners for the following modifications of the original contract first above referred to which is dated June 1st, 1906:

Articles 2 and 3, which provided that the General Manager of the Trustees should have the approval of any improvements made at Dams Nos. 4 and 5, are requested to be modified so that this approval will refer only to work which may affect the safety or operation of the canal.

Article 4, which covered the rental payment in the original contract, provided a minimum rental of \$500.00 a year at Dam No. 4 and \$400.00 a year at Dam No. 5. When the Power Company's earnings were established and until a dividend was paid on its stock, the rental was fixed at 2,1/2 per cent on the net earnings of all the plants of the company, including any steam plant or plants wherever located, and, after the Power Company began to pay dividends, it was to pay 5% of its net earnings. These net earnings were to be ascertained by deducting from the gross receipts all operating expenses and fixed charges, including interest on the bonded debt, but in no event should the rental at Dam No. 4 be less than \$500.00 a year and the rental at Dam No. 5 less than \$400.00 a year. As these plants of the Martinsburg Power Company have been sold under bankruptcy proceedings to the Potomac Light and Power Company, which owns other plants and property, some change in the method of fixing the rental is necessary as the rentals on the basis of net earnings applied

not only to the two plants for which water was furnished under the contract, but to all the plants of the Martinsburg Power Company wherever located, and, therefore, is not applicable to the present owner.

After giving the subject careful consideration and negotiating with the Potomac Light and Power Company, your petitioners have agreed, subject to the approval of the court, upon a fixed rental of Seven Hundred and Fifty Dollars (\$750.00) per year for the use of the water at each of the dams, which your petitioners believe is a fair rental and a fair increase over the present minimum rental of Nine Hundred Dollars (\$900.00) to offset the surrender by your petitioners of their rights to receive a possible greater rental on the basis of a percentage of net earnings, which basis it is impracticable to apply under the changed conditions.

Your petitioners file herewith copy of the original agreement of June 1st, 1906, and of the agreement of July 9th, 1913, and of August 8th, 1918, above referred to, and also a copy of the proposed agreement covering the modifications it is proposed to make of the original agreement and affirming the agreements of July 9th, 1913, and August 8th, 1918, marked "Exhibit Agreement".

Your petitioners, therefore, pray that an order may be entered herein ratifying and approving the proposed agreement, which your petitioners have signed subject to its becoming effective upon the approval of the court.

And your petitioners will ever pray, etc.

Hugh L. Bond Jr.  
Hubert R. P. Hunter  
George A. Coakley  
Trustees.

STATE OF MARYLAND, )  
                                  ) TO WIT:-  
CITY OF BALTIMORE, )

I HEREBY CERTIFY that on this 29th day of April, 1921, before me, the subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore aforesaid, personally appeared Hugh L. Bond, Jr. and made oath in due form of law that the matters and facts stated in the foregoing petition are true to the best of his knowledge, information and belief.

Geo. W. Haulenbrk,  
Notary Public.  
My commission  
expires May 1, 1922

# "Exhibit Agreement"

THIS AGREEMENT, made this *18th* day of *April*, 1921, by and between Hugh L. Bond, Jr., George A. Colston and Herbert R. Preston, Trustees of the Chesapeake and Ohio Canal, hereinafter called the "Trustees", and the Potomac Light and Power Company, a corporation organized under the laws of West Virginia, hereinafter called the "Power Company". WITNESSETH:

WHEREAS, the Trustees are operating the said canal under the direction of the Circuit Court for Washington County in the State of Maryland sitting as a Court of Equity; and

WHEREAS, the Power Company owns and is operating a power station at Dam No. 4 in Berkeley County, West Virginia, and for the operation thereof is taking water from above and is discharging said water below said Dam No. 4 in the Potomac River; and

WHEREAS, the Power Company owns and is operating a power station at Dam No. 5 in Berkeley County, West Virginia, and for the operation thereof is taking water from above and is discharging said water below said Dam No. 5 in the Potomac River; and

WHEREAS, the Power Company, through purchase of the property of the Martinsburg Power Company, hereinafter referred to as the "Martinsburg Company", at bankruptcy sale on the nineteenth day of June, 1916, succeeded to the rights of said Martinsburg Company in certain contracts as follows:-

Contract between the Trustees and the Martinsburg Company dated the first day of June, 1906, hereinafter referred to as the "Original Contract".

Contract between the Trustees and the Martinsburg Company dated

the ninth day of July, 1913, hereinafter referred to as the "Supplemental Contract"; and

WHEREAS, the Power Company on the eighth day of August, 1918, entered into a contract with the Trustees through G. L. Nicolson, General Manager of the Chesapeake and Ohio Canal, for the raising of the crest of Dam No. 5 and the placing of flash-boards thereon, which contract is hereinafter referred to as the "Dam No. 5 Contract"; and

WHEREAS, the parties hereto desire to and do hereby reaffirm the Supplemental Contract and the Dam No. 5 Contract; and

WHEREAS, the parties hereto recognize the possible ambiguity of the wording of the Original Contract as affecting the Power Company as purchaser of the property of the Martinsburg Company, and desire to make clear the rights and obligations of the parties hereto as now agreed upon and as hereinafter set forth.

NOW, THEREFORE, in consideration of One Dollar (\$1.00) each to the other paid, the receipt of which is hereby acknowledged, the parties hereto agree to modifications in the Original Contract as follows:-

It is understood that the approval of the plans for improvements, provided for in Articles 2 and 3, refers only to work which may affect the safety or operation of the canal, and, as to whether such improvements will injuriously affect the canal, the decision of the General Manager for the Trustees shall be final.

Article 4 is hereby amended to read as follows:-

The Power Company shall pay to the Trustees an annual rental

of Seven Hundred and Fifty Dollars (\$750.00) for the use of the water and rights hereby granted at Dam No. 4, and Seven Hundred and Fifty Dollars (\$750.00) for the use of the water and rights hereby granted at Dam No. 5, payable in equal semi-annual installments on April 1 and October 1 of each year, accounting from April 1, 1921.

Article 5 is hereby stricken out.

In every other respect the Original Contract is hereby reaffirmed by the parties hereto.

The Trustees will immediately submit this agreement to the Circuit Court for Washington County and request the approval of the same by the Court, and, upon such approval being had, this agreement shall become binding upon the parties thereto.

This agreement shall inure to and be binding upon the parties hereto, their, or either of their, successors and assigns.

Attached hereto, and marked "Exhibit A", is a copy of an agreement between Joseph Bryan and Hugh L. Bond, Jr., Trustees of the Chesapeake and Ohio Canal, and the Martinsburg Power Company, dated June 1, 1906; and attached hereto, and marked "Exhibit B", is a copy of an agreement between Hugh L. Bond, Jr., George A. Colston and Herbert R. Preston, Trustees of the Chesapeake and Ohio Canal, and the Martinsburg Power Company, dated July 9, 1913; and attached hereto, and marked "Exhibit C", is a copy of an agreement between Hugh L. Bond, Jr., George A. Colston and Herbert R. Preston, Trustees of the Chesapeake and Ohio Canal, and the Potomac Light and Power Company, dated August 8, 1918. Said Exhibits A, B and C are made a part of this agreement as fully as if incorporated herein and shall be re-

corded herewith as a part of this agreement.

IN WITNESS WHEREOF, the Trustees of the Chesapeake and Ohio Canal have executed this agreement, and the Potomac Light and Power Company has caused this agreement to be signed by its President and attested by its Secretary.

Hugh L. Bond, Jr.

Herbert R. Preston

George A. Colston

Trustees of the Chesapeake and Ohio Canal.

POTOMAC LIGHT AND POWER COMPANY

BY

Emory L. Coblenz  
President.

Seal

ATTEST:-

Wilbur M. Krise  
Secretary.



Agreement (9)

Martinsburg Power Co

+

Trustees C + O Canal

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THIS AGREEMENT, made this first day of June, in the year 1906, by and between Joseph Bryan and Hugh L. Bond, Jr., the Trustees of The Chesapeake & Ohio Canal, hereinafter called the "Trustees", and The Martinsburg Power Company, a corporation duly organized under the laws of the State of West Virginia, hereinafter called the "Power Company".

WHEREAS, the said Trustees are operating the said canal under the orders and direction of the Circuit Court for Washington County in the State of Maryland sitting as a Court of Equity, and the Power Company has constructed a plant at Dam No. 5 and proposes to construct a plant at Dam No. 4 of said canal on the Potomac River in Jefferson and Berkeley Counties in the State of West Virginia, one of which it is operating as a water power and the other it is preparing to operate as such; and

WHEREAS, controversies have existed between the parties hereto as to the right of the Power Company to use the water from either of said dams for power and milling purposes, which said controversies have been compromised and adjusted upon the terms herein set forth, that is to say:

1. The Power Company shall have the right to draw the water from each and both of said dams for power and milling purposes only at such times as such drawing may not interfere with the operation and navigation of said canal. At Dam No. 4, the Power Company shall only have the right to take water when the water is flowing over the crest of said dam. At Dam No. 5, the Trustees will have a mark established near the level of the crest of the dam, and the Power Company shall have the right to take water only when it shall be above such mark. If the Power Company fails to shut off the water at either of its plants when it should do so under this agreement, then such person or persons, as may be authorized by the General Manager of the Trustees, shall have the right to shut off the water and the right to enter upon the premises of the Power Company for this purpose.

2. The plans for the Power Company's improvements at Dam No. 4 are to be submitted to the General Manager of the Canal Company, and are to be approved by him before work thereon is begun.

3. It is understood that improvements are contemplated in the near future at Dam No. 5, and the plans therefor are also to be submitted to said General Manager for his approval before the same are made.

4. The Power Company is to pay the Trustees a minimum rental for water at each of said dams as follows:- Five hundred dollars (\$500) a year at Dam No. 4, and Four hundred dollars (\$400) a year at Dam No. 5, payable in half yearly installments. When the Power Company's earnings are established the basis of rental is to be as follows, namely, until such times as a dividend is paid upon the stock of the Power Company two and one-half per cent ( $2\frac{1}{2}\%$ ) on the net earnings at all the plants of said company, including any steam plant or plants wheresoever located. The Power Company is to be allowed until January 1st, 1908, to establish its earnings. The net earnings are to be ascertained by charging the gross receipts with operating expenses and all fixed charges, including in the latter interest on the bonded debt. Whenever and after the Power Company begins to pay dividends on its stock the Trustees are to receive five per cent (5%) of said net earnings. The said rentals are to be paid from the date the Power Company began to operate at Dam No. 5, namely October 28th, 1904, and from the date operations may begin at Dam No. 4. It is understood that the earnings upon which the rental is to be based shall include the earnings of any company or companies owned by the Power Company, or any company to which the Power Company may assign or lease the rights hereby given. It is understood that the rental at Dam No. 4 shall never be less than Five hundred dollars (\$500) a year and the rental at Dam No. 5 shall never be less than Four hundred dollars (\$400) a year, although the percentage of earnings may not equal said sums.

5. Should the Power Company, with the assent of the Trustees, undertake to make any repairs to either of the dams above referred to, then said repairs or the portion thereof borne by the Power Company are to be charged against gross receipts in ascertaining the net earnings.

6. In case of a wash-out occurring at either of said dams, not due to improper construction by the Power Company, so that the Power Company cannot use the water, the rental is to cease until such time as the dam is repaired and the Power Company may resume use of the water.

7. In the event that the use of the water from either of said dams is discontinued, it shall be the duty of said Power Company or its assigns to close the raceways by which water has been drawn from said dams by masonry satisfactory to the Trustees or their assigns.

It is understood and agreed between the parties hereto that, in the event that said canal shall cease to be used as a water way, the execution of this agreement shall not prejudice the right of the Power Company to assert its rights to take the water from either of said dams as fully and to all intents as though this agreement had not been made, but the Power Company shall not have the right to require either of said dams to be maintained for its benefit.

(Signed) Hugh L. Bond, Jr.

(Signed) Jos. Bryan

Trustees of The Chesapeake & Ohio Canal.

THE MARTINSBURG POWER COMPANY

By

(Signed) S. N. Myers, President.

ATTEST:-

Secretary.

Nos. 4191 + 4198 Equity.

Answer of the Chesapeake  
and Ohio Canal Company  
to the petition of trustees  
filed May 2nd, 1921.

CHESAPEAKE AND OHIO CANAL COMPANY

Filed May 2, 1921.

George B. Brown, et al.,  
Trustees;  
vs.  
The Chesapeake and Ohio  
Canal Company, et al.,  
Debtors.

General District Court,  
Nos. 4191 and 4198 -  
Washington County -  
In the Circuit Court for

the trustees.

Solicitor for the Chesapeake  
and Ohio Canal Company.

*W. Brown*

George S. Brown, et al,  
Trustees,

vs

The Chesapeake and Ohio Canal  
Company, et al.

)  
)  
)  
)  
)  
)  
)

In the Circuit Court for  
Washington County -  
Nos. 4191 and 4198 -  
Consolidated Causes.

-----  
ANSWER OF THE CHESAPEAKE AND OHIO CANAL COMPANY.

To the Honorable the Judges of the Circuit Court for Washington  
County, in Equity:

The answer of the Chesapeake and Ohio Canal Company to the  
Report and Petition of Hugh L. Bond, Jr., George A. Colston and Her-  
bert R. Preston, Trustees, filed herein on the 2nd day of May,  
1921, respectfully shows:-

The Respondent admits as true all and singular the matters  
and facts stated in said Report and Petition, and submits to the  
passage of such order or decree as the Court may see fit to pass in  
the premises.

*W. Irvine Cross*

Solicitor for the Chesapeake  
and Ohio Canal Company.

Ms. 7181 + 7188

nos. 4191 & 4198 Equity.

Order of Court on petition of trustees filed May 2nd, 1921.

*Frank E. Thompson*

Filed May 7, 1921.

George A. Brown, et al.  
Trustees,  
vs.  
The Chesapeake and Ohio Canal  
Company, et al.

Consolidated Cause  
Nos. 4191 and 4198 -  
Washington County -  
In the Circuit Court for

ORDER

...and approve the execution of the same;  
...advised to the Court above and both hereby  
...and of said various contracts are filed as exhibits with  
...and August 3, 1918, a copy of which contract of April  
...and certain other contracts made in reference thereto dated  
...order entered in this cause August 23,  
...for fulfilling water at Dam No. 4 and Dam No. 5 in the  
...and April 13, 1921, amending a certain contract dated  
...between said trustees and the Potomac Light and Power  
...consideration thereof, the Court doth find that  
...Ohio Canal Company, and having been agreed in contract  
...Trustees, Trustees and George A. Brown, et al.  
...and Decisions of said Board, et al., George A. Brown,  
...coming on to be heard this

George S. Brown, et al,	)	In the Circuit Court for
Trustees,	)	Washington County -
	)	Nos. 4191 and 4198 -
vs	)	Consolidated Causes.
The Chesapeake and Ohio Canal	)	
Company, et al.	)	

ORDER.

This cause coming on to be heard this <sup>7<sup>th</sup></sup> day of May, 1921, on the Report and Petition of Hugh L. Bond, Jr., George A. Colston and Herbert R. Preston, Trustees, and upon the Answer of the Chesapeake and Ohio Canal Company, and having been ~~argued by counsel and submitted~~; upon consideration thereof, the Court doth find that the ~~contract~~ between said Trustees and the Potomac Light and Power Company dated April 18, 1921, amending a certain contract dated June 1, 1906, for furnishing water at Dam No. 4 and Dam No. 5 in the Potomac River approved by an order entered in this cause August 28, 1906, and certain other contracts made in reference thereto dated July 9, 1913, and August 8, 1918, a copy of which contract of April 18, 1921, and of said previous contracts, are filed as exhibits with said petition, is advantageous to the trust estate and doth hereby ratify and approve the execution of the same.

*Francis G. Urganian*

1921. H 1814 H 188  
 Chesapeake and Ohio Canal Company

Nos. 4191 & 4198 Eq. Court  
dated.

Report of surviving  
trustees for the year  
ending December  
31. 1921.

Filed Mar 1<sup>st</sup> 1922

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY

.....  
George S. Brown, et al.,  
Trustees,  
v.  
The Chesapeake & Ohio Canal Company,  
et al.  
.....

Nos. 4191 and 4198.  
Consolidated Causes.

Report of Hugh L. Bond, Jr., George A. Colston  
and Herbert R. Preston, Trustees.

To the Honorable, the Judges of the Circuit Court for  
Washington County:

In accordance with decree of this Court entered on the  
twenty-seventh day of December, 1905, the undersigned Trustees  
respectfully report to the Court their receipts and disbursements  
for the year ended December thirty-first, nineteen hundred and  
twenty-one, as such Trustees, and file herewith and make part  
hereof the following statements and accounts:

1. Statement of receipts and disbursements for the  
year ended December 31, 1921.
2. Statement of profit and loss account, December 31,  
1921.
3. Balance Sheet, December 31, 1921.

Respectfully submitted,

*Hugh L. Bond, Jr.*  
*George A. Colston*  
*Herbert R. Preston*  
Trustees.

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY.  
RECEIPTS AND DISBURSEMENTS FOR YEAR ENDED DECEMBER 31, 1921.

Balance, January 1, 1921,		\$ 6,564.84
Receipts:		
Earnings,	\$ 63,924.52	
Received from Chesapeake & Ohio Transportation Company to cover deficit in operation,	<u>98,918.51</u>	<u>162,843.03</u>
Gross receipts,		\$ 169,407.87
Disbursements:		
Operating expenses,		<u>162,843.03</u>
		\$ 6,564.84

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY.

PROFIT AND LOSS ACCOUNT, DECEMBER 31, 1921.

Balance, January 1, 1921, \$ 6,564.84

Earnings:

Tolls,	\$ 42,017.33
Rents, water	13,970.00
Rents, houses and lands,	7,932.19
Fines,	5.00
Total earnings,	<u>63,924.52</u>

Expenses:

Operating expenses,	<u>162,843.03</u>
Loss from operation for year,	98,918.51

From Chesapeake and Ohio  
Transportation Company  
to cover deficit in  
operation,

<u>98,918.51</u>	\$ 6,564.84
------------------	-------------

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY.

BALANCE SHEET FOR THE YEAR ENDED DECEMBER 31, 1921.

BONDS OF 1878.

Assets.

Bonds of 1878 acquired,	\$ 132,500.00	
Farmers' & Merchants' National Bank, Baltimore, to meet out- standing coupons and interest as per court's orders,	858.78	
Interest accrued from August 30, 1912, to December 31, 1921,	<u>74,227.57</u>	\$ 207,586.35

Liabilities.

Purchase money unpaid, bonds of 1878,	\$ 132,500.00	
Outstanding coupons, bonds of 1878,	750.00	
Interest on outstanding coupons, bonds of 1878,	108.78	
Interest accrued on unpaid purchase money, August 30, 1912, to December 31, 1921,	<u>74,227.57</u>	\$ 207,586.35

Nos. 4191 + 4198 Eq. Court.

Petition asking approval  
of Supplemental  
Lease of Water to the  
District of Columbia  
Paper Manufacturing  
Company.

Filed June 29, 1922

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY

George S. Brown et al. :  
 :  
 vs. : Nos. 4191 and 4198  
 :  
 The Chesapeake and Ohio Canal Company et al : Consolidated Causes.  
 :  
 \_\_\_\_\_ :

PETITION ASKING APPROVAL OF SUPPLEMENTAL  
LEASE OF WATER TO THE DISTRICT OF COLUMBIA  
PAPER MANUFACTURING COMPANY.

To the Honorable, the Judges of said Court:

The petition of Herbert R. Preston and George A. Colston, Surviving Trustees, heretofore appointed in this cause, respectfully shows:

Your Petitioners as Trustees and Hugh L. Bond, Jr., Trustee, since deceased, by agreement of October 1, 1916, granted to The District of Columbia Paper Manufacturing Company the right for a term of twenty years to draw off from the Chesapeake and Ohio Canal between 33d Street and Wisconsin Avenue, Washington, District of Columbia, 3214 cubic feet of water per minute from the level between Locks No. 4 and No. 5 for manufacturing purposes, in which lease it was provided that the Lessee should have the right to increase the amount of water by approximately 4120 cubic feet per minute for which increased amount it should pay at the rate of \$1.2136 per year per cubic foot. The Lessee has made application for additional water, and in order to supply such additional water it was necessary to change the point from which the water shall be taken to the site of what is known as the "Old Tenney Mill", between 35th and 36th Streets. This change will make it necessary to permit a transmission line for the electric current to be developed over the Canal property. The Lessee assumes all cost of making the change of the point at which the water is to be taken.

Your petitioners have agreed with the Lessee upon a supplement to the original lease providing for the taking of additional water and changing the point at which it is to be taken and laying the necessary transmission line, a copy of said proposed agreement being filed herewith marked "Petitioners' Exhibit Agreement".

By said lease your petitioners are required to make this supplemental lease, increasing the amount of water at the price named, and the only additional matter for which it is necessary for them to secure the approval of the Court is that the amount of water to be taken is somewhat larger than the amount which the Lessee has the right to take under the original lease, and the right to change the intake and permit the Lessee to establish a transmission line, both of these matters being, in fact, incidental to the granting of the right to take additional water, which the Lessee is entitled to under the original lease.

Your petitioners believe that the lease of this additional water is for the benefit of the trust represented by them in increasing the amount of rental received, and, therefore, pray that the Court will authorize the making of this supplemental lease substantially in the form of the exhibit herewith filed.

Respectfully submitted.

*Herbert R. Preston*  
*George A. Weston*  
Surviving Trustees

State of Maryland,  
City of Baltimore,                      to wit:

On this *26th* day of *June*, 1922, before me, the subscriber, a notary public of the State of Maryland in and for City of Baltimore aforesaid, personally appeared Herbert R. Preston, one of the Trustees of The Chesapeake and Ohio Canal Company, and made oath in due form of law that the matters and facts stated in the

foregoing petition are true to the best of his knowledge and  
belief.

*George Haulbeck,*  
*Notary Public*  
*My commission expires*  
*May 6, 1924*

Nos. 4191 + 4198 Eq. Consol.

Exhibit Lease  
with petition of sur-  
viving trustees.

Filed June 29<sup>th</sup> 1922

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 1922, between Herbert R. Preston and George A. Colston, Surviving Trustees, lawfully vested with the possession, control and management of all the property of the Chesapeake and Ohio Canal Company, hereinafter called "Trustees", and the District of Columbia Paper Manufacturing Company, hereinafter called "Paper Company",

WITNESSETH:

WHEREAS the above-named Trustees and Hugh L. Bond, Jr., since deceased, by agreement dated October 1, 1916, and recorded among the Land Records of the District of Columbia in Liber No. 3977, Folio 425, granted to the Paper Company the right for a term of 20 years to draw off from the Chesapeake and Ohio Canal between 33rd Street and Wisconsin Avenue, Washington, D. C., 3214 cubic feet of water per minute from the level between Locks No. 4 and No. 5 for manufacturing purposes; and

WHEREAS it is provided in said agreement that the Paper Company should have the right to increase the amount of water to be taken by it under said agreement by approximately 4120 cubic feet per minute, and should pay for such increased amount at the rate of \$1.2136 per year per cubic foot for the additional number of cubic feet per minute taken; and

WHEREAS the Paper Company has given notice that it desires to exercise its right to take such additional water under said

agreement, the plans prepared by the Paper Company and approved by the Trustees providing for the taking of a somewhat larger amount of water than that contemplated by said agreement, the total amount to be taken under the original agreement and this supplement being 9000 cubic feet per minute, the amount taken under the original agreement to be paid for at the rate named therein; and

WHEREAS it has been found to be better to change the point at which water shall be taken under the original agreement and under this supplement from the point between Wisconsin Avenue and 33rd Street to the site of the old Tenney Mill, between 35th and 36th Streets, which change will make it necessary to provide for a transmission line for the electric current to be developed in one of the ways hereinafter specified.

NOW, THEREFORE, it is hereby agreed that in pursuance of the right given to the Paper Company under said agreement of October 1, 1916, to increase the amount of water to be taken by it, the parties hereto have made this supplemental agreement specifying the point at which the water taken under the original agreement and under this agreement shall be withdrawn from the Canal, and the method by which the electric current shall be transmitted from such point to the Paper Mill, but without changing or modifying in any other respect said agreement of October 1, 1916, which shall remain in full force, and apply to the water taken under these agreements, so that all the water taken under said agreement of

October 1, 1916, and under this supplement thereto, shall be taken and paid for, and the Paper Company shall be entitled to a renewal of said agreement of October 1, 1916, as amended by this supplement, upon payment at each renewal of the renewal fine of one year's rent for the year next preceeding such renewal, except that the first renewal shall be 14/20 of the rental paid for the additional water.

The Paper Company at its own cost shall do all the work necessary to provide for the withdrawal of all the water to be taken by it at the new location, and make such changes as may be necessary to provide for the abandonment of the present outlet between Wisconsin Avenue and 33rd Street. All work shall be done subject to the approval of a representative of the Trustees.

When the change has been made a new rental shall be established in one of the ways specified in Paragraph I of said agreement of October 1, 1916, and the rental shall be fixed and paid as provided in said agreement.

For the purpose of transmitting electric current from the new location to the Paper Mill, the Paper Company shall have the right to lay a cable along or near the south wall of the Canal, said cable to be placed beneath the surface of the ground and to be laid in a manner approved by a representative of the Trustees. If the Paper Company decides before or after said cable is laid that it would be better to cross overhead from the south to the north side of the Canal and lay the cable along the tow-path in a duct to a

point opposite the Mill and then cross the Canal overhead, it shall have the right to lay or hereafter change the location of the cable in this manner, all construction to be subject to the approval of a representative of the Trustees. The Paper Company shall indemnify the Trustees, their successors and assigns and the Chesapeake and Ohio Canal Company from any loss or damage which they or it may suffer, including all damage to Canal property, or to persons or property for which the Canal Trustees or the Canal Company would be liable. The right to lay said cable shall continue as long as the right to take water continues. The Paper Company shall have the right to continue to take water at the old outlet to be used in the manufacture of pulp and paper, the amount to be measured in the most practicable way and to be paid for at the rate provided in the original agreement.

Executed in duplicate this \_\_\_\_\_ day of \_\_\_\_\_, 1922.

\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
(SEAL)  
Surviving Trustees.

DISTRICT OF COLUMBIA PAPER MANUFACTURING  
COMPANY

By

\_\_\_\_\_  
President.

ATTEST:

\_\_\_\_\_  
Secretary.



Nos. 4191 + <sup>3</sup>4198 Eq. Court.

Order of Court, au-  
thorizing Supplemental  
Lease to The Dis-  
trict of Columbia Paper  
Manufacturing Co.

Filed June 29, 1922

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY

George S. Brown et al.

vs.

The Chesapeake and Ohio Canal Company et al.

Nos. 4191 and 4198  
Consolidated Causes.

ORDER.

This cause coming on to be heard upon the petition of the Surviving Trustees, heretofore appointed in this cause, asking authority to execute a supplemental lease to The District of Columbia Paper Manufacturing Company;

IT IS ORDERED by the Circuit Court for Washington County this *29<sup>th</sup>* day of *June*, 1922, that the prayer of said petition be granted and said petitioners as Trustees are hereby authorized to execute a lease to The District of Columbia Paper Manufacturing Company, granting it the right to take additional water from the Chesapeake and Ohio Canal substantially in the form of the agreement filed with said petition..

*Frank G. Wagaman*

Nos. 4191 + 4198 Eq. Consolidated

Order of Court authorizing  
Surviving Trustees to sell  
4490.7 Square feet of land to  
United States.

Filed Dec 12. 1922

*Handwritten signature*

RENTING PARAGON LINEN  
MADE IN U.S.A.

CO. CONSOLIDATED BANK  
CORP. AND FOR  
GOVERNMENT  
IN THE CIRCUIT

GEORGE S. BROWN, ET AL,  
TRUSTEES,

VS

THE CHESAPEAKE AND OHIO CANAL COMPANY, ET AL.)

) IN THE CIRCUIT  
) COURT FOR WASHING-  
) TON COUNTY-  
) NOS. 4191 and 4198  
) CONSOLIDATED CAUSES

-----

14118 3/4

It is ordered on the above petition by the Circuit Court for Washington County, this 12<sup>th</sup> day of December 1922, that George A. Colston and Herbert R. Preston, Surviving Trustees, heretofore appointed in this cause are hereby authorized to sell to the United States of America, a parcel of land containing 4490.7 square feet, more or less, situated in Montgomery County, Maryland, on the old Conduit Road for the sum of \$224.53, and to execute proper deed therefor.

*Frank G. Wagoner*

REPRODUCED FROM ORIGINAL  
MADE IN U.S.A.

Nos. 4191 + 4198 Eq. Consolidated

Petition of Surviving Trustees  
for authority to sell 4490.7  
Square feet of land to United  
States

Filed Dec. 12, 1922

GEORGE S. BROWN, ET AL,  
TRUSTEES,

VS

THE CHESAPEAKE AND OHIO CANAL COMPANY, ET AL.

) IN THE CIRCUIT  
) COURT FOR WASHING-  
) TON COUNTY-  
) NOS. 4191 and 4198.  
) CONSOLIDATED CAUSES

-----  
PETITION OF GEORGE A. COLSTON AND HERBERT  
R. PRESTON, SURVIVING TRUSTEES.  
-----

To the Honorable the Judges of said court:--

Your petitioners respectfully represent that they have agreed to sell to the United States Government, a small parcel of land containing 4490.7 square feet, more or less in Montgomery County, Maryland, situated on the old Conduit Road, for the consideration of \$224.53.

The Government desires to acquire said land for the consideration of a new Aqueduct to supply water to Washington City, and said land is not necessary for the operation of the Canal.

Your petitioners, therefore, pray that an order may be passed authorizing them to sell and convey said parcel of land for the price aforesaid.

*Herbert R. Preston  
George A. Colston*

Trustee.

RECEIVED PARAGON  
MAY 10 1918



Nos. 4191 & 4198 Equity -  
Consolidated

Petition of Surviving  
Trustees for approval of  
Contract dated January  
9th. with The Williamsport  
Power Company and  
order of Court thereon.

Filed May 4<sup>th</sup> 1923.

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY

.....  
: George S. Brown et al., :  
: Trustees, : Nos. 4191 and 4198.  
: vs : Consolidated Causes.  
: The Chesapeake & Ohio Canal Company :  
: et al. :  
.....

Report of George A. Colston and Herbert R. Preston,  
Surviving Trustees.

To the Honorable, the Judges of the Circuit Court for  
Washington County:

Your Petitioners respectfully show that in January 1923 application was made to them by the Williamsport Power Company for consent to the erection of a dam at the Power Company's plant at Williamsport, and for the construction of a bridge for a siding from the Western Maryland Railroad over the canal.

The Power Company has erected one of its principal steam power plants at Williamsport which it is expected will be increased in the future by the construction of additional units. In order to secure water for condensing it was necessary for them to build a low dam across the river, and they submitted plans for this dam to your Petitioners to know if they would have any objection to the construction of the dam, on account of its possible effect upon the canal. After careful examination the Trustees were advised that the construction of the dam would in no way affect the canal, and the Power Company agreed that if at times of extreme high water the dam caused any additional damage to the canal, it would pay for such damage.

The Power Company also wished to put in a bridge over the canal to give access to the Western Maryland Railroad for the delivery of coal at the plant. The plans which were submitted were satisfactory to your Petitioners, and the bridge will not cause any obstruction to the canal, as it is constructed so as to be raised to permit the passage of boats under the bridge, and will only be lowered when cars are being put over it, and when the canal is not in operation.

Your Petitioners did not think either of these matters were of such a permanent nature, or of sufficient importance to require the previous approval of the Court, and the Power Company was exceedingly anxious that there should be no delay so that the work could be done while the canal was closed, and during the period of low water in the river.

The Power Company has been advised that the approval of the contract which the Trustees authorized and which was executed by their General Manager, January 8, 1923, was advisable, and therefore, your Petitioners have agreed to ask the approval of the contract by the Court.

A copy of the agreement is filed herewith which your Petitioners believe fully protects the canal. The consideration of One Thousand Dollars (\$1000.00) mentioned in the contract has been paid.

Respectfully submitted,

George A. Cotton

Herbert R. Preston

Surviving Trustees.

STATE OF MARYLAND, )  
( TO WIT:  
CITY OF BALTIMORE. )

Before me a Notary Public in and for the State of Maryland, City of Baltimore, personally appeared Herbert R. Preston and made oath in due form of law that the matters and facts stated in the foregoing petition are true to the best of his knowledge and belief *this 2nd day of May, 1923.*

Geo W. Haukebeck  
NOTARY PUBLIC.

Ordered on the above petition this 4<sup>th</sup> day  
of *May, 1923* by the Circuit Court of Washington County  
that a certain contract dated January 8, 1923, between Herbert R.  
Preston and Geo. A. Colston, surviving Trustees, and the Williams-  
port Power Company giving the consent of the said Trustees to the  
construction of a dam in the Potomac River at Williamsport, Md.,  
and the construction of a bridge carrying the tracks of the Western  
Maryland Railroad over the canal at the plant of the Williamsport  
Power Company is hereby approved.

*Frank G. Waggoner*

nos. 4191 + 4198 Equity Courts  
solid.

Agreement filed with  
petition of surviving  
trustees.

Filed May 4, 1923.

THIS AGREEMENT made this 8th day of January 1923, between Herbert R. Preston and Geo. A. Colston, surviving Trustees, lawfully vested with the control and management of all the property of the Chesapeake and Ohio Canal Company, hereinafter called the Trustees, and The Williamsport Power Company, hereinafter called The Williamsport Company.

WITNESSETH, that said Trustees, and said Williamsport Co have agreed in respect of the construction of a dam, and a railroad bridge over the canal near the power plant of the Williamsport Co. at Williamsport, Md. as follows:

The Williamsport Company agrees that the dam to be constructed by them shall be constructed upon a location approximately 1700 feet down stream from the existing highway bridge as shown upon plat 511-B-14, and at an elevation at the crest of the dam not to exceed 331 feet for the permanent structure, with flashboards not exceeding 5 feet in height above the crest of the dam, and so constructed as to be automatically lowered when the river rises to a height of 10 feet above the crest of the permanent dam. A drawing is attached marked "511-B-14," showing the location and elevation of said dam.

Said dam shall be so constructed and operated that during each 24 hours the full minimum flow of the river will be discharged.

The Williamsport Company agrees that if, in the opinion, of a Board of Arbitration, to be appointed as hereinafter provided, any damage to the canal is caused, or increased by reason of such construction, the Williamsport Company will pay for any damage so caused. If any question arises as to any liability of the Williamsport Company it shall be submitted to a board of competent engineers, one appointed by each of the parties hereto, and the third to be agreed upon between the parties hereto, and if they are unable to agree then the Government Engineer in charge of the Potomac River at this point, shall act as third arbitrator, or appoint a third arbitrator.

The railroad bridge carrying tracks of the Western Maryland Railroad over the canal shall be constructed upon the location in accordance with the plans hereto attached marked "Masonry Plan, C&O Canal Crossing, Williamsport, Md., December 1922," and the plat marked "Steel Plan, C&O Canal Crossing, Williamsport, Md., November 1922," which are made a part of this agreement. Said bridge shall be constructed and operated so that during the season of navigation on the canal, said bridge shall be kept raised to a minimum height of 15 feet above the surface of the water at the full level of the canal and shall only be lowered when cars are passing over said bridge, and shall not be lowered when any traffic on the canal would be delayed thereby. If for any reason traffic on the canal is obstructed, or delayed, then the Williamsport Company shall pay to any boat owner all loss or damage suffered by reason of such delay, and shall indemnify the Trustees against any claims therefor.

During the season when the canal is not being operated said bridge may be kept in the lowered position.

Where said track crosses the tow path said crossing shall be constructed as shown upon said plan, and shall always be maintained in proper condition so as to afford no obstruction to the tow path, and all of the construction of said bridge shall always be maintained in a manner satisfactory to the General Manager of the Trustees.

The Williamsport Company shall construct such fenders as the General Manager of the Trustees shall require.

If there is any change in the operation of the canal by electrification or otherwise, then the Williamsport Company shall at their own expense, make any changes in said bridge or track necessary to accommodate it to the changed conditions, and if any railroad is hereafter built upon said canal, or canal lands at this point, then the Williamsport Company shall make such changes in their switch connection with the Western Maryland Railroad as will permit the construction of a railroad upon said canal property without increased cost on account of the maintenance of such connection.

The Williamsport Company agrees to assume, and bear and indemnify the Trustees against any loss or damage which the Trustees

or any user of the canal may suffer by reason of the construction, maintenance and operation of said bridge, and its appurtenances, whether the negligence of the persons using said canal contributes thereto or not.

The Williamsport Company as consideration for the use of the land and the privilege hereby granted have paid upon the execution of this agreement the sum of One Thousand Dollars (\$1000.00)

IN WITNESS whereof the Trustees have caused this agreement to be signed by G. L. Nicolson, their General Manager, and the Williamsport Company has caused this agreement to be signed by their President or Vice President, and their corporate seal to be hereto affixed.

Trustees of C & O Canal  
By

ATTEST:

(Sgd) A. Sahli

(Sgd) Geo L Nicolson  
GENERAL MANAGER

THE WILLIAMSPORT POWER COMPANY  
By

ATTEST:

W. K. Dunbar  
Secretary

(SGD) H. Hobart Porter  
PRESIDENT

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY

George H. Brown et al.,  
Trustees;

vs.

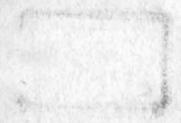
Jesses  
Consolidated  
Moe, AIGI and VAS

The Chesapeake & Ohio Canal Company et al.

for Washington County this  
1924, that Herbert H. Brown and George A. Celsom, Dividing  
Trustees, heretofore appointed in this cause, are hereby authorized  
to sign to the United States  
maintain a bond with bonds of ten thousand dollars in  
to secure to the United States  
Trustees, heretofore appointed in this cause, are hereby authorized  
1924, that Herbert H. Brown and George A. Celsom, Dividing  
for Washington County this

*Petition & Order to  
Court*

*Filed Feb 16, 1924*

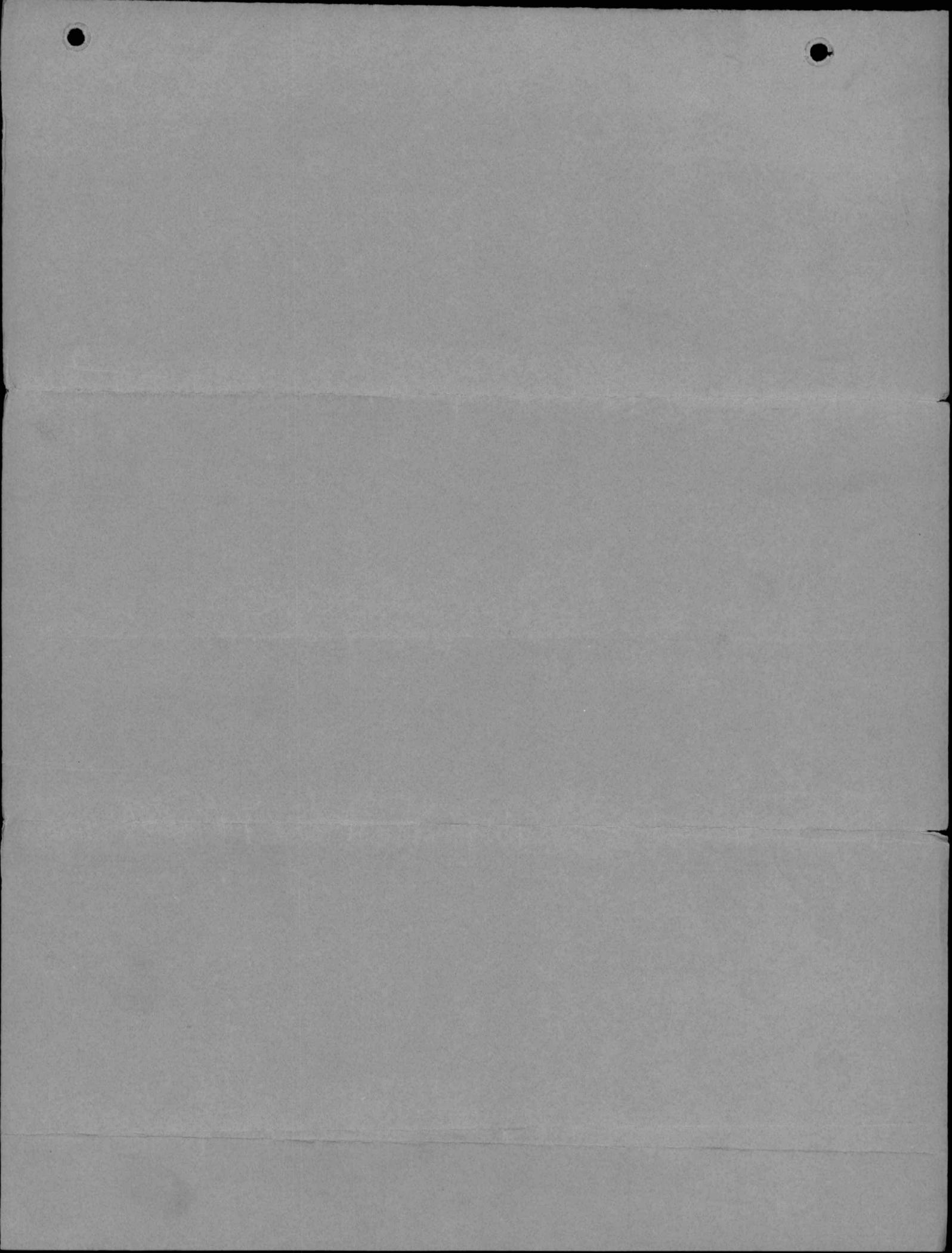


IN THE CIRCUIT COURT FOR WASHINGTON COUNTY

George S. Brown et al.,	:	
Trustees,	:	
	:	Nos. 4191 and 4198
vs.	:	Consolidated
	:	Causes.
The Chesapeake & Ohio Canal Company et al.	:	

IT IS ORDERED on the above petition by the Circuit Court for Washington County this 16<sup>th</sup> day of February, 1924, that Herbert R. Preston and George A. Colston, Surviving Trustees, heretofore appointed in this cause, are hereby authorized to grant to the United States of America the right to construct and maintain a conduit under three parcels of land in Montgomery County, Maryland, near the Great Falls, in consideration of the sum of \$1,250.93, and to execute proper deed therefor.

*Frank G. Bayanau*



IN THE CIRCUIT COURT FOR WASHINGTON COUNTY

George S. Brown et al.  
Trustees,

vs.

The Chesapeake & Ohio Canal Company et al.

:  
:  
: Nos. 4191 and 4198  
:  
: Consolidated Causes  
:

PETITION OF HERBERT R. PRESTON AND  
GEORGE A. COLSTON, SURVIVING TRUSTEES.

To the Honorable, the Judges of said Court:

Your Petitioners respectfully represent that under the order of this Court entered December 12, 1922, they were authorized to sell to the United States of America a small parcel of land in Montgomery County, Maryland, for \$224.53, which sale was duly consummated, and it now appears that the Government requires a right of way for the construction of a conduit, which is now being built to increase the water supply for Washington City, and your Petitioners have agreed to grant to it the right to construct and maintain a conduit under three parcels of land belonging to the Canal Company near Great Falls, the length of the conduit under these parcels being respectively 950.43 feet, 132.5 feet and 168 feet. The Government agrees in the construction of the conduit to be responsible for any injury done to the property of the Canal, and to restore the surface to its original condition, and be responsible for later subsidence of the ground, and to be responsible for any injury caused hereafter by reason of any break in the conduit. Under these conditions the conduit does not affect in any way or lessen the value of the Canal property. The Government has agreed to pay \$1,250.93

for this privilege.

Your Petitioners, therefore, pray that an order may be passed authorizing them to grant to the Government the privilege of constructing and maintaining said conduit for the consideration aforesaid.

Herbert R. Preston  
George A. Weston

Trustees.

State of Maryland  
City of Baltimore to wit:

I certify that on this *fourteenth* day of February, 1924, before me, the subscriber, a Notary Public of the State of Maryland in and for the City of Baltimore personally appeared Herbert R. Preston and made oath in due form of law that the foregoing petition is true to the best of his knowledge, information and belief.

Witness my hand and notarial seal the day and year above written.

*Geo. W. Haulenbeck*

Notary Public.

Commission expires

May 6, 1924

SCUITY NO.

4191-4198

IN THE CIRCUIT COURT FOR  
WASHINGTON COUNTY, MARYLAND

GEORGE S. BROWN,  
JAMES SLOAN, Jr.,  
LLOYD LOWNES, Jr., Trustees

Plaintiffs,

vs.

CHESAPEAKE & OHIO CANAL CO.  
a body corporate,

Defendant.

PETITION OF FRANKLIN T. BOS  
WELL

George H. Lamar,  
Lucius Q. C. Lamar,  
John A. Garrett,  
Attorneys for Petitioner.

*Filed Oct 15, 1924*

Reynolds-Marceron & Co., Printers, Rear 1320 F St., Washington, D. C.

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND.

GEORGE S. BROWN,  
JAMES SLOAN, Jr.,  
LLOYD LOWNES, Jr., Trustees,

Plaintiffs,

vs.

CHESAPEAKE & OHIO CANAL COMPANY,  
a body corporate,

Defendant.

Equity No. 4191

and 4198

Consolidated

To the Honorable the Judge of said Court:

The petition of Franklin T. Boswell, respectfully represents:-

1. That George S. Brown, James Sloan, Jr., and Lloyd Lownes, Jr., plaintiffs in the above cause were trustees under a certain mortgage dated the 5th day of June, 1848 of the Chesapeake & Ohio Canal Company upon the property of said Company.

2. That on the 2nd day of October, 1890, this Honorable Court entered a decree in this cause in which it was provided that the aforesaid trustees should become entitled, for a period of four years, to the full possession and control of the entire canal from the City of Cumberland to its terminus in Georgetown, in the District of Columbia, together with all the rights and property of said canal company, with power and authority to use and exercise the franchises of said company, in its proper name, to the same extent and to like purposes and none other than the said Chesapeake and Ohio Canal Company could or might do, acting by authority of and under the control of a board of directors as provided by its charter.

3. That the period of possession and control so vested in the Trustees, or their successors in office, by said decree has, from time to time been extended by subsequent decrees of this Court, and successors have been appointed, so that at the time of the filing of this petition, George A. Colston and Herbert R. Preston are the successors in office to the said George S. Brown and others, and are now in full possession and control of said canal and the administration of the property of said Company, by virtue of said decree of October 2nd, 1890, and subsequent decrees.

4. That by deed dated the 13th day of April, 1920, from Berry E. Clark, Treasurer of Montgomery County, to your petitioner, Franklin T. Boswell, and by deed dated the 26th day of April, 1920 from Louis E. Baltzley and Elfie Baltzley, his wife to Franklin T. Boswell, and by deed dated the 1st day of June, 1920. from Clarence E. Baltzley and Laura M. Upham and Frederick E. Upham, her husband to Franklin T. Boswell, your petitioner became seized and possessed or entitled to the possession of a certain parcel of land in Montgomery County, Maryland, located in the Potomac River, described and known as "Cabin John Island", containing seventeen acres of land more or less, and more particularly described in a certain land patent from the State of Maryland to Edward Baltzley and Edwin Baltzley, dated the 13th day of November 1893 and recorded among the land records of the State of Maryland, in the office of the Commissioner of the Land Office in Liber W. R. H. No. 2 folio 477 of said office.

5. That by deed dated the 26th day of April, 1920, from Louis E. Baltzley and Elfie Baltzley, his wife, to your petitioner, Franklin T. Boswell and by deed dated the 1st day of June, 1920 from Clarence E. Baltzley and Laura M. Upham and Frederick E. Upham, her husband, to Franklin T. Boswell, your petitioner became seized and possessed or entitled to the possession of a certain parcel of land in Montgomery County located in the Potomac River, described and known as "Chautauqua Island" containing seven and eleven one hundredths acres of land, more or less, and more particularly described in a certain land patent from the State of Maryland to Edward Baltzley and Edwin Baltzley, dated the 13th day of November 1893, and recorded among the land records of the State of Maryland, in the office of Commissioner of the Land Office in Liber W. R. H. No. 2, folio 475 of said office.

6. That since your petitioner acquired the right and title to said islands, the said trustees have claimed and asserted and are now claiming and asserting that the Chesapeake & Ohio Canal Company is the lawful owner of said islands and have undertaken to rent to others, various tracts of land on both of said islands.

7. That there is now pending in the Circuit Court of Montgomery County, Maryland, an action in ejectment brought by your petitioner against one Louis H. O'Dell whom your petitioner is informed and believes and therefore avers is claiming his right to occupy the said "Cabin John Island" or a portion thereof as tenant of the said Chesapeake & Ohio Canal Company or said trustees.

8. That since the bringing of the aforesaid suit, the said trustees, while still asserting their ownership to said islands, have declined to intervene in said action or any additional action which may be brought, and rely upon immunity from any action or suit whatsoever in Montgomery County by virtue of the pendency of the proceedings in this cause.

9. That your petitioner believes that even though he recover in his action against the said Louis H. O'Dell, or in any other action against the lessees of the Chesapeake & Ohio Company or the trustees thereof, the said trustees, relying upon their alleged immunity from suit or action, will continue to assert claim to said islands and attempt to rent portions thereof and to prevent your petitioner from enjoying possession of said islands.

10. That your petitioner is a resident of Montgomery County. That the controversy involves a question of title to land in Montgomery County and the land records upon which your petitioner

must rely to establish his title are located at Rockville, Montgomery County, Maryland. Your petitioner is informed and believes and therefore avers that an action or actions to establish his title, even as against the Chesapeake & Ohio Canal Company or said Trustees, is therefore peculiarly within the jurisdiction of the Circuit Court for Montgomery County.

To the end therefore your petitioner prays:-

1. That this Honorable Court grant leave to your petitioner to bring an action or actions in ejectment against the Chesapeake & Ohio Canal Company and against George A. Colston, Herbert R. Preston, Trustees, to establish your petitioner's right of possession to the aforesaid Cabin John and Chautauqua Islands, located in the Potomac River, Montgomery County, Maryland.

2. That your petitioner may have such other and further relief as the case may require.

And as in duty bound, etc.

John Smith

George H. Lomas

Lucius Q. Lomas

Wagoner & Babentine  
Attorneys for petitioner.

Franklin T. Boswell

District of )  
Columbia ; SS.

Franklin T. Boswell being sworn in due form of law,  
deposes and says that he has read the foregoing petition  
by him subscribed and knows the contents thereof. That  
the same is true to the best of his knowledge and belief.

Franklin T. Boswell

SUBSCRIBED and sworn to before me this <sup>9<sup>th</sup></sup> day of ~~September~~ <sup>October</sup>,  
A. D. 1924.

My commission expires Sept. 8, 1929.

Frank J. Miller  
NOTARY PUBLIC

NOS. 4191 and 4198 EQUITY.

CONSOLIDATED.

ORDER OF COURT ON  
PETITION OF  
FRANKLIN T. BOSWELL.

*Filed Oct 20 1924*

GEORGE S. BROWN,  
JAMES SLOAN, JR.,  
LLOYD LOWNES, JR., TRUSTEES,

PLAINTIFFS,

VS

CHESAPEAKE & OHIO CANAL COMPANY,  
A BODY CORPORATE,

DEFENDANT.

EQUITY NOS. 4190 and 4198

CONSOLIDATED.

IN THE CIRCUIT COURT

FOR

WASHINGTON COUNTY.

The petition of Franklin T. Boswell filed in the above entitled cause on the 18th day of October, A. D., 1924, having been read and considered,

It is thereupon this 20th day of October A. D., 1924, by the Circuit Court for Washington County, in Equity, adjudged, ordered and decreed, that leave be and is hereby granted Franklin T. Boswell to bring an action or actions in ejectment against the Chesapeake and Ohio Canal Company and against George A. Colston and Herbert R. Preston, Trustees as in said petition prayed.

*Frank G. Wagoner*  
~~Associate Judge of the Fourth  
Judicial Circuit of Maryland.~~

nos. 4191 + 4198 Equity

Petition of surviving  
trustees for approval of  
sale made to Charles  
W. Bower et al and  
order of Court.

REMPICK PARKERSON LINEN  
MADE IN U.S.A.

Filed Nov 5, 1944

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY

-----  
George S. Brown et al.

vs.

Chesapeake & Ohio Canal Company.  
-----

:  
:  
: Nos. 4191 and 4198  
:  
: Consolidated Causes.  
:

PETITION OF HERBERT R. PRESTON AND  
GEORGE A. COLSTON, SURVIVING TRUSTEES.

To the Honorable, the Judges of said Court:

In 1902 the Trustees purchased a frame house and about one acre of ground adjoining the right-of-way of the Canal near Dam No. 4 in Washington County, Maryland, from Daniel Hemphill for One Hundred Dollars (\$100.) for use as a store house for tools, cement, etc. The Trustees put some improvements on the property, but for some years past they have had no use for the building, and it will probably not be needed again. They agreed to sell the property, subject to the approval of the Court, to Charles W. Bower, Carrie E. Bower and William Keifer Bower as joint tenants for Seven Hundred and Fifty Dollars (\$750.), which is a good price for the property.

The Trustees, therefore, ask that said sale be approved and they be authorized to make a deed for the property.

Respectfully submitted,

*Herbert R. Preston*  
*George A. Colston*  
Trustees.

Herbert R. Preston being duly sworn deposes and says that the matters and facts stated in the foregoing petition are true to the best of his knowledge and belief.

Witness my hand and Notarial seal  
this 22nd day of October, 1924.

Geo. W. Haulbeck,  
Notary Public.

My commission expires  
May 2, 1927.

ORDERED on the above petition this 6<sup>th</sup> day of November 1924, that the sale reported by Herbert R. Preston and George A. Colston, Surviving Trustees, of a house and about one acre *described in the foregoing petition* of land near Dam No. 4, Washington County, Maryland, to Charles W. Bower, Carrie E. Bower and William Keifer Bower, is hereby approved, and said Trustees are authorized to execute a deed for said property.

Frank G. Waggoner

Nos 4191  
4198 Equity

Report of Trustees  
for years  
1922-1923-1924

Filed July 6<sup>th</sup> 1925

**The Baltimore and Ohio Railroad Company**

JOHN J. CORNWELL,  
GENERAL COUNSEL  
HERBERT R. PRESTON,  
GENERAL SOLICITOR  
W. IRVINE CROSS,  
COUNSEL  
R. MARSDEN SMITH,  
A. HUNTER BOYD, Jr.,  
DUNCAN K. BRENT,  
GENERAL ATTORNEYS  
CHARLES R. WEBBER,  
ALLEN S. BOWIE,  
FRANCIS R. CROSS,  
EDGAR W. YOUNG,  
DANIEL WILLARD, Jr.,  
ASSISTANT GENERAL ATTORNEYS

LAW DEPARTMENT  
BALTIMORE, MARYLAND

GEO. DOBBIN PENNIMAN,  
COUNSEL, RELIEF DEPARTMENT

February 4, 1925-

Clerk,  
Circuit for Washington County,  
Hagerstown, Md.

Dear Sir:

I enclose for filing in the case of George S. Brown et al. vs. C. & O. Canal Company, Consolidated Causes, Nos. 4191 and 4198, report of the Trustees for the years 1922, 1923 and 1924. No action is required except the filing of this report.

Yours truly,

*H. R. Preston*  
Trustee.



that the Canal is in condition to be put into operation without considerable expenditure as soon as a recovery in the coal trade warrants it.

Respectfully submitted,

*George A. Weston*

*Wesley R. Weston*

Surviving Trustees.

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY.

RECEIPTS AND DISBURSEMENTS FOR YEAR ENDED DECEMBER 31, 1922.

Balance, January 1, 1922, \$6,564.84

Receipts:

Earnings, \$25,679.58

Received from  
Chesapeake & Ohio  
Transportation  
Company to cover  
deficit in  
operation,

94,517.87

120,197.45

Gross receipts,

\$126,762.29

Disbursements:

Operating expenses,

120,197.45

\$6,564.84

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY.

PROFIT AND LOSS ACCOUNT, DECEMBER 31, 1922.

Balance, January 1, 1922, \$6,564.84

Earnings:

Tolls,	\$3,435.18
Rents, water,	13,470.00
Rents, houses and lands,	<u>8,774.40</u>
Total earnings,	25,679.58

Expenses:

Operating expenses,	<u>120,197.45</u>
Loss from operation for year,	94,517.87

From Chesapeake and Ohio  
Transportation Company  
to cover deficit in  
operation,

94,517.87

\$6,564.84

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY.

BALANCE SHEET FOR THE YEAR ENDED DECEMBER 31, 1922.

BONDS OF 1878.

Assets.

Bonds of 1878 acquired,	\$132,500.00	
Farmers' & Merchants' National Bank, Baltimore, to meet outstanding coupons and interest as per court's orders,	858.78	
Interest accrued from August 30, 1912, to December 31, 1922,	<u>82,177.57</u>	\$215,536.35

Liabilities.

Purchase money unpaid, bonds of 1878,	\$132,500.00	
Outstanding coupons, bonds of 1878,	750.00	
Interest on outstanding coupons, bonds of 1878,	108.78	
Interest accrued on unpaid purchase money, August 30, 1912, to December 31, 1922,	<u>82,177.57</u>	<u>\$215,536.35</u>

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY.  
RECEIPTS AND DISBURSEMENTS FOR YEAR ENDED DECEMBER 31, 1923.

Balance, January 1, 1923, \$6,564.84

Receipts:

Earnings,	\$60,604.08	
Received from Chesapeake and Ohio Transportation Company to cover deficit in operation,	<u>71,768.15</u>	<u>132,372.23</u>
Gross receipts		138,937.07

Disbursements:

Operating expenses		<u>132,372.23</u>
		6,564.84

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY.

PROFIT AND LOSS ACCOUNT, DECEMBER 31, 1923.

Balance, January 1, 1923, \$6,564.84

Earnings:

Tolls,	\$ 31,899.32
Rents, water,	19,011.35
Rents, houses and lands	<u>9,693.41</u>
Total earnings	\$ 60,604.08

Expenses:

Operating expenses	<u>132,372.23</u>
Loss from operation for year	71,768.15
From Chesapeake and Ohio Transportation Company to cover deficit in operation	<u>71,768.15</u>

\$6,564.84

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY.

BALANCE SHEET FOR THE YEAR ENDED DECEMBER 31, 1923.

BONDS OF 1878.

Assets.

Bonds of 1878 acquired	\$132,500.00	
Farmers' & Merchants' National Bank, Baltimore, to meet outstanding coupons and interest as per Court's order,	858.78	
Interest accrued from August 30, 1912, to December 31, 1923,	<u>90,127.57</u>	\$223,486.35

Liabilities.

Purchase money unpaid, Bonds of 1878,	132,500.00	
Outstanding coupons, Bonds of 1878,	750.00	
Interest on outstanding coupons, Bonds of 1878,	108.78	
Interest accrued on unpaid purchase money, August 30, 1912, to December 31, 1923,	<u>90,127.57</u>	\$223,486.35

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY.

RECEIPTS AND DISBURSEMENTS FOR YEAR ENDED DECEMBER 31, 1924.

Balance, January 1, 1924, \$6,564.84

Receipts:

Earnings	\$31,338.30	
Received from Chesapeake and Ohio Transportation Company to cover deficit in operation	<u>115,253.84</u>	<u>146,592.14</u>
Gross receipts		153,156.98

Disbursements:

Operating expenses		<u>146,592.14</u>
		\$6,564.84

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY

PROFIT AND LOSS ACCOUNT, DECEMBER 31, 1924.

Balance, January 1, 1924,

\$6,564.84

Earnings:

Tolls	1,215.60
Rents, water,	21,741.80
Rents, houses and lands	<u>8,380.90</u>
Total earnings	31,338.30

Expenses:

Operating expenses	<u>146,592.14</u>
Loss from operation for year	115,253.84
From Chesapeake and Ohio Transportation Company to cover deficit in operation	<u>115,253.84</u>

6,564.84

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY.  
BALANCE SHEET FOR THE YEAR ENDED DECEMBER 31, 1924.

BONDS OF 1878.

Assets.

Bonds of 1878 acquired,	\$132,500.00	
Farmers' & Merchants' National Bank, Baltimore, to meet outstanding coupons and interest as per Court's order,	858.78	
Interest accrued from August 30, 1912, to December 31, 1924,	<u>98,077.57</u>	\$231,436.35

Liabilities.

Purchase money unpaid, Bonds of 1878,	132,500.00	
Outstanding coupons, Bonds of 1878,	750.00	
Interest on outstanding coupons, Bonds of 1878,	108.78	
Interest accrued on unpaid purchase money, August 30, 1912, to December 31, 1924,	<u>98,077.57</u>	231,436.35

ORDER OF COURT.

Filed April 5, 1926.

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY

GEORGE S. BROWN et al.

vs.

THE CHESAPEAKE AND OHIO CANAL COMPANY et al

:  
:  
:  
:  
:

Nos. 4191 and 4198  
Consolidated Causes.

ORDER.

This cause coming on to be heard upon the petition of the Surviving Trustees, heretofore appointed in this cause, asking authority to execute a lease for additional water to the District of Columbia Paper Manufacturing Company, and also a lease to the Crystal Plate Ice Company, and to convey a parcel of land to the District of Columbia Paper Manufacturing Company

IT IS ORDERED by the Circuit Court for Washington County this 5<sup>th</sup> day of April, 1926, that the prayer of said petitioners be granted and said petitioners as Trustees are hereby authorized to execute a lease to the District of Columbia Paper Manufacturing Company and a lease to the Crystal Plate Ice Company, granting to them the right to take additional water from the Chesapeake and Ohio Canal substantially in the form of the agreements filed with their petition; and also to convey a parcel of land at the corner of Potomac and Grace Streets, Washington, D.C., as stated in their petition.

*Frank G. Wagoner*



IN THE CIRCUIT COURT FOR WASHINGTON COUNTY

George S. Brown et al.

vs.

The Chesapeake and Ohio Canal Company et al.

:  
:  
:  
:  
:

Nos. 4191 and 4198  
Consolidated Causes.

PETITION ASKING APPROVAL OF LEASES  
OF WATER TO DISTRICT OF COLUMBIA  
PAPER MANUFACTURING COMPANY AND  
CRYSTAL PLATE ICE COMPANY AND SALE  
OF LAND TO DISTRICT OF COLUMBIA PAPER  
MANUFACTURING COMPANY.

To the Honorable, the Judges of said Court:

Your petitioners as Trustees, subject to the approval of the Court, have made an agreement, dated January 1, 1926, with the District of Columbia Paper Manufacturing Company, granting the right to take 3,214 cubic feet of water per minute from the level between Locks Nos. 4 and 5 to be used solely for manufacturing purposes for a term of twenty years with the privilege of renewal upon payment of one year's additional rent as a renewal fine. For this privilege this Company agrees to pay an annual rent of \$3,900., payable quarterly. This Company has been taking water for the use of its paper mill for a number of years, and this lease grants it the right to increase the amount of water taken at substantially the same rental.

Your petitioners as Trustees, subject to the approval of the Court, have also made an agreement with the Crystal Plate Ice Company, dated January 5, 1926, granting the right to take 2,700 cubic feet of water per minute from the level between Locks Nos. 4 and 5 to be used solely for manufacturing purposes for a term of twenty years with the privilege of renewal upon the payment of one year's additional rent as a renewal find, said For this privilege this Company agrees to pay an annual rent of \$3,276., payable quarterly. This Company has been taking water for the use of its ice plant for a number of years, and this lease grants it the right to increase the amount of water taken

at substantially the same rental.

Your petitioners are advised and believe that there is sufficient water in said level to supply the amount of water agreed to be furnished to these two plants without interfering with the operations of the Canal, and each of said leases contains a provision that in the event that there is not sufficient water to serve the purpose of navigation of the Canal the quantity of water may be diminished or stopped.

These leases are in the form of the leases which have been in effect for a great many years. Copies of the leases are hereto attached.

These plants are the only plants so situated as to make use of this water power, and the rentals are substantially the same as those under which they have been using water for a number of years, and your petitioners believe that it is for the benefit of the trust represented by them that these leases should be made.

Your petitioners agreed to sell the District of Columbia Paper Manufacturing Company a small parcel of land at the corner of Potomac and Grace Streets, Washington, D.C., having a frontage of 22.30 feet on Potomac Street and extending back 41 feet, at the price of \$.50 per square foot. This small parcel of land was supposed to belong to others, but, upon examination of title, it was found that the title to it was vested in the Canal Company, and your petitioners agreed to sell it to the Paper Company at this price. Your petitioners believe that this is a fair price for said parcel of land, and that it will never be available for the use of the Canal.

Your petitioners, therefore, pray that the leases of said additional water above set forth and the sale of said small parcel of land be approved.

Respectfully submitted,

*Hubert R. Patten*

*George A. Colston*

Surviving Trustees.

State of Maryland  
City of Baltimore

to wit:

On this *30th* day of *March*, 1926, before me, the subscriber, a notary public of the State of Maryland in and for the City of Baltimore aforesaid, personally appeared Herbert R. Preston, one of the Trustees of The Chesapeake and Ohio Canal Company, and made oath in due form of law that the matters and facts stated in the foregoing petition are true to the best of his knowledge and belief.

*George Haulerbeck,*

Notary Public.

My commission expires  
May 2, 1927.

No 4191  
4198 Equity

Petition of Summary  
Trustees in reference to  
two water leases & Sale  
of Property. & Exhibits &  
Orders of Court

15  
Filed April 5, 1926

*Crystal Plate Ice Co.*

*[Signature]*

THIS AGREEMENT made this Fifth day of January, 1926, between George A. Colston and Herbert R. Preston, Surviving Trustees, lawfully vested with the possession, control and management of all the property of the Chesapeake and Ohio Canal Company by virtue of the decree of the Circuit Court for Washington County, Maryland, passed October 2, 1890, in the Consolidated Causes in Equity Nos. 4191 and 4198, on the docket of said Court, and by virtue of the decree of the Supreme Court of the District of Columbia, passed November 1, 1890, in the Consolidated Causes in Equity No. 12240, on the docket of said Court, said Trustees having been duly authorized to make this agreement by order entered in each of the causes above-mentioned, the first party, and the Crystal Plate Ice Company, the second party.

WITNESSETH that the first party, for and in consideration of the rents and covenants hereinafter mentioned, and on the part of the second party to be paid and performed, doth grant and agree, to and with the second party and its assigns, that the second party and its assigns shall have full right, permission and authority for the term of twenty (20) years from the date hereof, and the same is hereby granted, to draw off from the Chesapeake and Ohio Canal at Thirty-fifth Street, Washington, D. C., twenty-seven hundred (2700) cubic feet of water per minute from the level between Locks No. 4 and No. 5, to be used solely for manufacturing purposes on these express conditions, viz:

1. The quantity of water which the second party shall have

2

the right to take shall be measured either by a standard form of gauge, or the quantity shall be estimated by the capacity of the wheel, as shown by the certificate of some corporation or person conducting flume tests to be designated by the first party. Said estimate of water shall be based upon the amount of water which may be passed through the gauge or wheel if in continuous operation, and upon normal height of water in the canal without allowance for temporary variation.

2. The conduit for conducting the water from the canal, and the gate or other fixture for turning the water on and off, shall be constructed and kept in repair at the sole cost of the second party under the special direction and superintendence and subject in every particular to the approval of the officer of the first party charged with that duty; and in like manner at the sole cost of the second party and under the direction of such officer of the first party such alterations from time to time shall be made in said conduit and gate or fixture as the regulation of the flow and the safety of the canal may require, and as the first party or such officer may consider necessary or desirable.

3. The officers and servants of the first party shall have free ingress and egress to and from the premises used and occupied by the second party at the point aforesaid, for the purpose of examining, repairing and preserving the the embankments and other parts of the said Canal, or its works, without molestation or hinderance from any person whatever; and that the said officers and servants shall in like manner have free ingress

and egress for the purpose of examining any and all the fixtures and works connected with the drawing off of the said water from the Canal at the point aforesaid for the purpose of ascertaining whether any defects exist therein which may occasion leakage from the said Canal, or endanger its security, or that of its works, or whether, from any cause whatsoever there may be more water drawn off from the said Canal than is hereby granted.

4. The first party shall be at liberty whenever it shall be requisite in the opinion of their officer charged with such duty to draw off the water from the said Canal for the purpose of cleaning, repairing or altering the same, or for any other necessary purpose, and shall also be at liberty to keep the water out of the said Canal after the occurrence of a breach or breaches in it, or the failure of any of its works, for the purpose of its or their repair, without rendering the first party or their officers in any manner liable for damage for the failure of water at the point aforesaid, while such cleaning, repairing or alteration is in progress, or such necessity exists, or during the repairs rendered necessary by such breach or breaches or failure, and without subjecting the first party to any forfeiture of rents, unless the water should be so drawn off or remain out for a connected period of at least ten days; then, and in all such cases, a pro rata deduction shall be made from the rent for the days during which the water is so drawn off or remains out.

5. Whenever the second party suspends the use of the water power hereby granted in propelling its machinery, the water shall be entirely shut off and remain shut off until it has occasion to

resume the use of the said water power (without being entitled in consequence to any abatement of rent) in order that there shall be no unnecessary waste or leakage of water.

And the second party, in consideration of the premises, for itself and its assigns, doth covenant and agree to and with the first party that it and its assigns during the continuance of the said term of years commencing when water is turned on, but in no event later than July 1, 1926, will pay for the right to take the said water to the first party an annual rent of Three Thousand Two Hundred and Seventy-six (\$3,276.) Dollars in equal quarter-yearly payments, viz: on the Thirty-first day of March, Thirtieth day of June, Thirtieth day of September and Thirty-first day of December, in each and every year, and will abide by and perform each and all of the conditions and stipulations on its part to be performed under the foregoing provisions. It is understood that said annual rent is paid for the right to take water up to the amount above specified, and is payable in full, notwithstanding the second party may actually take a less amount of water, except in the cases entitling the second party to a pro rata deduction as herein specified.

And it is hereby mutually understood and agreed by and between the said parties that if any quarter-yearly payment of the said rent shall be in arrear twenty days after the period aforesaid, stipulated for the payment of the same, or if the second party and its assigns shall fail to comply forthwith upon being required so to do by the first party, or their officer charged with that duty, with any of the preceding conditions of

this lease, then, and in either case, it shall be lawful for the first party or their officer charged with that duty to stop or cut off the supply of water at the point aforesaid by closing the gate or gates of the aperture aforesaid, or by any other means, without the abatement of the said rent, until the second party or its assigns shall comply fully with its obligations hereunder in the particular complained of, after which the said water shall be permitted to flow as before, subject to all the limitations, reservations and conditions herein mentioned and contained. And in case there shall be a failure, neglect or refusal to pay, as aforesaid, the quarter yearly rent in any instance for one quarter of a year after the same shall have become due, then this lease may be forfeited and made void, at the option of the first party. These rights in the first party to shut off the water and to forfeit and make void this lease shall not be considered as excluding the first party from the legal right of collecting the rent, or from proceedings against the second party and its assigns by suit, injunction or otherwise.

AND WHEREAS the primary object of the Chesapeake and Ohio Canal is to afford navigation and the means of easy transportation for produce and merchandise passing on the said Canal and its branches, and at times there may not be found in the Canal sufficient water to serve the purposes of the navigation of the said Canal and its branches (with such depth of water as may be deemed expedient by the first party to be maintained therein for the purpose of said navigation) and also to propel machinery, it

is further mutually understood and agreed between the said parties that whenever in the opinion of the officer charged with that duty by the first party the purposes of the navigation of the said Canal and its branches, as aforesaid, require it, the first party, or the said officer, may, for the time in their or his opinion requisite, limit the quantity of water to be drawn from the said Canal according to the provisions of this contract, at the point aforesaid, or altogether stop the same, without liability to answer therefor, in damages, to the second party or its assigns; PROVIDED that if it is necessary to diminish or stop the quantity of water dependent on the same feeder for its supply, the water delivered under this lease may be diminished or stopped before the water is diminished or stopped under any other leases, except any lease which may hereafter be made. And in all cases of a partial or total suspension of the use of water from such a cause, a pro rata deduction (in part or in full, as the case may be) shall be made from the rent for the days during which the use of the water is so suspended.

And the first party doth further covenant and agree to and with the second party and its assigns that the first party will hereafter, if requested within twenty days after the expiration of the term aforesaid, by the second party or its assigns, renew this lease or contract for another term of twenty (20) years at the same rent and on the same terms and conditions, and subject to the same limitations as are herein contained; and so from time to time as the said renewed lease or contract shall expire, on the condition of the second party, or its assigns, paying to the

first party at each renewal a fine or bonus of one year's rent.

AND THIS INDENTURE FURTHER WITNESSETH that the Crystal Plate Ice Company doth hereby appoint to be its attorney, for it and in its name, to acknowledge this indenture to be its act and deed to the intent that the same may be duly recorded.

IN WITNESS WHEREOF said Surviving Trustees have hereunto set their hands and seals; and the said Crystal Plate Ice Company has caused this agreement to be signed by its President and its corporate seal to be Hereunto affixed attested by its Secretary.

\_\_\_\_\_  
SEAL

\_\_\_\_\_  
SEAL

Surviving Trustees.

CRYSTAL PLATE ICE COMPANY  
By

President.

ATTEST:

\_\_\_\_\_  
Secretary.

REMITTANCE PARAGON LINE  
MADE IN U.S.A.

State of Maryland :  
: to wit:  
City of Baltimore :

I hereby certify that on this                    day of  
192 , before me, the subscriber, a Notary Public of the  
State of Maryland, in and for the City of Baltimore aforesaid,  
personally appeared George A. Colston and Herbert R. Preston,  
Surviving Trustees, and did each acknowledge the foregoing  
instrument to be his act and deed as Surviving Trustee for  
the uses and purposes therein mentioned.

WITNESS my hand and notarial seal.

Notary Public.

District of:  
Columbia : SS:

I hereby certify that on this                    day of  
192 , before me, the subscriber, a Notary Public in and for  
said District of Columbia, personally appeared  
the attorney of the Crystal Plate Ice Company named, constituted  
and appointed in the foregoing indenture, and, by virtue and in  
pursuance of the authority therein conferred upon him acknowledged  
said indenture to be the corporate act and deed of the said  
Crystal Plate Ice Company.

WITNESS my hand and notarial seal.

Notary Public.

THIS AGREEMENT made this First day of January, 1926, between George A. Colston and Herbert R. Preston, Surviving Trustees, lawfully vested with the possession, control and management of all the property of the Chesapeake and Ohio Canal Company by virtue of the decree of the Circuit Court for Washington County, Maryland, passed October 2, 1890, in the Consolidated Causes in Equity, Nos. 4191 and 4198, on the docket of said Court, and by virtue of the decree of the Supreme Court of the District of Columbia, passed November 1, 1890, in the Consolidated Causes in Equity, Nos. 12240, on the docket of said Court, said Surviving Trustees having been duly authorized to make this agreement by order entered in each of the causes above mentioned, the first party, and the District of Columbia Paper Manufacturing Company, the second party.

WITNESSETH that the first party for and in consideration of the rents and covenants hereinafter mentioned, and on the part of the second party to be paid and performed, doth grant and agree to and with the second party and its assigns that the second party and its assigns shall have full right, permission and authority for the term of twenty (20) years from the date hereof, and the same is hereby granted, to draw off from the Chesapeake and Ohio Canal at the paper mill or at Thirty-fifth Street, Washington, D.C., as the second party may elect, Three Thousand Two Hundred and Fourteen (3,214) cubic feet of water per minute from the

level between Locks No. four and five, to be used solely for manufacturing purposes on these express conditions, viz:

1. The quantity of water which the second party shall have the right to take shall be measured either by a standard form of gauge or the quantity shall be estimated by the capacity of the wheel, as shown by the certificate of some corporation or person conducting flume tests to be designated by the first party. Said estimate of water shall be based upon the amount of water which may be passed through the gauge or wheel if in continuous operation, and upon normal height of water in the Canal without allowance for temporary variation.

2. The conduit for conducting the water from the Canal, and the gate or other fixture for turning the water on and off, shall be constructed and kept in repair at the sole cost of the second party, under the special direction and superintendence, and subject in every particular to the approval of the officer of the first party charged with that duty; and in like manner, at the sole cost of the second party, and under the direction of such officer of the first party, such alterations, from time to time, shall be made in said conduit and gate or fixture as the regulation of the flow and the safety of the Canal may require and as the first party or such officer may consider necessary or desirable.

3. The officers and servants of the first party shall have free ingress and egress to and from the premises used and occupied by the second party at the point aforesaid, for the purpose of examining, repairing and preserving the embankments, and other parts of the said Canal, or its works, without molestation or

hinderance from any person whatever; and that the said officers and servants shall, in like manner, have free ingress and egress for the purpose of examining any and all the fixtures and works connected with the drawing off of the said water from the Canal at the point aforesaid, for the purpose of ascertaining whether any defects exist therein which may occasion leakage from the said Canal, or endanger its security, or that of its works, or whether from any cause whatsoever there may be more water drawn off from the <sup>said</sup> Canal than is hereby granted.

4. The first party shall be at liberty whenever it shall be requisite in the opinion of their officer charged with such duty to draw off the water from the said Canal for the purpose of cleaning, repairing or altering the same, or for any other necessary purpose, and shall also be at liberty to keep the water out of the said Canal after the occurrence of a breach or breaches in it, or the failure of any of its works, for the purpose of its or their repair, without rendering the first party, or their officers, in any manner liable for damage for the failure of water at the point aforesaid, while such cleaning, repairing or alteration is in progress, or such necessity exists, or during the repairs rendered necessary by such breach or breaches or failure, and without subjecting the first party to any forfeiture of rents, unless the water should be so drawn off or remain out for a connected period of at least ten days; then, and in all such cases, a pro rata deduction shall be made from the rent for the days during which the water is so drawn off or remains out.

5. Whenever the second party suspends the use of the water

power hereby granted in propelling its machinery, the water shall be entirely shut off and remain shut off until it has occasion to resume the use of the said water power (without being entitled in consequence to any abatement of rent) in order that there shall be no unnecessary waste or leakage of water.

And the second party in consideration of the premises for itself and its assigns doth covenant and agree to and with the first party that it and its assigns during the continuance of the said term of years, commencing on the first day of January, in the year Nineteen Hundred and Twenty-six, will pay for the right to take the said water to the first party an annual rent of Three Thousand Nine Hundred (\$3,900.) Dollars in equal quarter yearly payments, viz: on the thirty-first day of March, thirtieth day of June, thirtieth day of September and thirty-first day of December, in each and every year, and will abide by and perform each and all of the conditions and stipulations on its part to be performed under the foregoing provisions. It is understood that said annual rent is paid for the right to take water up to the amount above specified, and is payable in full, notwithstanding the second party may actually take a less amount of water, except in the cases entitling the second party to a pro rata deduction as herein specified.

And it is hereby mutually understood and agreed by and between the said parties that if any quarter-yearly payment of the said rent shall be in arrear twenty days after the period aforesaid, stipulated for the payment of the same, or if the second party and its assigns shall fail to comply forthwith, upon being required so to do by the first party, or their officer charged with that

duty, with any of the preceding conditions of this lease, then, and in either case, it shall be lawful for the first party, or their officer charged with that duty, to stop or cut off the supply of water at the point aforesaid, by closing the gate or gates of the aperture aforesaid, or by any other means, without the abatement of the said rent, until the second party or its assigns shall comply fully with its obligations hereunder in the particular complained of, after which the said water shall be permitted to flow as before, subject to all the limitations, reservations and conditions herein mentioned and contained. And in case there shall be a failure, neglect or refusal to pay as aforesaid the quarter-yearly rent, in any instance, for one-quarter of a year after the same shall have become due, then this lease may be forfeited and made void, at the option of the first party. These rights in the first party to shut off the water and to forfeit and make void this lease shall not be considered as excluding the first party from the legal right of collecting the rent, or from proceedings against the second party and its assigns by suit, injunction or otherwise.

AND WHEREAS the primary object of the Chesapeake and Ohio Canal is to afford navigation and the means of easy transportation for produce and merchandise passing on the said Canal and its branches, and at times there may not be found in the Canal sufficient water to serve the purposes of the navigation of the said Canal and its branches (with such depth of water as may be deemed expedient by the first party to be maintained therein for the purpose of said navigation) and also to propel machinery, it is further mutually understood and agreed, between the said parties

that whenever in the opinion of the officer charged with that duty by the first party the purposes of the navigation of the said Canal and its branches, as aforesaid, require it, the first party or the said officer may for the time in their or his opinion requisite limit the quantity of water to be drawn from the said Canal according to the provisions of this contract, at the point aforesaid, or altogether stop the same, without liability to answer therefor in damages to the second party or its assigns; PROVIDED, however, that the said quantity of water shall not be diminished or stopped at the point aforesaid while water is permitted to pass at any other point, dependent on the same feeder for its supply for the purpose of propelling machinery, under a water right or contract, the commencement of the term of which is later than the date hereof. And in all cases of a partial or total suspension of the use of water from such a cause, a pro rata deduction (in part or in full, as the case may be) shall be made from the rent for the days during which the use of the water is so suspended.

And the first party doth further covenant and agree to and with the second party and its assigns that the first party will hereafter, if requested within twenty days after the expiration of the term aforesaid, by the second party or its assigns, renew this lease or contract for another term of twenty (20) years at the same rent and on the same terms and conditions, and subject to the same limitations as are herein contained; and so from time to time as the said renewed lease or contract shall expire, on the condition of the second party or its assigns paying to the first party at each renewal a fine or bonus of one year's rent.

AND THIS INDENTURE FURTHER WITNESSETH that the District of Columbia Paper Manufacturing Company doth hereby appoint G. L. Nicolson to be its attorney for it and in its name to acknowledge this indenture to be its act and deed to the intent that the same may be duly recorded.

IN WITNESS WHEREOF said Surviving Trustees have hereunto set their hands and seals, and the said District of Columbia Paper Manufacturing Company has caused this agreement to be signed by its President and its corporate seal to be hereunto affixed attested by its Secretary.

\_\_\_\_\_ SEAL

\_\_\_\_\_ SEAL

Surviving Trustees.

DISTRICT OF COLUMBIA PAPER MANUFACTURING COMPANY

By

President.

ATTEST:

Secretary.

REMITICO PARAGON LINEN  
MADE IN U.S.A.



Paper Manufacturing Company.

WITNESS my hand and official seal the day and year aforesaid.

Notary Public.

4177-4198  
Eg.

Filed June 28/1926

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY

George S. Brown et al.

vs.

The Chesapeake and Ohio Canal Company et al.

:  
:  
:  
:  
:

Nos. 4191 and 4198  
Consolidated Causes

PETITION ASKING APPROVAL OF DEED  
TO UNITED STATES FOR PARCEL OF  
LAND IN THE DISTRICT OF COLUMBIA.

The petition of Herbert R. Preston and George A. Colston, Surviving Trustees, heretofore appointed in this cause, respectfully shows:

The United States has made application to your petitioners for the purchase of a parcel of land in the District of Columbia shown on Map No. 1102 of the Surveyor of the District of Columbia, colored in yellow, containing 20,071 square feet, more or less, and also the easement for a subterranean right of way under the Chesapeake and Ohio Canal, as shown on said map and colored in yellow, for the purpose of the construction of a power plant in connection with the water supply for the District of Columbia. A copy of said map is filed herewith. The property desired to be purchased is not necessary for the use of the Canal, and the price of \$5,000. offered therefor is the full value of said land and easement. The United States has agreed to construct and maintain said plant and said subterranean right of way so as to not affect or injure in any way the property of said Canal or interfere with its operations.

Your petitioners, therefore, pray that they may be authorized to convey to the United States said parcel of land and said subterranean right of way for the consideration of \$5,000.

Respectfully submitted,

*Herbert R. Preston*  
*George A. Colston*  
Surviving Trustees.

State of Maryland  
City of Baltimore

to wit:

On this Twenty-fourth day of June, 1926, before me, the subscriber, a notary public of the State of Maryland in and for the City of Baltimore aforesaid, personally appeared Herbert R. Preston, one of the Trustees of the Chesapeake and Ohio Canal Company, and made oath in due form of law that the matters and facts stated in the foregoing petition are true to the best of his knowledge and belief.

*Geo. W. Haulenbeck*

Notary Public.

My Commission expires

*May 2, 1927*

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY

George S. Brown et al. :  
vs. : Nos. 4191 and 4198  
The Chesapeake and Ohio Canal Company et al. : Consolidated Causes.

ORDER.

This cause coming on to be heard upon the petition of the Surviving Trustees, heretofore appointed in this cause, asking authority to execute a deed to the United States for a parcel of land in the District of Columbia, containing approximately 20,071 square feet, more or less, and a subterranean right of way under the Chesapeake and Ohio Canal as shown on Map No. 1102 of the Surveyor of the District of Columbia and colored in yellow for the consideration of \$5,000.

IT IS ORDERED by the Circuit Court for Washington County this *28<sup>th</sup>* day of June, 1926, that the prayer of said petition be granted and said petitioners as Trustees are hereby authorized to execute a deed for said parcel of land and easement, provided that before executing the same said petitioners shall be duly authorized so to do by an order of the Supreme Court of the District of Columbia in the case of George S. Brown et al. vs. Chesapeake and Ohio Canal Company et al., No. 12240, Equity.

*Francis E. Deagan*

Copy of within Petition & Order  
of Court served on Wm O  
Lane Jr. Atty for the Chesapeake  
& Ohio Transportation Co of  
Washington County. Copies  
left in his house  
Sept 20 1926 =  
Edward Oswald  
Clerk to Ct

Received 21<sup>st</sup> day of Sept 1926  
and forthwith delivered to  
Sheriff of Baltimore City.

Test:  
Stephen C Little

Joseph Bolton  
John T. Flynn VP  
Herbert R. Preston Trust  
7/24/26 Rules

No. <sup>(4191)</sup> 4198 Equity

IN THE CIRCUIT COURT FOR  
WASHINGTON COUNTY

George S. Brown, et al  
Trustees

vs.

Chesapeake & Ohio Canal Co.,  
et al.

PETITION OF W. T. COULEHAN

(4)

Filed Sept 9<sup>th</sup> 1926

Mr. Clerk:  
Please file the within pe-  
tition have copy and order  
served, etc

Wm C. Nevecom  
T. Brono Whiting  
Oliver J. Carter

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Copy of the within Petition and Order of Court served on  
George A. Colston on the 21<sup>st</sup> day of September, 1926. Also  
copy of the within and Order of Court served on Herbert R.  
Preston on the 21<sup>st</sup> day of September, 1926. Also copy  
of the within Petition and Order of Court served on  
The Continental Trust Company, a Corporation, by  
service on John J. Flynn, Vice President on the 21<sup>st</sup>  
day of September, 1926, in the presence of Frank A. Bader,  
now set as to The Chesapeake and Ohio Canal Company,  
a Corporation.

John E. Potter  
Sheriff

Fee \$1.50

Received  
# 930  
13

George S. Brown et al, Trustees,

vs.

Chesapeake and Ohio Canal Company  
et al.

Nos. 4191 and 4198 Equity  
Consolidated Causes  
In the Circuit Court for  
Washington County.

To the Honorable the Judges of said Court:

The petition of William T. Coulehan, who files the same on his own behalf and on behalf of all others similarly situated who are willing to come into this Court and contribute to the costs and expenses pertaining to the filing of this petition and the proceedings had thereon, respectfully shows:

1. That on or about December 30, 1889, George S. Brown, Charles M. Matthews, John S. Gittings, Frederick M. Colston and Bradley S. Johnson, trustees under a mortgage dated in the year 1848 to secure certain bonds issued under the Act of 1844, Chapter 281, filed their bill of complaint in this Court, the same being No. 4191 Equity, alleging insolvency of the Chesapeake and Ohio Canal Company, its failure to pay interest upon their bonds, the maturity and non payment of the principal of the bonds, the destruction and wreck of the canal caused by the great storm of May, 1889, and the complete suspension of business along its whole line, and praying for the appointment of receivers to take possession of and operate the canal and pay over the net revenues to the plaintiffs until their bonds and interest were fully paid. Subsequently, on the 16th day of January, 1890, they filed an amended bill repeating the allegations contained in their original bill and by the 9th paragraph of said amended bill it is alleged "that the bond holders for whom your complainants are trustees have no source from which their debt can be paid other than the tolls and revenues of the said canal," and the prayer for relief

is that receivers be appointed "to manage and operate said canal and pay over the net revenues to the bond holders under the mortgage of 1848 until their debt shall be fully paid." That meanwhile on January 15, 1890, Messrs. Brown, Sloan and Lowndes, trustees, acting under a mortgage issued in 1878, filed their bill of complaint in this Court, the same being No. 4198 Equity, in which they alleged insolvency of the canal company; that their mortgage was a first lien upon all the property and assets of the canal company; that default had been made in the payment of their mortgage indebtedness and they prayed for the appointment of trustees to sell the entire property and assets of the canal company. These two cases were consolidated by order of this Court. Thereafter the State of Maryland upon petition duly filed was made a party to the causes and said State alleged that mortgage indebtedness owing by said canal company to said State was due and unpaid and that default had been made under the terms of said mortgages, and the State also prayed for a decree for the sale of the canal and the entire property and assets of the said canal company. That after answers to the various bills and petitions had been duly made this Court did on the 2nd day of October, 1890, pass a decree by Section 1 whereof it was ordered and decreed "that all the rights, title and interest in the Chesapeake and Ohio Canal Company in and to its entire line of canal extending from the City of Cumberland in Allegany County, to and into the City of Georgetown in the District of Columbia, and all and singular the lands, tenements and assets owned or acquired by said Chesapeake and Ohio Canal Company for its construction or repair, its works and appurtenances, and the site thereof embracing the entire undertaking and every particular thereof, and all tools, implements and <sup>boats</sup> ~~debt~~, built or purchased by said company for the use of said canal and the water rights and franchises of the said Chesapeake and Ohio Canal Company wherever the same or any part thereof may be situated or held ~~to~~ be sold as hereinafter described." That by Section 2 of said decree Joseph D. Baker, Robert Bridges and Richard D. Johnson were appointed trustees to make the sale. But by Section

5 of said decree it was further ordered "that the foregoing decree of sale shall be suspended," upon the compliance with and performance of certain requirements, terms and conditions by the trustees under the mortgage of the 5th of June, 1848. That among said terms and conditions was a requirement that said trustees should within sixty days from the date of the decree purchase and bring into Court all the bonds issued and outstanding under the mortgage of 1878. That another condition was that the said trustees acting under the said mortgage of 1848 "shall by the first day of May next, 1891, at their own cost and expense, to be reimbursed to them as hereinafter directed, have put in good repair and condition the entire canal from one terminus thereof to the other so that it be fit for and capable of safe transportation thereon, and that upon so restoring said canal to a state of good repair and condition, the said trustees shall proceed to operate the same as a public water way with all the rights and subject to all the conditions and limitations granted by the charter of said company; and the said trustees shall keep said canal in good repair and condition, and continue to operate the same, save and except when such operation may be suspended by the action of causes against the effect of which due care in management will not provide." The decree then provides that from the net tolls and revenues the trustees shall pay all current expenses and then pay and reimburse the said trustees in the amount expended by them in restoring said canal and to pay the interest and principal of the bonds issued under the mortgage of 1878, <sup>and the State's mortgages</sup> and finally to pay interest and principal of the bonds secured by the mortgage of 1848. That by the 6th subsection of Section 5 of said decree it was provided "that if at the end of four years from the first day of May next there shall not have been tolls and revenues derived from said canal and the property and rights pursuant thereto (over and above the amount necessary to pay current operation expenses to keep the canal in repair) to liquidate and discharge the amount of the cost of repairing and restoring the canal

to a working condition from its present broken condition and the amount of money required to pay expenses and compensation to the receivers and to pay any amount that may be determined to be a preferred lien on such tolls and revenues for labor and supplies furnished to the canal company, such failure in the tolls and revenues shall be regarded as evidence conclusive (unless the time be extended by the Court for good and sufficient cause shown) that the canal can not be operated so as to produce revenue with which to pay the bonded indebtedness of said canal company; and further whenever it shall clearly appear that the said canal can not be operated by said trustees so as to produce revenue with which to pay "the bonded indebtedness of such company the right and power is hereby reserved to this Court to order and direct the execution of the foregoing decree of sale." All of which will more fully and at large appear by reference to the proceedings heretofore had in these consolidated cases.

2. Your petitioner further shows that said trustees for the bondholders under the mortgage of 1848 complied with the prerequisite terms of the said decree above mentioned and took possession of the canal and proceeded to operate the same in accordance with the terms of said decree, except that, as your petitioner believes, ~~that~~ they did not strictly comply with the provisions of the fourth subsection of Section 5 which required that at the end of each boating or transportation season they should make full and accurate reports to this Court under oath of all receipts and expenditures and the real condition of the canal and the amount of tonnage thereof during the preceding year; but on the 30th day of January, 1894, they filed a report and petition showing their transactions down to December 1st, 1893, and by said report and petition showed that they had borrowed for the purpose of making repairs \$435,163.34; that their receipts from net tolls, rents and other sources to December 1st, 1893, were \$270,970.73; that their expenditures for the repair of the canal and its works were \$430,764.43, and expenditures for other accounts \$250,327.17. They then add that this statement does not include

\$15,000 borrowed and paid as compensation to the receivers of this Court and the Supreme Court of the District of Columbia. Said trustees then further reported that they had negotiated a contract with the Chesapeake and Ohio Transportation Company of Washington County, a body corporate of the State of Maryland, recently organized for the purpose, among others, of conducting a forwarding or transportation business on the Chesapeake and Ohio Canal.

The terms of said contract are as follows:

"(1) Said trustees and their successors will maintain and operate said Chesapeake and Ohio Canal as a waterway, in compliance with the terms of the charter of the Chesapeake and Ohio Canal Company, during the continuance of this agreement unless said canal be damaged or destroyed by flood or other casualty beyond the ability of said trustees to rebuild or repair the same with the means at their command.

(2) Said Transportation Company will place in service on said canal, from time to time, as many boats in addition to those now in service thereon as may be necessary to transport all coal and other freight offering during the navigation season of 1894, or that of any subsequent year during the continuance of this agreement; said boats to be properly equipped to ply on said canal.

(3) Said Transportation Company guarantees, during the continuance of this agreement, that the net revenues derived by said trustees from their trust estate, over and above the expenses of ordinary operation and repair of said canal, will not be less, in any year than one hundred thousand dollars and any deficiency in net revenues to equal said amount, in any year will be made good by said Transportation Company."

The trustees then prayed the Court to pass an order authorizing the said trustees to enter into said contract and to extend the time from the original four years provided for in the original decree to the end of six years from the first day of May, 1895, and the Court

thereupon did authorize the execution of said contract and extended the time as prayed. The State of Maryland appealed from said order and it was affirmed by the Court of Appeals as will appear by reference to the Canal Company's case in 83rd Md., 549. That on December 13, 1905, the surviving trustees made a report to this Court in which they say "that pursuant to the authority given them by said order of April 29th, 1901, affirmed by the Court of Appeals, as aforesaid, these trustees have continued to maintain and operate the Chesapeake and Ohio Canal as a waterway, and have continued in effect said contract with the Chesapeake and Ohio Transportation Company of Washington County, and from revenues derived thereby have paid with interest the \$121,000 borrowed to defray the costs of repairing and restoring the canal, which the trustees reported on April 8th, 1901, as the balance of the principal sum so borrowed remaining unpaid December 31st, 1900." And your petitioner now charges that said trustees in making said report did not show that the tolls and revenues of the Canal Company were sufficient to pay any part of the money which they had borrowed, or even that they had earned sufficient money to pay operating expenses, and your petitioner now further charges that the tolls and revenues of the canal during the period covered by said report were less than operating expenses and that if the trustees paid off the money borrowed, as alleged, such payment was not made from the tolls and revenues of the Canal Company, and your petitioner now says that he believes he is fully justified in making the charge that the canal was in fact operated at a loss during the whole period covered by said report from the fact that, as will hereinafter be shown, that since December, 1905, when an amended or new contract was entered into, the trustees have operated the canal at a loss of about or exceeding \$50,000 a year; that after referring to financial conditions the trustees add "that the physical condition of the canal and the prospects of traffic thereon fully justify the continued maintenance and operation of the same as a waterway in compliance with the charter of the

Chesapeake and Ohio Canal Company," and further reported that the Chesapeake and Ohio Transportation Company of Washington County was willing to renew the above mentioned contract provided the guarantee of annual net revenues of \$100,000 be waived and annulled and the following guaranty be accepted in lieu thereof.

"That net revenues derived by said trustees from their trust estate will not be less in any year than a sum sufficient to defray all expenses of ordinary operation and repair of said canal, so that said trustees will suffer no loss to their trust estate by reason of said operation and repair of said canal, and any deficiency in said net revenues to equal said sum, in any year, will be made good by said Transportation Company."

Said surviving trustees then prayed the Court to authorize the making of this new contract, and further prayed "that the period of four years from the first day of May, 1901, mentioned in subsection 6 of Section 5 of the decree entered herein on the 2nd day of October, 1890, and extended by decretal order entered herein on July 30th, 1894, and further extended to January 1st, 1896, by decretal order entered herein April 29, 1901, be extended from calendar year to calendar year until the further order of this Court with leave to any party upon twenty days' notice to the other parties to the cause, not less than six months prior to the expiration of any calendar year, to move for the rescission or modification of such order." And this Court did by order filed on the 27th day of December, 1905, order and decree as prayed in said petition and report.

3. That since the passage by this Court of the order last mentioned in the preceding paragraph the trustees and the Transportation Company have been operating said canal under the provisions of said amended contract. Your petitioner now charges that he has caused an examination to be made of the annual reports which have been filed herein by the trustees since the time said contract was so amended; that he deems it unnecessary for the purpose of this petition to make extended references to or quotations from said reports, but prays

8.

leave that at any hearing that may be had upon the matter of this petition to refer to said reports which are on file in these cases as fully as if the same were set out at large in this petition and prays that the same may be taken as part hereof; and your petitioner now charges that on an average the annual income from tolls and revenues and other sources has been about \$50,000, whereas the operating expenses have been about \$100,000, and the deficiency has been made good by said Transportation Company, but in the last few years the deficiency has been more than \$50,000, but all such deficiencies appear to have been made good by said Transportation Company.

4. Your petitioner now charges that no sale or sales of any part of the property of the Chesapeake and Ohio Canal Company was ever made by the trustees, Baker, Bridges and Johnson, named in the original decree, <sup>but</sup> ~~and~~ said original trustees having died, special trustees have been appointed by this Court upon petition of the operating trustees to sell property and property rights belonging to the Canal Company alleged to be unnecessary for its operation and that the proceeds of such sales, amounting to somewhere about \$800,000, have been applied to the payment of the bonds of 1878, and that according to the last report which was filed in these consolidated cases by the trustees on February 25th, 1925, there was apparently still due and owing on said bonds of 1878 \$231,436.35.

5. Your petitioner now further charges that when Judge Alvey passed the decree for sale, above mentioned, and then stayed or suspended the operation of the same for the period of four years, it was for the purpose of permitting the trustees, acting under the mortgage of 1848, to make the experiment, if they so wished, of operating the canal to the end that their indebtedness might be paid off out of the tolls and revenues of the Canal Company, and that when at the end of said time it was apparent that their experiment was not a success the trustees then came into this Court with a contract from the Chesapeake and Ohio Transportation Company guaranteeing a net income of \$100,000 a year and asking for a further

extension of six years, and showing that the trustees had borrowed for the purpose of rebuilding the canal nearly \$500,000, and your petitioner now charges that when this Court and the Court of Appeals authorized the making of said contract and granting<sup>ed</sup>~~ing~~ said extension it was not the intention of this Court or of the Court of Appeals in any way to affect or modify the original decree for sale, but was merely to grant further time for the experiment, and that every subsequent order modifying the original decree was merely for the same purpose. And your petitioner now further charges that the provision in the order of December 27, 1905, requiring a notice of twenty days not less than six months prior to the expiration of any calendar year to move for its rescission or modification was not meant to and does not affect the power reserved in the Court to enforce the decree for sale at any time when it clearly appears that the canal cannot be operated by the trustees so as to produce revenue with which to pay the bonded indebtedness of the Canal Company. And your petitioner now charges that after thirty-five years of experiment these trustees have never out of tolls and revenues paid one single dollar to the bondholders of 1848, and not a single dollar upon any other of its bonded indebtedness, and time has proven the experiment to have been a total failure. Your petitioner now charges that the canal was practically not operated during the year 1924, that it was not operated during the year 1925, and is not being operated during the current year of 1926; that the whole canal from Cumberland to Georgetown is a practical wreck; that there are now practically no boats fit for use, all the boats which traversed the canal having been tied up at various places along its line during the past three years and being now wholly unfit for any use in transporting traffic. And your petitioner further charges that the Chesapeake and Potomac Transportation Company has during the last two or three years failed to keep and perform the second provision of its contract as to keeping boats in service on the canal. And your petitioner further charges that the rehabilitation of the canal at this time is impracticable, and he

further charges that said surviving trustees in these causes and the Chesapeake and Ohio Transportation Company are without means to again rehabilitate the canal and furnish boats for its operation, and therefore your petitioner charges that said trustees and said Chesapeake and Ohio Transportation Company have no intention of ever operating said canal again, and your petitioner further charges that it now does "clearly appear that said canal can not be operated by said trustees so as to produce revenue with which to pay the bonded indebtedness of said company," and this Court ought therefore now exercise the power reserved in the original decree and order and direct the execution of the decree of sale.

6. Your petitioner now shows that under and by virtue of the provisions of Chapter 136½ of the General Assembly of Maryland,

passed at its January session, 1896, he filed in these consolidated causes a certified copy of a judgment which he had recovered against the Chesapeake and Ohio Canal Company on the 5th day of January, 1891, for \$3600.31, with interest from date of judgment and costs amounting to \$13.20; that said judgment was duly proved and was certified by Judge Stake in accordance with the provisions of said Act of Assembly and was duly filed among the proceedings in these causes on the 10th day of August, 1896, as will appear by reference thereto, and as will also appear by a certified copy of all the proceedings in relation thereto herewith filed marked "Petitioner's Exhibit No. 1" and prayed to be taken as part of this petition; that no part of the principal or interest has ever been paid upon said judgment and the whole of the same is now due and owing to your petitioner; that under and by virtue of the terms of said Chapter 136 $\frac{1}{2}$  of the Acts of 1896, your petitioner is specifically and in terms made an assignee pro tanto to the amount of his claim of, and subrogated to, all the rights and powers held and owned by the State under its mortgages referred to in these causes and is entitled to ask of this Court the execution of said decree of sale as fully as the State could or might have done or might now do. And though your petitioner is advised that said Chapter 136 $\frac{1}{2}$  of the Acts of 1896 is a public Act which ought to be judicially noticed by this Court, nevertheless, your petitioner now offers, if required by the Court, or if required by any of the parties respondent to this petition, to file in this Court a duly certified copy of said Act of Assembly, and now prays the Court that said Act of Assembly may be read at any hearing which may be had upon the matter of this petition from the official printed copy, and that it may be taken into consideration by this Court as fully as if a duly certified copy thereof were filed with this petition.

7. Your petitioner further shows that on the 4th day of January, 1905, the Board of Public Works of the State of Maryland, being duly authorized thereto by law, sold and assigned to Fairfax S. Landstreet all its right, title and interest in and to the Chesapeake and Ohio

Canal Company, including all of its mortgages; that said assignment specifically provided that the same was made subject to the legal operation and effect of every and all judgments and claims duly proven and certified under the Act of 1896, Chap. 136 1/2; that a copy of said Deed of Assignment, certified to by Joseph O McCusker, Sec'y of the Board of Public Works, is herewith filed marked "Petitioner's Exhibit No.2" and prayed to be taken as part hereof; that the said Fairfax S. Landstreet, by deed dated on or about the 29th day of July, 1907, and recorded among the Land Records of Washington County in Liber 126, folio 209, and also recorded in the Land Records of Allegany County in Liber 101 filio 637, sold all his interest in the Chesapeake and Ohio Canal Company, so acquired from the State of Maryland, to the Continental Trust Company, a corporation duly organized under the laws of the State of Maryland, and said Continental Trust Company has heretofore been made a party to these causes.

To the end therefore, that substituted trustee or trustees may be appointed in the place of Joseph D. Baker, Robert Briggs and Richard D. Johnston, Trustees, deceased, with power to execute the decrees passed by Judge Alvey in these causes on the 2nd day of October, 1890 for a sale of the Canal and all the property and property rights of The Chesapeake and Ohio Canal Company and that your petitioner<sup>s</sup> may have such other and further relief as the nature of his case may require

May it please your Honors to, pass an order directed to George A. Colston and Herbert R. Preston, Surviving trustees, to The Chesapeake and Ohio Canal Company, and to The Continental Trust Company, a corporation duly organized under the laws of the State of Maryland, requiring them and each to be and appear in this Court on some certain day to be named therein to answer the premises and show cause, if any they have, why relief ought not to be granted as prayed.

Respectfully,

*Wm C. Neve*  
*J. Bruce Whiting*  
*Elmer J. Carter*

State of Maryland, Allegany County, to wit:

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 1926, before me, a Notary Public of the State of Maryland, in and for Allegany County, personally appeared William T. Coulehan and made oath in due form of law that the matters, facts and things stated in the foregoing petition are true to the best of his knowledge and belief.

Witness my hand and notarial seal the day and year above mentioned.

Ethel Walker  
Notary Public.

~~Upon the foregoing petition it is by the Circuit Court for Washington County, sitting in Equity, this \_\_\_\_\_ day of \_\_\_\_\_, 1926, ordered that George A. Colston and Herbert R. Preston, trustees, and the Chesapeake and Ohio Canal Company, and the Continental Trust Company show cause on or before the \_\_\_\_\_ day of \_\_\_\_\_, 1926, why <sup>relief</sup> an order ought not to be <sup>granted</sup> passed as prayed in said petition; provided a copy of said petition and of this order shall be served upon them, and each of them, or their solicitors of record in these causes, on or before the \_\_\_\_\_ day of \_\_\_\_\_ 1926.~~

Upon the foregoing petition and affidavit, it is, by the Circuit Court for Washington County, sitting in Equity, this 14th day of September, A.D. 1926 ordered that George A. Colston and Herbert R. Preston, trustees, the Chesapeake and Ohio Canal Company, the Continental Trust Company and the Chesapeake and Ohio Transportation Company of Washington County, show cause on or before the 16th day of October, 1926, why relief ought not to be granted sd prayed in said petition; provided a copy of said petition and of this order shall be served upon them, and each of them, or their solicitors of record in these causes, on or before the 30th day of September 1926.

②  
9/21/26  
John T. Flynn  
N.P.

9/21/26 ②

Frank G. Wagoner

NOS. 4191 and 4198 EQUITY.  
(CONSOLIDATED)

\*\*\*\*\*

CLAIM OF WM. T. COULEHAN  
against  
C. O. CANAL COMPANY, and  
ORDER OF COURT.  
(Copy)

\*\*\*\*\*

*Filed Oct 8 1926*



Cumberland, Maryland,  
October 4, 1926.

FOR VALUE RECEIVED I hereby assign and transfer  
to *The Baltimore and Ohio Railroad Company*  
the judgment amounting to \$3,600.31 entered January 5, 1891,  
and filed in the case of George S. Brown, et al., vs. State  
of Maryland, et al., August 10, 1896, as shown by the  
certified copy of the within transcript of said proceedings.

*William J. Henlehan*  

---

Witness:

*Geo. J. Carter*

WILLIAM T. COULEHAN

VS

THE CHESAPEAKE AND OHIO  
CANAL COMPANY.

: NO. 53 TRIALS,

: JANUARY TERM, 1891

: IN THE CIRCUIT COURT

: FOR ALLEGANY COUNTY, MARYLAND.

\* \* \* \* \*

1891 Jan. 5th Judgment on Rule, Jan. 6th Damages assessed at \$3,600.31 with interest from date of Judgment and costs \$13.20 State of Maryland, Allegany County, To-wit:-

I, Theo. Luman, Clerk of the Circuit Court for Allegany County, Maryland, do hereby certify that the foregoing is a true copy of the Judgment in the above entitled case, and I further certify that there is no entry or proceeding in said Court to show that said Judgment has been satisfied.

IN TESTIMONY WHEREOF I have hereunto subscribed my name and affixed the seal of said Circuit Court this 3rd day of August A. D. 1896.

(SEAL)

THEO. LUMAN, Clerk.

State of Maryland, Allegany County, to-wit:-

I hereby certify that on this 6th day of August, in the year of our Lord eighteen hundred and ninety six, before me, the subscriber, a Justice of the Peace of the State of Maryland, in and for Allegany County, aforesaid, personally appeared William T. Coulehan, and made oath on the Holy Evangely of Almighty God, that he hath not received any part of the sum for which the within judgment was passed, except such part (if any) as is credited.

Sworn before,

J. A. GOUDER,  
Justice of the Peace.

State of Maryland, Allegany County SS:-

I, Theo. Luman, Clerk of the Circuit Court for Allegany County, the same being a court of Law, and of Record, do hereby certify that Joseph A. Gouder, Esq., on the 6th day of August 1896, and stillis, a Justice of the Peace of the State of Maryland, in and for Allegany County, duly commissioned and sworn, and authorized by law, to administer oaths and take acknowledgments.

In Testimony Whereof, I hereunto set my hand  
and affix the Seal of the said Circuit Court  
for Allegany County, at Cumberland, this 29th  
day of August, 1896.

(SEAL)

THEO. LUMAN, Clerk.

OFFICE SUPPLY CO.  
BALTIMORE

GEORGE S. BROWN, ET AL. : NOS. 4191 and 4198 EQUITY,  
 : CONSOLIDATED,  
 VS :  
 : IN THE CIRCUIT COURT  
 THE STATE OF MARYLAND, ET AL. :  
 : FOR WASHINGTON COUNTY.

In compliance with the terms of Chapter 136 $\frac{1}{2}$  of the Acts of the General Assembly of Maryland, passed at its January Session, 1896, I, Edward Stake, one of the Judges of the Fourth Judicial Circuit of Maryland, having jurisdiction in equity to pass orders or decrees in the Circuit Court for Washington County aforesaid, do, this \_\_\_\_\_ day of August, in the year of our Lord eighteen hundred and ninety-six, hereby certify that there has been presented to me the annexed judgment in favor of William T. Coulehan, and against the Chesapeake and Ohio Canal Company, it being No. 53 Trials, January Term 1891, in the Circuit Court for Allegany County, and I do hereby further certify that the said judgment has been duly authenticated, proven and certified as required by said act of Assembly, in the amount of three thousand six hundred dollars and thirty one cents, debt, with interest from the fifth day of January, A. D. 1891, and thirteen dollars and twenty cents costs, and I hereby direct the Clerk of the said Circuit Court for Washington County to file said claim and this order in the above entitled case.

August 10th, 1896.

EDWARD STAKE.

State of Maryland, Washington County, To-wit:-

I hereby certify that the foregoing is a true copy of the Claim of Wm. T. Coulehan, against the Chesapeake and Ohio Canal Company, with the Order of Court thereon, taken from Nos. 4191 and 4198 Equity Consolidated, in the Circuit Court for Washington County, the same having been filed August 10th, 1896.

In Testimony Whereof I hereunto set my hand and affix the Seal of the Circuit Court for Washington County at Hagerstown, this 1st day of October, A. D. 1926.

*Edward Oswald*

Clerk of the Circuit Court for Washington County.

Nos. 4191 & 4198 Equity

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<sup>2</sup>  
Petitioner's  
Exhibit No 2"

---

Filed Sept 9<sup>th</sup> 1926

THIS DEED OF ASSIGNMENT, made this 4th day of January, 1905, by and between Edwin Warfield, Governor of the State of Maryland; Gordon T. Atkinson, Comptroller of the State of Maryland, and Murray Vandiver, Treasurer of the State of Maryland, being and constituting the Board of Public Works of the State of Maryland, parties of the first part, hereinafter called the first party, and Fairfax S. Landstreet, of Davis, State of West Virginia, party of the second part, hereinafter called the second party; WITNESSETH:

WHEREAS, By Section 3 of Article 12 of the Constitution of the State of Maryland, and the amendments thereof, the Board of Public Works of Maryland was authorized, subject to such limitations and conditions as the General Assembly of Maryland should from time to time prescribe, to sell the State's interest in all works of internal improvement, whether as stockholder or creditor, receiving in payment the bonds and registered debt of said State equal in amount to the price obtained for the State's interest therein: and

WHEREAS, By Chapter 310 of the Acts of the General Assembly of Maryland of 1892 it was provided that "whenever the Board of Public Works in the exercise of the authority vested in them by the Constitution shall determine to sell the State's interest in any or all works of internal improvement, whether as a stockholder or as a creditor, they shall before making such sale or sales advertise for sealed proposals for the space of sixty days in such newspapers as they shall think fit, for the purchase of said interest of the State in such work or works of internal improvement, and at the time and place named in said advertisement or advertisements, they shall open the said sealed proposals publicly in the presence of such persons as shall choose to attend, and if the price or prices offered by the highest bidder or bidders, shall in their judgment be sufficient, they shall sell the said interest so offered for sale to the highest bidder or bidders, and by such apt and sufficient conveyance or conveyances or other instruments as the Attorney General may approve they shall transfer to the purchaser or purchasers the interest so sold to him or them, but if the highest price or prices shall in their judgment be insufficient they shall have power and it shall be their duty to reject said bid or bids: and

WHEREAS, On the 26th day of September, 1904, said Board of Public Works did determine to offer the entire interest of the State of Maryland in the

Chesapeake and Ohio Canal Company and all its properties and works of every description, either as mortgagee, creditor or stockholder, for sale to the highest bidder by way of sealed proposals for the same, as provided by said Article of the Constitution of the State and said Act of Assembly, and thereupon did advertise for such sealed proposals by a public notice duly published in the Baltimore Sun, the Baltimore American, the Baltimore Herald and the Baltimore Evening News, newspapers duly published in the city of Baltimore, and in the New York Herald and other newspapers published elsewhere, for more than sixty days before the first day of December, 1904, as required by law, said date being the day named in said advertisement for the opening of said bids, said advertisement so published being in the words following, to wit:

STATE OF MARYLAND

EXECUTIVE DEPARTMENT,

Annapolis, Sept. 26, 1904.

SALE OF THE STATE'S INTEREST IN THE CHESAPEAKE AND OHIO CANAL.

Under and by virtue of the power and authority conferred upon the Board of Public Works by Section 3 of Article XIII of the Constitution and by the Act of 1892, Chapter 310, and in pursuance of a resolution passed by the said Board of Public Works, notice is hereby given that sealed proposals are invited for the purchase of the entire interest of the State of Maryland in the Chesapeake and Ohio Canal Company and all its properties and works of every description as either mortgagee, creditor or stockholder; the said interest will be subject in the hands of the purchaser to the legal operation and effect of every and all judgments and claims duly proven and certified under the Act of 1896, Chapter 136 §/2. Such proposals may be made at any time prior to 12 o'clock noon on December 1, 1904, and must be transmitted to the office of the Board of Public Works at Annapolis. Payment of the purchase price to be made in the bonds or registered debt of this State, as required by Section 3 of Article XII of the Constitution, within sixty days from the acceptance of any bid. Such bids will be opened publicly at noon on December 1, 1904, in the Executive Chamber at Annapolis.

No bid will be considered unless accompanied by a certified check in the sum of twenty-five thousand dollars, as a guarantee of the prompt payment of the

purchase price in accordance with the terms of sale. The Board of Public Works hereby reserves the right to reject any and all bids.

By Order of the Board.

OSWALD TILGHMAN,

Secretary of the Board of Public  
Works.

AND WHEREAS, The interest of the State of Maryland in the Chesapeake and Ohio Canal Company and its properties and works, as mortgagee, credit or stockholder, was at that time and is now as follows:

(a) A mortgage on all its property, given by the Chesapeake and Ohio Canal Company to the State of Maryland, by virtue of Chapter 241 of the Acts of Assembly of 1834, dated the 23rd day of April, in the year 1835, recorded in Washington County, in Liber P.P., folio 758, one of the Land Record Books of Washington County, and in other Counties of this State, and in the District of Columbia, to secure the payment to said State of sum~~e~~ of \$2,000,000.00 and the interest thereon.

(b) A mortgage on all its property, given by the Chesapeake and Ohio Canal Company to the State of Maryland, by virtue of Chapters 386 and 396 of the Acts of Assembly of 1838, dated the 15th day of May, 1839, and recorded in Washington County, in Liber U.U., folio 170, one of the Land Record Books of Washington County, Md., and in other Counties in this State, and in the District of Columbia, to secure the payment to said State of the sum of \$1,375,000.00 and the interest thereon.

(c) A mortgage on all its property, given by the Chesapeake and Ohio Canal Company to the State of Maryland, by virtue of Chapter 281 of the Acts of Assembly of 1844, dated the eighth day of January, 1846, and recorded in Washington County in Liber I.N. No. 3, folios 137 to 141, one of the Land Record Books of Washington County, Md., and in other Counties of this State, and in the District of Columbia, said mortgage being confirmatory of and as further security to the State of Maryland for the indebtedness set out in the two mortgages above recited, and the interest thereon.

(d) All the right, title and interest, at law or in equity, of the State of Maryland, in and to the preferred capital stock of the Chesapeake and Ohio Canal Company, whether issued to said State or not issued, but subscribed and paid for by said State by virtue of Chapter 395 of the Acts of Assembly of 1835, the par value of said preferred stock under said Act so issued to or subscribed and paid for by said State being believed to be about the sum of \$3,000,000.00.

(e) All the rights, title and interest, at law or in equity, of the State of Maryland, in and to the preferred capital stock of the Chesapeake and Ohio Canal Company, whether issued to said State or not issued, but subscribed and paid for by said State by virtue of Chapter 396 of the Acts of Assembly of 1838, the par value of said preferred stock under said Act so issued to or subscribed and paid for by said State being believed to be the sum of \$1,375,000.00.

(f) All the right, title and interest of the State of Maryland, at law or in equity, in and to the common capital stock of the Chesapeake and Ohio Canal Company, whether issued to said State or not issued, but subscribed and paid for by said State by virtue of Chapter 105 of the Acts of Assembly of 1827, the par value of said common stock under said Act so issued to or subscribed and paid for by said State being believed to be about the sum of \$500,000.00.

(g) All the right, title and interest of the State of Maryland, at law or in equity, in and to the common capital stock of the Chesapeake and Ohio Canal Company, subscribed and paid for by the State under Chapter 239 of the Acts of Assembly of 1833, the par value of said common stock so subscribed for by said State being the sum of \$125,000.00.

(h) All the right, title and interest of the State of Maryland, at law or in equity, in and to the deferred common capital stock of the Chesapeake and Ohio Canal Company, subscribed for <sup>by</sup> the State under Chapter 180 of the Acts of Assembly of 1825, to about the par value of \$163,000.00.

(i) All other interests, at law or in equity, which the State of Maryland now has in any way or manner in the Chesapeake and Ohio Canal Company or any of its property and works, of every description, wherever situated, either as mortgagee, creditor, stockholder, or in any other way not hereinbefore specifically mentioned and enumerated.

AND WHEREAS, At twelve o'clock on the first day of December, 1904, the first party, as such Board of Public Works, met at Annapolis to open and pass upon said sealed proposals as should be made for the purchase of said interest of the State in said Canal Company, at which meeting it was found that the sealed proposal of Fairfax S. Landstreet, the second party, of \$155,000.00, for said State's interest, payable in the bonds or registered debt of the State of Maryland, as required by the Constitution, was the highest bid for said State's interest, said proposal of said Landstreet being in words following, to wit:

Baltimore, November 29, 1904.

To the Honorable, The Board of Public Works  
of the State of Maryland:

Referring to the published notice of the Board of Public Works of the State of Maryland, dated September 26, 1904, inviting sealed proposals for the purchase of the entire interest of the State of Maryland in the Chesapeake and Ohio Canal Company and all its properties and works of every description, as either mortgagee, creditor or stockholder, the undersigned hereby proposes to purchase said entire interest of the State of Maryland as set out in said notice, and upon the terms and conditions therein contained, and to pay therefor the sum of \$155,000.00, payable in the bonds or registered debt of the State of Maryland, taken at par, within sixty days from the acceptance of this bid.

Accompanying this bid there is handed you a certified check in the sum of \$25,000.00, required by the terms of the above mentioned notice, as a guarantee of the prompt payment of the purchase price in accordance with the terms of sale.

Yours respectfully,

F. S. LANDSTREET.

AND WHEREAS, After several adjournments of said Board for a full and deliberate consideration of said bids, said Board again met at Annapolis on the 22nd day of December, 1904, for the consideration of said bids, and did then and there accept said bid of said second party by a resolution of said Board then and there adopted, to which acceptance certain conditions were attached, said resolution of acceptance and the conditions thereto being in the words following, to wit:

"RESOLVED, By the Board of Public Works of Maryland: That the bid of Mr. Fairfax S. Landstreet for the State's interest in the Chesapeake and Ohio Canal and in the Chesapeake and Ohio Canal Company, be, and the same hereby is, accepted, provided the said Fairfax S. Landstreet assents to the insertion in the assignment of the State's interest in said Chesapeake and Ohio Canal and in the said Chesapeake and Ohio Canal Company, of a clause reading as follows: "And it is expressly understood that this assignment is made upon the condition that the grantee herein, F. S. Landstreet, on or before the 1st day of December, 1905, cause or procure a resolution to be passed at a duly called meeting of the stockholders of the Chesapeake and Ohio Canal Company (if the stock hereby assigned to him is sufficient to enable him to so pass the same) reading thus: 'Be it Resolved by the Stockholders of the Chesapeake and Ohio Canal Company, that the General Assembly of Maryland be, and hereby is, requested to amend the charter of the said Chesapeake and Ohio Canal Company, by enacting that if the said Chesapeake and Ohio Canal Company shall at any time build, operate or maintain, or grant, or attempt to grant, to any other person or number of persons, or to any body corporate, the right to build, operate or maintain any railroad or railroad tracks upon the property of said Chesapeake and Ohio Canal Company, that then any and all exemptions from taxation now held and enjoyed by said Chesapeake and Ohio Canal Company shall <sup>be</sup> surrendered and forfeited to the State of Maryland. It being understood, however, that the purchase or acquisition by condemnation by the Western Maryland Railroad of the rights of way and other easements authorized to be acquired by the said Western Maryland Railroad Company, by Chapter 56 of the Acts of 1904, shall not be construed as a right to build, operate and maintain a railroad on the property of the Chesapeake and Ohio Canal

Company within the meaning of this resolution. And the Chesapeake and Ohio Canal Company hereby gives its irrevocable assent to the passage of an amendment of its Charter to the above effect by the General Assembly of Maryland. And the Chesapeake and Ohio Canal Company hereby directs the presiding officer of this meeting of its stockholders to deliver within thirty days from this date a copy of this resolution, certified under the seal of the said Chesapeake and Ohio Canal Company, to the Governor of Maryland.'

And it is a further condition of this assignment that the said Fairfax S. Landstreet shall on or before the first day of January, 1906, cause a copy of said resolution, duly authenticated by the seal of the said Chesapeake and Ohio Canal Company, and attested by the signature of the presiding officer of the aforesaid meeting of the stockholders of the said Chesapeake and Ohio Canal Company, to be delivered to the then Governor of Maryland at his office in Annapolis.

If the said Fairfax S. Landstreet, and his heirs, personal representatives and assigns, shall fail to comply with both of the above-named conditions by the times herein specified, then this assignment shall be and become void, and all the right, title, interest and estate hereby conveyed to and vested in the said Fairfax S. Landstreet, his heirs, personal representatives and assigns, shall re-vest in the State of Maryland, and again become the property thereof, and the State of Maryland shall retain, as liquidated damages for the breach of these conditions, the purchase price, paid by the said Fairfax S. Landstreet, his heirs, personal representatives and assigns, for said interest of the State of Maryland in the Chesapeake and Ohio Canal, and in the property of the said Chesapeake and Ohio Canal Company.

It is expressly agreed, however, that if the said Landstreet, his heirs, personal representatives or assigns, shall be hindered, prevented or delayed in causing the passage, by the meeting of the stockholders of the said Chesapeake and Ohio Canal Company, of the above mentioned resolution, by an injunction or other order of court, then, if the said Landstreet, his heirs, personal representatives or assigns, shall, with good faith and ordinary diligence resist the petition or suit in or upon which the injunction or other restraining or hindering order was passed, and shall prosecute said petition or suit to the court of last resort, the said Landstreet, his heirs, personal representatives

8.

and assigns shall have an extension of six months from the date of the final dissolution of said injunction, or from the date of the final rescission of such other order restraining, hindering or preventing the passage of said resolution by the said stockholders' meeting of the Chesapeake and Ohio Canal Company, in which to cause or procure the passage of the aforesaid resolution; and the said Landstreet shall have a further extension of one month within which to have an authenticated copy of said resolution presented to the then Governor of Maryland, as hereinbefore required. But should any such litigation result in a final judgment in a court of last resort preventing the passage of said resolution, the said conditions of said transfer of the State's interest to said Landstreet shall be regarded as abandoned, released, and satisfied without further action on his part."

AND WHEREAS, On the 23rd day of December, 1904, the said second party did accept said condition imposed upon said sale by said Board of Public Works, without further qualification, said acceptance of the second party being in the words following, to wit:

Baltimore, Md., December 23, 1904.

To the

Hon. Edwin Warfield,

Hon. Gordon T. Atkinson,

Hon. Murray Vandiver,

Members of the Board of Public Works of Maryland.

Annapolis, Maryland.

Gentlemen:

Confirming my verbal assent of yesterday to the conditions attached to your resolution accepting my bid for the interest of the State of Maryland in the Chesapeake and Ohio Canal Company and its property, and in order to complete the formal record of the same, I hereby write to say that I accept said conditions attached to your said resolution and assent to the same incits

entirety, and agree that the same shall be inserted in the assignment of your Honorable Body transferring to me the aforesaid interests of the State of Maryland in said Canal Company and its property, in exact accordance with the terms of your resolution. I am,

Very respectfully yours,

F. S. LANDSTREET.

AND WHEREAS, The said second party, in consummation of the sale and purchase of all the aforesaid interests of the State of Maryland, in accordance with his bid and contract has this day paid and delivered to the first party for the use of said State bonds, or registered debt of the State of Maryland, of the par value of \$155,000.00, in securities of the State Debt known as registered certificates of the State of Maryland Consolidated Loan of 1899, bearing three per cent. interest per annum, payable January 1, 1914, but redeemable at pleasure of the State on the first day of January, 1909; the receipt of all of which said bonds or registered debt of the State of Maryland, to the aforesaid par value of \$155,000.00, is hereby acknowledged by the first party at and before the ensealing and delivery of these presents; and

WHEREAS, This form of conveyance and assignment of all the aforesaid interests of the State of Maryland in and to the Chesapeake and Ohio Canal Company and all its works and property, has been submitted to and has been approved by the Attorney General, as is required by said Chapter 310 of the Acts of 1892, whereby, by reason of all the foregoing, the first party is fully authorized by law to execute these presents:

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES and of said bonds and registered debt of the State of Maryland, so paid and delivered as aforesaid, the said Edwin Warfield, Governor of the State of Maryland; Gordon T. Atkinson, Comptroller of the State of Maryland, and Murray Vandiver, Treasurer of the State of Maryland, being and constituting the Board of Public Works of the State of Maryland, have bargained and sold, given, granted, conveyed, released, assigned, transferred, set over and confirmed unto the said Fairfax S. Land-

street, his heirs, executors, administrators and assigns, each and all the aforesaid mortgages of the State of Maryland, and all said capital stock, preferred, common or deferred common stock of the Chesapeake and Ohio Canal Company, and all the right, title and interest of the State of Maryland in and to the same and every part thereof, at law or in equity, and also all the right, title and interest of the State of Maryland in and to any other interests, claims or demands of any kind whatsoever which the said State of Maryland, in addition to the foregoing, now has in the Chesapeake and Ohio Canal Company and all its property and works of every description and wherever situated.

The object of this deed of assignment being to absolutely vest in the second party, his heirs, executors, administrators and assigns all the right, title and interest of the State of Maryland, of every kind and in every way which it now has in any way or manner, either as mortgagee, creditor or stockholder, or in any other capacity, in and to the Chesapeake and Ohio Canal Company, and all its property, real, personal or mixed, wherever situated, whether hereinbefore specifically mentioned or not, with the power to use and own the same as fully and completely as the State of Maryland itself could do had this assignment not been made.

IT BEING EXPRESSLY UNDERSTOOD, HOWEVER, that this deed of assignment is made upon all the conditions set out in the foregoing resolution of the Board of Public Works accepting said bid of the second party, and with express reference to said resolution, all of which said conditions have been, as aforesaid, and are now, accepted by the said second party.

IN WITNESS WHEREOF the parties of the first part, being and constituting the Board of Public Works of the State of Maryland, and as such, have hereunto set their hands and affixed their seals, the date first above written.

\_\_\_\_\_(Seal)  
 GOVERNOR  
 \_\_\_\_\_(SEAL)  
 COMPTROLLER  
 \*\*\*\*  
 \_\_\_\_\_(SEAL)  
 TREASURER

BEING AND CONSTITUTING THE BOARD OF PUBLIC WORKS OF THE STATE OF MARYLAND.

11.

STATE OF MARYLAND,

BALTIMORE CITY, TO WIT:

I HEREBY CERTIFY that on this 4th day of January, 1905, before me, the subscriber, a Notary Public in and for the State and City aforesaid, personally appeared Edwin Warfield, Governor of the State of Maryland; Gordon T. Atkinson, Comptroller of the State of Maryland; and Murray Vandiver, Treasurer of the State of Maryland, they being and constituting the Board of Public Works of the State of Maryland of the State of Maryland, and did each, for himself and as a member of said Board of Public Works of the State of Maryland, acknowledge the foregoing deed of assignment to be his act, as such, and the act of the Board of Public Works of the State of Maryland.

IN WITNESS WHEREOF I have hereunto set my hand and notarial seal the date last above written.

WINSON G. GOTT.  
NOTARY PUBLIC.

SEAL

(This assignment is in proper legal form and is proper to be executed by the Governor, Comptroller and the Treasurer and on receipt of the purchase price to be delivered to Fairfax S. Landstreet.

(Signed)

William D. Bryan, Jr., Attorney-General)



Office of Comptroller  
Treasury Department  
Annapolis, Maryland

Wm. S. Gordy, Jr.  
Comptroller  
Harry J. Hopkins  
Chief Clerk

I CERTIFY hereby that the fore-  
going deed of assignment and other  
matter in connection therewith are true  
extracts from the minutes of the meeting  
of the Board of Public Works of Maryland  
of January 4th, 1905.

*Joseph O. Mcclusker*  
Secretary  
Board of Public Works of Maryland.

Nos. 4191 & 4198 &

---

Brown et al

P. & O. Casual Co  
et al

---

Order to enter  
Petition of Wm 7.  
Coulhan "Dismissed"

---

Mr. Oswald, Clerk:

Please file this  
Order & oblige,

W. C. Greenman

Elmer J. Carter

7 Brook Whiting

Sols for Wm 7.

Coulhan

---

Filed Oct 8<sup>th</sup> 1926

BROWN, et al,  
Trustees

VS

CHESAPEAKE & OHIO  
CANAL, et al

) Nos. 4191 and 4198 Equity.

)

)

)

In the  
Circuit Court for  
Washington County.

Mr. Oswald, Clerk:

Please enter the petition of William T.  
Coulehan, filed in the above entitled cause on the <sup>9th</sup>  
day of <sup>Sept.</sup> ~~Sept.~~, 1926, "Dismissed", and oblige

*A. C. Greenman*

*Charles J. Carter*

*J. Brooke Whiting*  
Sols. for William T. Coulehan.

No 4191 - 4198 Equity

Report of Trustees  
for years 1925  
1926

Filed May 6, 1927

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY

George S. Brown et al.,  
Trustees,

vs.

The Chesapeake and Ohio Canal Company et al.

Nos. 4191 and 4198  
Consolidated Causes

Report of George A. Colston and Herbert R. Preston,  
Surviving Trustees.

To the Honorable

the Judges of the Circuit Court for Washington County:

In accordance with decree of this Court entered on the twenty-seventh day of December, 1905, the undersigned Trustees respectfully report to the Court their receipts and disbursements for the years ended December 31, 1925, and 1926, as such Trustees, and file herewith and make part hereof the following statements and accounts:

1. Statements of receipts and disbursements for the years ended December 31, 1925, and 1926.
2. Statements of profit and loss accounts, December 31, 1925, and 1926.
3. Balance sheets, December 31, 1925, and 1926.

Since filing the last report there has been no change in the situation of the coal business. After the flood, which occurred in the spring of 1924, the Trustees restored the Canal so that it could be put into operation, and have kept it in condition, so that it can be put into operation now without any heavy expenditure. Each spring it is necessary to do a considerable amount of work in the way of dredging out bars, repairing the lock gates and mending the towpath at places where it has been washed, and the Canal is now in condition to be put into operation whenever the business justifies it without any great increase over the usual expenditures which are necessary each spring before the water is turned on. The Trustees feel that it is proper to explain this circumstance, because the present appearance of the Canal might lead to the impression that it



TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY  
RECEIPTS AND DISBURSEMENTS FOR YEAR ENDED DECEMBER 31, 1925.

Balance, January 1, 1925, \$ 6,564.84

Receipts:

Earnings	\$30,814.95	
Received from Chesapeake and Ohio Transportation Company to cover deficit in operation	<u>8,546.45</u>	<u>39,361.40</u>
Gross receipts		\$ 45,926.24

Disbursements:

Operating expenses		<u>39,361.40</u>
		\$ 6,564.84

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY

PROFIT AND LOSS ACCOUNT, DECEMBER 31, 1925.

Balance, January 1, 1925, \$6,564.84

Earnings:

Rents, water	\$23,241.80
Rents, houses and lands	<u>7,573.15</u>
Total earnings	30,814.95

Expenses:

Operating expenses	\$39,361.40
Loss from operation for year	8,546.45
From Chesapeake and Ohio Transportation Company to cover deficit in operation	<u>8,546.45</u>

\$6,564.84

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY  
BALANCE SHEET FOR THE YEAR ENDED DECEMBER 31, 1925.

BONDS OF 1878.

Assets.

Bonds of 1878 acquired	\$132,500.00	
Farmers' & Merchants' National Bank, Baltimore, to meet out- standing coupons and interest as per Court's order	858.78	
Interest accrued from August 30, 1912, to December 31, 1925,	<u>106,027.57</u>	\$239,386.35

Liabilities.

Purchase money unpaid, Bonds of 1878,	\$132,500.00	
Outstanding coupons, Bonds of 1878,	750.00	
Interest on outstanding coupons, Bonds of 1878,	108.78	
Interest accrued on unpaid purchase money, August 30, 1912, to December 31, 1925,	<u>106,027.57</u>	239,386.35

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY  
RECEIPTS AND DISBURSEMENTS FOR YEAR ENDED DECEMBER 31, 1926.

Balance, January 1, 1926, \$6,564.84

Receipts:

Earnings	\$31,724.53	
Received from Chesapeake and Ohio Transportation Company to cover deficit in operation	<u>32,139.55</u>	<u>63,864.08</u>
Gross receipts		70,428.92

Disbursements:

Operating expenses		<u>63,864.08</u>
		\$ 6,564.84

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY  
BALANCE SHEET FOR THE YEAR ENDED DECEMBER 31, 1926.

Bonds of 1878.

Assets.

Bonds of 1878 acquired	\$132,500.00	
Farmers' & Merchants' National Bank, Baltimore, to meet outstanding coupons and interest as per Court's order	858.78	
Interest accrued from August 30, 1912, to December 31, 1926,	<u>113,977.57</u>	\$247,336.35

Liabilities.

Purchase money unpaid, Bonds of 1878	132,500.00	
Outstanding coupons, Bonds of 1878,	750.00	
Interest on outstanding coupons, Bonds of 1878,	108.78	
Interest accrued on unpaid purchase money, August 30, 1912, to December 31, 1926,	<u>113,977.57</u>	247,336.35

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY

PROFIT AND LOSS ACCOUNT, DECEMBER 31, 1926.

Balance, January 1, 1926, \$6,564.84

Earnings:

Rents, water	\$23,516.30
Rents, houses and lands	<u>8,208.23</u>
Total earnings	\$31,724.53

Expenses:

Operating expenses	\$63,864.08
Loss from operation for year	32,139.55
From Chesapeake and Ohio Transportation Company to cover deficit in operation	<u>32,139.55</u>

\$6,564.84



IN THE CIRCUIT COURT FOR WASHINGTON COUNTY

George S. Brown et al.,

vs.

The Chesapeake and Ohio Canal Company.

Nos. 4191 and 4198  
Consolidated Causes.

PETITION ASKING APPROVAL OF  
SALE OF LAND IN THE DISTRICT  
OF COLUMBIA.

To the Honorable, the Judges of said Court:

1. Your petitioners as Trustees respectfully show that they have agreed to sell to Michael Rinaldi for \$6,000. a parcel of land in the District of Columbia described as follows:

Lots 81, 82 and 83 in Deakins, Bailey and Threlkeld's Western Addition to Georgetown, being part of the tract of land called "Fox", as per deed recorded in Liber W.B. 14, Folio 55, of the Land Records of the District of Columbia.

2. Your petitioners as Trustees further show that they have agreed to sell to the Wilkins-Rogers Milling Company, Inc., for \$279.91 a parcel of land in the City of Washington described as follows:

Beginning at a point on the east line of Lot 41, 325.08 feet south from the south line of M. Street, on the west line of Potomac Street, thence westerly with the south line of Canal property 42.06 feet, more or less, thence northerly, parallel with Potomac Street 6.26 feet, thence eastwardly 42.06 feet to a point in the west line of Potomac Street 5.84 feet north of the beginning, thence south 5.84 feet to the beginning, containing 254.46 square feet.

3. Your petitioners as Trustees further show that they have agreed to sell to the District of Columbia Paper Manufacturing Company for \$457. a parcel of land in the City of Washington described as follows:

Beginning at a point on the east line of Potomac Street 40 feet north of the north line of Grace Street, thence running eastwardly and parallel with the north line of Grace Street 41 feet, thence northerly and parallel with the east line of Potomac Street 22.30 feet to the north face of the

Canal retaining wall, thence westwardly with the north face of the retaining wall 41 feet to the east line of Potomac Street, thence south with the east line of Potomac Street 22.30 feet to the point of beginning, containing 914.30 feet.

4. Your petitioners as Trustees further show that the price offered for said property is the full value thereof, and they respectfully ask an order of Court authorizing them to sell said parcels of land when the sale thereof is approved by the Supreme Court of the District of Columbia.

The property first described is separated from the Canal by a public road, and cannot be used in any way in connection with the maintenance and operation of the Canal.

The property secondly and thirdly described are small parcels of land which have no value for Canal purposes. The sale of none of these properties would affect any future disposition of remaining Canal property.

Respectfully submitted,

Herbert R. Preston  
George H. Weston  
Surviving Trustees.

State of Maryland

to wit:

City of Baltimore

I hereby certify that on this 17<sup>th</sup> day of June, 1927, personally appeared before me Herbert R. Preston, one of the Trustees whose name is signed to the above petition, and made oath in due form of law that the matters and facts therein stated are true to the best of his knowledge and belief.

Witness my hand and notarial seal.

Geo W. Caulbeck,

Notary Public

My Commission  
expires May 6, 1929.

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY

George S. Brown et al.

vs.

The Chesapeake and Ohio Canal Company

:  
:  
: Nos. 4191 and 4198  
:  
: Consolidated Causes.  
:  
:

ORDER.

This cause coming on to be heard upon the petition of the Surviving Trustees, heretofore appointed in this case, asking authority to sell land to Michael Rinaldi, Wilkins-Rogers Milling Company, Inc., and District of Columbia Paper Manufacturing Company

IT IS ORDERED by the Circuit Court for Washington County this *29<sup>th</sup>* day of *June*, 1927, that Herbert R. Preston and George A. Colston, Trustees, are hereby authorized to sell the land in the District of Columbia described in said petition to Michael Rinaldi for the sum of \$6,000., Wilkins-Rogers Milling Company for the sum of \$279.91 and District of Columbia Paper Manufacturing Company for the sum of \$457. upon obtaining approval thereof by the Supreme Court of the District of Columbia.

*Frank G. Bagshaw*

NOS. 4191 and 4198 EQUITY.

GEORGE S. BROWN, ET AL. TRUSTEES

VS.

CHESAPEAKE AND OHIO CANAL COM-  
PANY, ET AL.

*Filed June 29, 1927*

KEEDY & LANE  
ATTORNEYS AT LAW  
HAGERSTOWN, MD.

GEORGE S. BROWN, ET AL, TRUSTEES  
VS.  
CHESAPEAKE AND OHIO CANL COMPANY?  
ET AL

) NOS. 419 1 and 4198 EQUITY  
) CONSOLIDATED CAUSES  
) IN THE CIRCUIT COURT  
) FOR WASHINGTON COUNTY.

STATE OF MARYLAND, WASHINGTON COUNTY, TO WIT;

I hereby certify that on this 27th day of June, 1927, before the subscriber, a Notary Public of the State of Maryland, in and for Washington County, personally appeared, G. L. Nicolson, General Manager of the Chesapeake and Ohio Canal Company, and made oath in due form of law, that as such General Manager, he is familiar with the property owned by the Chesapeake and Ohio Canal Company, and that portion thereof proposed to be sold to Michael Rinaldi, being that portion of lots Numbers 81, 82 and 83 of the Western Division of Georgetown, each fronting sixty (60) feet on the South side of Prospect Street, and extending back therefrom about seventy (70) feet, to the Canal Road, and being separated from the Canal by said Canal Road; and the property proposed to be sold to Wilkins-Rogers Milling Company, being a small parcel of land contiguous to the property now owned by said purchaser, and being a part of lot number forty one (41) in Square sixteen (16) on the plot of lots known as Old Georgetown, fronting five and one-half ( $5\frac{1}{2}$ ) feet, measured North and South on the West side of Potomac Street, and extending back therefrom in a Westerly direction about forty two (42) feet; and the property proposed to be sold to the District of Columbia Paper Manufacturing Company, being a part of Lot Number forty four (44) of Square thirty (30), and being contiguous to the property now owned by said purchaser fronting about twenty (20) feet on the East side of Potomac Street, and extending back therefrom in an Easterly direction about forty two (42) feet.

That in his opinion the said plots above mentioned are of no value for canal purposes, and that said plots could not in any way be used in connection with the maintenance and operation of the Canal as such.

And the said G. L. Nicolson, further made oath, as aforesaid,

that in his opinion the sale of the parcels of land above mentioned would not affect the marketability or the use of the Canal Company's properties as a whole for purposes other than its use as a Canal.

G. L. Nicolson

Subscribed and sworn to before me this 27th, day of June, 1927.

Mary E. Miller  
Notary Public.



Received 31<sup>st</sup> May 1928  
with delivered to  
City of Baltimore City

Stephen G Little

Copies of the within Exhibits and Exhibits hereto  
on the Contracted Trust Company & Corporation by  
service on John T. Fagan Vice President on the 1<sup>st</sup>  
day of June 1928 in the presence of Frank B. Budge

Fee \$10.50

John E. Potts  
Month

No. 4191 and 4198 Equity

Mary Henry  
et al

Petition  
(copy)

(14)

Filed May 29 1928

JNO. E. WAGAMAN  
ATTORNEY AT LAW  
HAGERSTOWN, MARYLAND

received 3/21 day of May 1928  
and forthwith delivered to the  
Sheriff of Baltimore City

Yours,  
Stephen L. Litta

Copies of the within Exhibit and Returns served  
on the Defendant Trust Company & Corporation  
by service on John T. Flynn Vice President on the 1st  
day of June 1928 in the presence of Frank A. Butler

Deco \$10.50

John T. Flynn  
Trusty

No. 4191 and 4198 Equity

Petition.  
(copy)

JNO. E. WAGAMAN  
ATTORNEY AT LAW  
HAGERSTOWN, MARYLAND

No. 4191 and 4198 Equity

Petition

(copy)

(141)

JNO. E. WAGAMAN  
ATTORNEY AT LAW  
HAGERSTOWN, MARYLAND

31st May 28

received by day  
and forthwith delivered to the  
Court of Baltimore City

Stephen L. Little

copies of the within exhibits and so having been  
the Continental Trust Company & Corporation by  
service on John T. F. Lynch Vice President on the 1st day  
of June 1928 in the Presence of Frank A. Buntary

Deco \$10.50

John E. O'Neil  
Attorney

RECEIVED  
REGISTER

No. 4191 and 4198 Equity

PETITION OF:

Mary M. Henry, Administratrix,  
John E. Oxley, Administrator  
Thomas E. Bissett,  
John W. Fields,  
Charles P. Ranneberger,  
Howard Boyd, E. Ashby Barnett,  
Harry W. Boyd, Executors,  
John H. Marmaduke, Executor,  
Bessie L. Stone, (now Waters)  
Administratrix.

*Filed May 29 1928*

JNO. E. WAGAMAN  
ATTORNEY AT LAW  
HAGERSTOWN, MARYLAND

GEORGE S. BROWN, et al. Trustees,	{	Nos. 4191 and 4198 Equity
	}	
vs.	{	CONSOLIDATED CAUSES
	}	
CHESAPEAKE & OHIO CANAL COMPANY,	{	IN THE CIRCUIT COURT FOR
	}	
et al.	{	WASHINGTON COUNTY

TO THE HONORABLE, THE JUDGES OF SAID COURT:-

The petition of Mary M. Henry, administratrix of John W. Burgess, as shown by "Exhibit Letters of Administration of Mary M. Henry," filed herewith as part hereof; John E. Oxley, administrator of Clayton S. Fields, as shown by "Exhibit Letters of Administration of John E. Oxley," filed herewith as part hereof; Thomas H. Bissett; John W. Fields; Charles P. Ranneberger; Howard Boyd, E. Ashby Barnett and Harry W. Boyd, executors of Raphael E. Taney, as shown by "Exhibit Letters of Howard Boyd, et al." filed herewith as part hereof; John H. Marmaduke, administrator of Daniel Marmaduke, as shown by "Exhibit Letters of administration of John H. Marmaduke," filed herewith as part hereof; and Bessie L. Stone (now Waters), administratrix of John G. Stone, as shown by "Exhibit Letters of Administration of Bessie L. Stone, (now Waters)" filed herewith as part hereof; who file the same on their own behalf respectively and on behalf of all others similarly situated who are willing to come into this Court and contribute to the costs and expenses pertaining to the filing of this petition and the proceedings had thereon, respectfully shows:

1. That on or about December 30, 1889, George S. Brown, Charles M. Matthews, John S. Gittings, Frederick M. Colston and Bradley S. Johnson, trustees under a mortgage dated in the year 1848 to secure certain bonds issued under the Act of 1844, Chapter 281, filed their Bill of Complaint in this Court, the same being No. 4191 Equity, alleging insolvency of the Chesapeake and Ohio Canal Company, its failure to pay interest upon their bonds, the

maturity and non-payment of the principal of the bonds, the destruction and wreck of the canal caused by the great storm of May, 1889, and the complete suspension of business along its whole line, and praying for the appointment of receivers to take possession of and operate the canal and pay over revenues to the plaintiffs until their bonds were fully paid. Subsequently on the 16th day of January, 1890, they filed an amended bill repeating the allegations contained in their original bill and by the 9th paragraph of said amended bill it is alleged "that the bondholders for whom your complainants are trustees have no source from which their debts can be paid other than the tolls and revenues of the said canal," and the prayer for relief is that receivers be appointed "to manage and operate said canal and pay over the net revenues to the bondholders under the mortgage of 1848 until their debts shall be fully paid, "That meanwhile on January 5th, 1890, Messrs. Brown, Sloan and Lowndes, Trustees, acting under a mortgage issued 1878, filed their bill of Complaint in this Court same being No. 4198 Equity, in which they alleged insolvency of the Canal Company; that their mortgage was a first lien upon all the property and assets of the Canal Company; that default had been made in the payment of their mortgage indebtedness and they prayed for the appointment of trustees to sell the entire property and assets of the Canal Company. These causes were consolidated by order of this Court. Thereafter the State of Maryland, upon petition duly filed was made a party to the causes and said State alleged that mortgage indebtedness owing by said Canal Company to said State was due and unpaid and that default had been made under the terms of said mortgages and the State also prayed for a decree for the sale of the Canal and the entire property and assets of the said Canal Company. That after answers to the various bills and petitions had been duly made this Court did on the 2nd day of October, 1890, pass a decree by section 1 whereof it was ordered

and decreed "that all rights, title and interest in the Chesapeake and Ohio Canal Company in and to its entire line of canal extending from the City of Cumberland in Allegany County to and into the City of Georgetown in the District of Columbia, and all and singular lands, tenements and assets owned or acquired by said Chesapeake and Ohio Canal Company for its construction or repair, its works and appurtenances, and the site thereof embracing the entire undertaking and every particular thereof, and all tools, implements and boats, built or purchased by said Company for the use on said canal and water rights and franchises of said Chesapeake and Ohio Canal Co., wherever the same or any part thereof may be situated or held, be sold as hereinafter described." That by Section 2 of said decree Joseph D. Baker, Robert Bridges and Richard D. Johnson were appointed trustees to make the sale. By Section 5 of said decree it was further ordered that the foregoing decree of sale shall be suspended," upon the compliance with and performance of certain requirements, terms and conditions by the Trustees under the mortgage of the 5th of June, 1848. That among said terms and conditions was a requirement that said trustees should, within sixty days from the date of the decree purchase and bring into Court all the bonds issued and outstanding under the mortgage of 1878. That another condition was that the said trustees acting under the said mortgage of 1848 "shall by the first day of May, next, 1891, at their own cost and expense, be reimbursed to them as hereinafter directed, have put in good repair and condition the entire canal from one terminus thereof to the other so that it be fit for and capable of safe transportation thereon, and that upon so restoring said canal to a state of good repair and condition, the said trustees shall proceed to operate the same as a public water way with all the rights and subject to all the conditions and limitations granted by the charter of said Company; and the said trustees shall keep said canal in good repair and condition, and continue to operate the same save and except when such operation may be suspended by the action of

causes against the effect of which due care in management will provide." The decree then provides that from the net tolls and revenues the trustees shall pay all current expenses and then pay and reimburse the said trustees in the amount expended by them in restoring said canal and to pay the interest and principal of the bonds issued under the mortgage of 1878 and the State's Mortgages and finally to pay interest and principal of the bonds secured by the mortgage of 1848. That by the 6th subsection of Section 5 of said decree it was provided "that if at the end of four years from the first day of May next there shall not have been tolls and revenues derived from the said canal and the property and rights pursuant thereto (over and above the amount necessary to pay current operation expenses to keep the canal in repair) to liquidate and discharge the amount of the costs of repairing and restoring the canal to a working condition from its present broken condition and the amount of money required to pay expenses and compensation to the receivers and to pay any amount that may be determined to be a preferred lien on such tolls and revenues shall be regarded as evidence conclusive (unless the time be extended by the Court for good and sufficient cause shown) that the canal cannot be operated so as to produce revenue with which to pay the bonded indebtedness of said Canal Company and further whenever it shall clearly appear that the said canal cannot be operated by said trustees so as to produce with which to pay the bonded indebtedness of such company the right and power is hereby reserved to this Court to order and direct the execution of the foregoing decree of sale." All of which will more fully and at large appear by reference to the proceedings heretofore had in these consolidated cases.

2. Your petitioners further show that said trustees for the bondholders under the mortgage of 1848 complied with the prerequisite terms of the said decree above mentioned and took possession of the canal and proceeded to operate the same in accordance with the terms of said decree, except that, as your petitioners

believe, they did not strictly comply with the provisions of the fourth subsection of Section 5 which required that at the end of each boating or transportation season they should make full and accurate reports to this Court, under oath of all receipts and expenditures and the real condition of the canal and the amount of tonnage thereof during the preceding year; but on the 30th day of January, 1894, they filed a report and petition showing their transactions down to December 1st, 1893, and by said report the petition showed that they had borrowed, for the purpose of making repairs \$435,163.34; that their receipts from net tolls, rents and other sources to December 1st, 1893, were \$270,970.73; that their expenditures for the repair of the canal and its works were \$430,764.43 and the expenditures for other accounts \$250,327.17. They then add that this statement does not include \$15,000 borrowed and paid as compensation to the receivers of this Court and the Supreme Court of District of Columbia. Said trustees then further reported that they had negotiated a contract with the Chesapeake and Ohio Transportation Company of Washington County, a body corporate of the State of Maryland, recently organized, for the purpose among others, of conducting a forwarding or transportation business on the Chesapeake and Ohio Canal.

The terms of said contract are as follows:

(1) Said trustees and their successors will maintain and operate said Chesapeake and Ohio Canal as a waterway, in compliance with the terms of the charter of the Chesapeake and Ohio Canal Company, during the continuance of this agreement unless said canal be damaged or destroyed by flood or other casualty beyond the ability of said trustees to rebuild or repair the same with the means at their command.

(2) Said Transportation Company will place in service on said canal, from time to time, as many boats in addition to those now in service thereon as may be necessary to transport all coal and other freight offering during the navigation season of 1894, or that

of any subsequent year during the continuance of this agreement; said boats to be properly equipped to ply on said canal.

(3) Said Transportation Company guarantees, during the continuance of this agreement, that the net revenues derived by said trustees from their trust estate, over and above the expenses of ordinary operation and repair of said canal, will not be less, in any year than one hundred thousand dollars and any deficiency in net revenues to equal said amount, in any year will be made good by said Transportation Company."

The Trustees then prayed the Court to pass an order authorizing the said trustees to enter into said contract and to extend the time from the original four years provided for in the original decree to the end of six years from the first day of May, 1895, and the Court thereupon did authorize the execution of said contract and extended the time as prayed. The State of Maryland appealed from the said order and it was affirmed by the Court of Appeals as will appear by reference to the Canal Company's case in 83 Md. 549. That on December 13, 1905, the surviving trustees made a report to this Court in which they said "that pursuant to the authority given them by said order of April 29, 1901, affirmed by the Court of Appeals, as aforesaid, these trustees have continued to maintain and operate the Chesapeake and Ohio Canal as a waterway and have continued in effect said contract with the Chesapeake and Ohio Transportation Company of Washington County, and from revenues derived thereby have paid with interest the \$121,000 borrowed to defray the costs of repairing and restoring the canal, which the trustees reported on April 8, 1901 as the balance of the principal sum so borrowed remaining unpaid December 31, 1900. And your petitioners now charge that said trustees in making said report did not show that the tolls and revenues of the Canal Company were sufficient to pay any part of the money which they had borrowed, or even that they had earned sufficient money to pay operating expen-

ses, and your petitioners now further charge that the tolls and revenues of the canal during the period covered by said report were less than operating expenses and that if the trustees paid off the money borrowed, as alleged, such payment was not made from the tolls and revenues of the Canal Company, and your petitioners now say that they believe they are fully justified in making the charge that the canal was in fact operated at a loss during the whole period covered by said report from the fact that, as will hereinafter be shown, that since December, 1905, when an amended or new contract was entered into, the trustees have operated the canal at a loss of about or exceeding \$50,000 a year; that after referring to financial conditions the trustees add "that the physical condition of the canal and the prospects of traffic thereon fully justify the continued maintenance and operation of the same as a waterway in compliance with the charter of the Chesapeake and Ohio Transportation Company of Washington County was willing to renew the above mentioned contract provided the guarantee of annual net revenue of \$100,000 be waived and annulled and the following guaranty be accepted in lieu thereof.

"That net revenue derived by said trustees from their trust estate will not be less in any year than a sum sufficient to defray all expenses of ordinary operation and repair of said canal, so that said trustees will suffer no loss to their trust estate by reason of said operation and repair of said canal, and any deficiency in said net revenues to equal said sum, in any year, will be made good by said Transportation Company."

Said surviving trustees then prayed the Court to authorize the making of this net contract, and further prayed "that the period of four years from the first day of May, 1901, mentioned in subsection 6 of Section 5 of the decree entered herein on the 2nd day of October, 1890, and extended by decretal order entered herein on July 30th, 1894, and further extended to January 1, 1896, by decretal order entered herein April 29, 1901, be extended from

calendar year to calendar year until the further order of this Court with leave to any party, upon twenty days' notice, to the other parties to the cause, not less than six months prior to the expiration of any calendar year, to move for the rescission or modification of such order." And this Court did, by order filed on the 27th day of December, 1905, order and decree as prayed in said petition.

3. That since the passage by this Court of the order last mentioned in the preceding paragraph the trustees and the Transportation Company have been operating said canal under the provisions of said amended contract. Your petitioners now charge that they have caused an examination to be made of the annual reports which have been filed herein by the trustees since the time said contract was so amended; that they deem it unnecessary for the purpose of this petition to make extended references to or quotations from said reports, but pray leave that at any hearing that may be had upon the matter of this petition to refer to said reports which are on file in these cases as fully as if the same were set out in this petition and pray that the same may be taken as part hereof; and your petitioners now charge that on an average the annual income from tolls and revenues and other sources has been about \$50,000, whereas the operating expenses have been about \$100,000, and the deficiency has been made good by said Transportation Company, but in the last few years the deficiency has been more than \$50,000, but all such deficiencies appear to have been made good by said Transportation Company.

4. Your petitioners now charge that no sale or sales of any part of the property of the Chesapeake and Ohio Canal Company was ever made by the trustees, Baker, Bridges and Johnson, named in the original decree but said original trustees having died, special trustees have been appointed by this Court upon petition of said operating trustees to sell the property and property rights

belonging to this Canal Company alleged to be unnecessary for its operation and that the proceeds of such sales, amounting to somewhere about \$800,000, have been applied to the payment of the bonds of 1878, and that according to the last report which was filed in these consolidated cases by the trustees on February 25, 1925, there was apparently still due and owing on said bonds of 1878, \$231,436.35.

5. Your petitioners now further charge that when Judge Alvey passed the decree for sale, above mentioned, then stayed or suspended the operation of the same for the period of four years, it was for the purpose of permitting the trustees, acting under the mortgage of 1848, to make the experiment, if they so wished, of operating the canal to the end that their indebtedness might be paid off out of the tolls and revenues of the Canal Company, and that when at the end of said time it was apparent that their experiment was not a success the trustees then came into this Court with a contract from the Chesapeake and Ohio Transportation Company guaranteeing a net income of \$100,000 a year and asking for a further extension of six years, and showing that the trustees had borrowed for the purpose of rebuilding the canal nearly \$500,000, and your petitioners now charge that when this Court and the Court of Appeals authorized the making of said contract and granted said extension it was not the intention of this Court or of the Court of Appeals in any way to effect or modify the original decree for sale, but was merely to grant further time for the experiment, and that every subsequent order modifying the original decree was merely for the same purpose. And your petitioners now further charge that the provision in the order of December 27, 1905, requiring a notice of twenty days not less than six months prior to the expiration of any calendar year to move for its rescission or modification was not meant to and does not affect the power reserved in the Court to enforce the decree for sale at any time when it clearly appears that the canal cannot be operated by the

trustees to produce revenue with which to pay the bonded indebtedness of the Canal Company. And your petitioners now charge that after thirty-five years of experiment these trustees have never, out of tolls and revenues paid one single dollar to the bondholders of 1848, and not a single dollar upon any other of its bonded indebtedness, and time has proven the experiment to have been a total failure. Your petitioners now charge that the canal was practically not operated during the year 1926, that it was not operated during the year 1927, and is not being operated during the current year of 1928; that the whole canal from Cumberland to Georgetown is a practical wreck; that there are now practically no boats fit for use, all the boats which traversed the canal having been tied up at various places along its line during the past years and being now wholly unfit for any use in transporting traffic. And your petitioners further charge that the Chesapeake and Potomac Transportation Company has, during the last two or three years failed to keep and perform the second provision of its contract as to keeping boats in service on the canal. And your petitioners further charge that the rehabilitation of the canal at this time is impracticable, and they further charge that said surviving trustees in these causes and the Chesapeake & Ohio Transportation Company are without means to again rehabilitate the canal and furnish boars for its operation, and therefore your petitioners charge that said trustees and said Chesapeake and Ohio Transportation Company have no intention of ever operating said canal again, and your petitioners further charge that it now does "clearly appear that said canal can not be operated by said trustees so as to produce revenue with which to pay the bonded indebtedness of said company," and this Court ought therefore now exercise the power reserved in the original decree and order and direct the execution of the decree of sale.

6. Your petitioners now show that under and by virtue of the provisions of Chapter 136 $\frac{1}{2}$  of the General Assembly of Maryland passed at its January session, 1896, and Chapter 270 of the Acts of

the General Assembly of Maryland passed at its January session, 1900, the said John W. Burgess filed in these consolidated causes his claim against the Chesapeake and Ohio Canal Company on the 30th day of August, 1900, for \$915.75, with interest on the various sums aggregating the said total from the various dates as shown by a certified copy of said claim and the proofs thereof which is filed herewith marked "Exhibit claim of John W. Burgess," as will appear by reference thereto and the said claim which is prayed to be taken as part hereof; the said Clayton S. Fields filed in these consolidated causes his claim against the Chesapeake and Ohio Canal Company on the 31st day of August, 1900, for \$278.30, with interest on the various sums aggregating the said total from the various dates as shown by a certified copy of said claim and the proofs thereof which is filed herewith marked "Exhibit claim of Clayton S. Fields," as will appear by reference thereto and the said claim which is prayed to be taken as part hereof; the said Thomas E. Bissett filed in these consolidated causes his claim against the Chesapeake and Ohio Canal Company on the 29th day of August, 1900, for \$254.50, with interest on the various sums aggregating the said total from the various dates as shown by a certified copy of said claim and the proofs thereof which is filed herewith marked "Exhibit claim of Thomas E. Bissett," as will appear by reference thereto and the said claim which is prayed to be taken as part hereof; the said John W. Fields filed in these consolidated causes his claim against the Chesapeake and Ohio Canal Company on the 20th day of August, 1900, for \$305.00, with interest on the various sums aggregating the said total from the various dates as shown by a certified copy of said claim and the proofs thereof which is filed herewith marked "Exhibit claim of John W. Fields," as will appear by reference thereto and the said claim which is prayed to be taken as part hereof;

the said Charles P. Ranneberger filed in these consolidated causes his claim against the Chesapeake and Ohio Canal Company on the 30th day of August, 1900, for \$100.00, with interest on the various sums aggregating the said total from the various dates as shown by a certified copy of said claim and the proofs thereof which is filed herewith marked "Exhibit claim of Charles P. Ranneberger," as will appear by reference there\_to and the said claim which is prayed to be taken as part hereof; the said R. E. Taney filed in these consolidated causes his claim against the Chesapeake and Ohio Canal Company on the 15th day of August, 1900, for \$263.82, with interest on the various sums aggregating the said total from the various dates as shown by a certified copy of said claim and the proofs thereof which is filed herewith marked "Exhibit claim of R. E. Taney," as will appear by reference thereto and the said claim which is prayed to be taken as part hereof; the said Daniel Marmaduke filed in these consolidated causes his claim against the Chesapeake and Ohio Canal Company on the 21st day of August, 1900, for \$86.90, with interest on the various sums aggregating the said total from the various dates as shown by a certified copy of said claim and the proofs thereof which is filed herewith marked "Exhibit claim of Daniel Marmaduke," as will appear by reference thereto and the said claim which is prayed to be taken as part hereof; and the said John G. Stone filed in these consolidated causes his claim against the Chesapeake and Ohio Canal Company on the 14th day of August, 1900, for \$110.10, with interest on the various sums aggregating the said total from the various dates as shown by a certified copy of said claim and the proofs thereof which is filed herewith marked "Exhibit claim of

John G. Stone," as will appear by reference thereto and the said claim which is prayed to be taken as part hereof; all of which said certified copies are prayed to be taken as part hereof as if fully recited herein; that no part of the principal or interest has been paid upon any of the aforesaid claims of your said petitioners respectively and the whole of the same is now due and owing to your said petitioners respectively; that under and by virtue of the terms of the said Chapters 136 $\frac{1}{2}$  of the Acts of 1896, and Chapter 270 of the Acts of 1900, your petitioners are specifically and in terms made assignees, respectively, pro tanto, to the amount of their respective claims and subrogated to all rights and powers held and owned by the State under its mortgages referred to in these causes and are entitled to ask of this Court the execution of said decree of sale as fully as the State could or might have done or might now do. And though your petitioners are advised that said Chapters 136 $\frac{1}{2}$  of the Acts of 1896 and 270 of the Acts of 1900 are public acts which ought to be judicially noticed by this Court, nevertheless, your petitioners now offer, if required by any of the parties respondent to this petition, to file in this Court a duly certified copy of said Act of Assembly, and now pray the Court that said Act of Assembly may be read at any hearing which may be had upon the matter of this petition from the official printed copy, and that it may be taken into consideration by this Court as fully as if a duly certified copy thereof were filed with this petition.

7. Your petitioners further show that on the 4th day of January, 1905, the Board of Public Works of the State of Maryland, being duly authorized by law, sold and assigned to Fairfax S. Landstreet all its right, title and interest in and to the Chesapeake and Ohio Canal Company, including all of its mortgages; that said assignment specially provided that the same was made subject to the legal operation and effect of every and all judgments and claims duly proven and certified under the Act of 1896, Chapter 136 $\frac{1}{2}$ , and

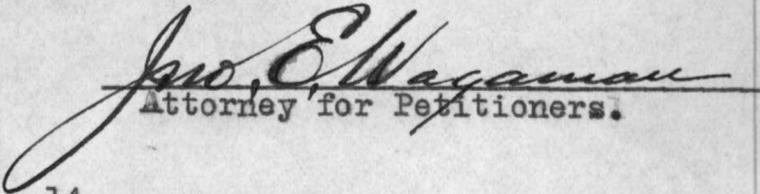
the Act of 1900, Chapter 270, that a copy of said Deed of Assignment certified to by the Secretary of the Board of Public Works, is herewith filed marked "Petitioners' Exhibit Deed of Assignment," and prayed to be taken as part hereof, that the said Fairfax S. Landstreet, by deed dated on or about the 29th day of July, 1907, and recorded among the Land Records of Washington County in Liber No. 126, folio 209, and also recorded in the Land Records of Alleghany County, Liber No. 101, folio 637, sold all his interest in the Chesapeake and Ohio Canal Company, so acquired from the State of Maryland, to the Continental Trust Company, a corporation duly organized under the laws of the State of Maryland, and said Continental Trust Company has heretofore been made a party to these causes.

TO THE END, THEREFORE;

That substituted trustee or trustees may be appointed in the place of Joseph D. Baker, Robert Bridges and Richard D. Johnston, Trustees, deceased, with power to execute the decree passed by Judge Alvey in these causes on the second day of October, 1890, for a sale of the Canal and all the property and property rights of the Chesapeake and Ohio Canal Company and that your petitioners may have such other and further relief as the nature of their case may require.

May it please your Honors to pass an order directed to George A. Colston and Herbert R. Preston, surviving Trustees to The Chesapeake and Ohio Canal Company, and to the Continental Trust Company, a corporation duly organized under the laws of the State of Maryland, requiring them and each of them to be and appear in this Court on some certain day to be named therein to answer the premises and show cause, if any they have, why relief ought not to be granted as prayed.

Respectfully submitted.

  
Attorney for Petitioners.

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:-

I hereby certify that on this 10th day of May, A.D. 1928, before me, the subscriber, a Notary Public of the State of Maryland, in and for Washington County, personally appeared John H. Marmaduke, administrator of Daniel Marmaduke, and made oath in due form of law that the matters and facts and things stated in the foregoing petition are true to the best of his knowledge and belief; except as to the claims of all the other petitioners of which he has no knowledge.

Witness whereof my hand and Notarial Seal:

*Edna R. Detsich*  
Notary Public.

Upon the foregoing petition it is by the Circuit Court for Washington County, sitting in Equity, this *29<sup>th</sup>* day of *May*, 1928, ordered that George A. Colston and Herbert R. Preston, Trustees, and the Chesapeake and Ohio Canal Company and The Continental Trust Company show cause on or before the *25<sup>th</sup>* day of *June*, 1928, why relief ought not to be granted as prayed in said petition, provided a copy of said petition and of this order shall be served upon them, and each of them, or their solicitors of record, in these causes, on or before the *9<sup>th</sup>* day of *June* A.D. 1928.

*Frank G. Bagaman*

No. 4191 & 4198 Equity

( Mary Henry's Petition )  
Exhibit

" Petitioners' Exhibit  
Deed of Assignment "

Mr. Oswald

Filed May 29<sup>th</sup> 1928

THIS DEED OF ASSIGNMENT, made this 4th day of January, 1905, by and between Edwin Warfield, Governor of the State of Maryland; Gordon T. Atkinson, Comptroller of the State of Maryland, and Murray Vandiver, Treasurer of the State of Maryland, being and constituting the Board of Public Works of the State of Maryland, parties of the first part, hereinafter called the first party, and Fairfax S. Landstreet, of Davis, State of West Virginia, party of the second part, hereinafter called the second party; WITNESSETH:

WHEREAS, By Section 3 of Article 12 of the Constitution of the State of Maryland, and the amendments thereof, the Board of Public Works of Maryland was authorized, subject to such limitations and conditions as the General Assembly of Maryland should from time to time prescribe, to sell the State's interest in all works of internal improvement, whether as stockholder or creditor, receiving in payment the bonds and registered debt of said State equal in amount to the price obtained for the State's interest therein: and

WHEREAS, By Chapter 310 of the Acts of the General Assembly of Maryland of 1892 it was provided that "whenever the Board of Public Works in the exercise of the authority vested in them by the Constitution shall determine to sell the State's interest in any or all works of internal improvement, whether as a stockholder or as a creditor, they shall before making such sale or sales advertise for sealed proposals for the space of sixty days in such newspapers as they shall think fit, for the purchase of said interest of the State in such work or works of internal improvement, and at the time and place named in said advertisement or advertisements, they shall open the said sealed proposals publicly in the presence of such persons as shall choose to attend, and if the price or prices offered by the highest bidder or bidders, shall in their judgment be sufficient, they shall sell the said interest so offered for sale to the highest bidder or bidders, and by such apt and sufficient conveyance or conveyances or other instruments as the Attorney General may approve they shall transfer to the purchaser or purchasers the interest so sold to him or them, but if the highest price or prices shall in their judgment be insufficient they shall have power and it shall be their duty to reject said bid or bids: and

WHEREAS, On the 26th day of September, 1904, said Board of Public Works did determine to offer the entire interest of the State of Maryland in the

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Chesapeake and Ohio Canal Company and all its properties and works of every description, either as mortgagee, creditor or stockholder, for sale to the highest bidder by way of sealed proposals for the same, as provided by said Article of the Constitution of the State and said Act of Assembly, and thereupon did advertise for such sealed proposals by a public notice duly published in the Baltimore Sun, the Baltimore American, the Baltimore Herald and the Baltimore Evening News, newspapers duly published in the city of Baltimore, and in the New York Herald and other newspapers published elsewhere, for more than sixty days before the first day of December, 1904, as required by law, said date being the day named in said advertisement for the opening of said bids, said advertisement so published being in the words following, to wit:

STATE OF MARYLAND

EXECUTIVE DEPARTMENT,

Annapolis, Sept. 26, 1904.

SALE OF THE STATE'S INTEREST IN THE CHESAPEAKE AND OHIO CANAL.

Under and by virtue of the power and authority conferred upon the Board of Public Works by Section 3 of Article XIII of the Constitution and by the Act of 1892, Chapter 310, and in pursuance of a resolution passed by the said Board of Public Works, notice is hereby given that sealed proposals are invited for the purchase of the entire interest of the State of Maryland in the Chesapeake and Ohio Canal Company and all its properties and works of every description as wither mortgagee, creditor or stockholder; the said interest will be subject in the hands of the purchaser to the legal operation and effect of every and all judgments and claims duly proven and certified under the Act of 1896, Chapter 136 1/2. Such proposals may be made at any time prior to 12 o'clock noon on December 1, 1904, and must be transmitted to the office of the Board of Public Works at Annapolis. Payment of the purchase price to be made in the bonds or registered debt of this State, as required by Section 3 of Article XII of the Constitution, within sixty days from the acceptance of any bid. Such bids will be opened publicly at noon on December 1, 1904, in the Executive Chamber at Annapolis.

No bid will be considered unless accompanied by a certified check in the sum of twenty-five thousand dollars, as a guarantee of the prompt payment of the

purchase price in accordance with the terms of sale. The Board of Public Works hereby reserves the right to reject any and all bids.

By Order of the Board.

OSWALD TILGHMAN,

Secretary of the Board of Public  
Works.

AND WHEREAS, The interest of the State of Maryland in the Chesapeake and Ohio Canal Company and its properties and works, as mortgagee, credit or stockholder, was at that time and is now as follows:

(a) A mortgage on all its property, given by the Chesapeake and Ohio Canal Company to the State of Maryland, by virtue of Chapter 241 of the Acts of Assembly of 1834, dated the 23rd day of April, in the year 1835, recorded in Washington County, in Liber P.P., folio 756, one of the Land Record Books of Washington County, and in other Counties of this State, and in the District of Columbia, to secure the payment to said State of sum of \$2,000,000.00 and the interest thereon.

(b) A mortgage on all its property, given by the Chesapeake and Ohio Canal Company to the State of Maryland, by virtue of Chapters 386 and 396 of the Acts of Assembly of 1838, dated the 15th day of May, 1839, and recorded in Washington County, in Liber U.U., folio 170, one of the Land Record Books of Washington County, Md., and in other Counties in this State, and in the District of Columbia, to secure the payment to said State of the sum of \$1,375,000.00 and the interest thereon.

(c) A mortgage on all its property, given by the Chesapeake and Ohio Canal Company to the State of Maryland, by virtue of Chapter 281 of the Acts of Assembly of 1844, dated the eighth day of January, 1846, and recorded in Washington County in Liber I.N. No. 3, folios 137 to 141, one of the Land Record Books of Washington County, Md., and in other Counties of this State, and in the District of Columbia, said mortgage being confirmatory of and as further security to the State of Maryland for the indebtedness set out in the two mortgages above recited, and the interest thereon.

(d) All the right, title and interest, at law or in equity, of the State of Maryland, in and to the preferred capital stock of the Chesapeake and Ohio Canal Company, whether issued to said State or not issued, but subscribed and paid for by said State by virtue of Chapter 395 of the Acts of Assembly of 1835, the par value of said preferred stock under said Act so issued to or subscribed and paid for by said State being believed to be about the sum of \$3,000,000.00.

(e) All the rights, title and interest, at law or in equity, of the State of Maryland, in and to the preferred capital stock of the Chesapeake and Ohio Canal Company, whether issued to said State or not issued, but subscribed and paid for by said State by virtue of Chapter 396 of the Acts of Assembly of 1838, the par value of said preferred stock under said Act so issued to or subscribed and paid for by said State being believed to be the sum of \$1,375,000.00.

(f) All the right, title and interest of the State of Maryland, at law or in equity, in and to the common capital stock of the Chesapeake and Ohio Canal Company, whether issued to said State or not issued, but subscribed and paid for by said State by virtue of Chapter 105 of the Acts of Assembly of 1827, the par value of said common stock under said Act so issued to or subscribed and paid for by said State being believed to be about the sum of \$500,000.00.

(g) All the right, title and interest of the State of Maryland, at law or in equity, in and to the common capital stock of the Chesapeake and Ohio Canal Company, subscribed and paid for by the State under Chapter 239 of the Acts of Assembly of 1833, the par value of said common stock so subscribed for by said State being the sum of \$125,000.00.

(h) All the right, title and interest of the State of Maryland, at law or in equity, in and to the deferred common capital stock of the Chesapeake and Ohio Canal Company, subscribed for<sup>by</sup> the State under Chapter 180 of the Acts of Assembly of 1825, to about the par value of \$163,000.00.

(1) All other interests, at law or in equity, which the State of Maryland now has in any way or manner in the Chesapeake and Ohio Canal Company or any of its property and works, of every description, wherever situated, either as mortgagee, creditor, stockholder, or in any other way not hereinbefore specifically mentioned and enumerated.

AND WHEREAS, At twelve o'clock on the first day of December, 1904, the first party, as such Board of Public Works, met at Annapolis to open and pass upon said sealed proposals as should be made for the purchase of said interest of the State in said Canal Company, at which meeting it was found that the sealed proposal of Fairfax S. Landstreet, the second party, of \$155,000.00, for said State's interest, payable in the bonds or registered debt of the State of Maryland, as required by the Constitution, was the highest bid for said State's interest, said proposal of said Landstreet being in words following, to wit:

Baltimore, November 29, 1904.

To the Honorable, The Board of Public Works  
of the State of Maryland:

Referring to the published notice of the Board of Public Works of the State of Maryland, dated September 26, 1904, inviting sealed proposals for the purchase of the entire interest of the State of Maryland in the Chesapeake and Ohio Canal Company and all its properties and works of every description, as either mortgagee, creditor or stockholder, the undersigned hereby proposes to purchase said entire interest of the State of Maryland as set out in said notice, and upon the terms and conditions therein contained, and to pay therefor the sum of \$155,000.00, payable in the bonds or registered debt of the State of Maryland, taken at par, within sixty days from the acceptance of this bid.

Accompanying this bid there is handed you a certified check in the sum of \$25,000.00, required by the terms of the above mentioned notice, as a guarantee of the prompt payment of the purchase price in accordance with the terms of sale.

Yours respectfully,

F. S. LANDSTREET.

AND WHEREAS, After several adjournments of said Board for a full and deliberate consideration of said bids, said Board again met at Annapolis on the 22nd day of December, 1904, for the consideration of said bids, and did then and there accept said bid of said second party by a resolution of said Board then and there adopted, to which acceptance certain conditions were attached, said resolution of acceptance and the conditions thereto being in the words following, to wit:

"RESOLVED, By the Board of Public Works of Maryland: That the bid of Mr. Fairfax S. Landstreet for the State's interest in the Chesapeake and Ohio Canal and in the Chesapeake and Ohio Canal Company, be, and the same hereby is, accepted, provided the said Fairfax S. Landstreet assents to the insertion in the assignment of the State's interest in said Chesapeake and Ohio Canal and in the said Chesapeake and Ohio Canal Company, of a clause reading as follows: "And it is expressly understood that this assignment is made upon the condition that the grantee herein, F. S. Landstreet, on or before the 1st day of December, 1905, cause or procure a resolution to be passed at a duly called meeting of the stockholders of the Chesapeake and Ohio Canal Company (if the stock hereby assigned to him is sufficient to enable him to so pass the same) reading thus: 'Be it Resolved by the Stockholders of the Chesapeake and Ohio Canal Company, that the General Assembly of Maryland be, and hereby is, requested to amend the charter of the said Chesapeake and Ohio Canal Company, by enacting that if the said Chesapeake and Ohio Canal Company shall at any time build, operate or maintain, or grant, or attempt to grant, to any other person or number of persons, or to any body corporate, the right to build, operate or maintain any railroad or railroad tracks upon the property of said Chesapeake and Ohio Canal Company, that then any and all exemptions from taxation now held and enjoyed by said Chesapeake and Ohio Canal Company shall be surrendered and forfeited to the State of Maryland. It being understood, however, that the purchase or acquisition by condemnation by the Western Maryland Railroad of the rights of way and other easements authorized to be acquired by the said Western Maryland Railroad Company, by Chapter 56 of the Acts of 1904, shall not be construed as a right to build, operate and maintain a railroad on the property of the Chesapeake and Ohio Canal

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Company within the meaning of this resolution. And the Chesapeake and Ohio Canal Company hereby gives its irrevocable assent to the passage of an amendment of its Charter to the above effect by the General Assembly of Maryland. And the Chesapeake and Ohio Canal Company hereby directs the presiding officer of this meeting of its stockholders to deliver within thirty days from this date a copy of this resolution, certified under the seal of the said Chesapeake and Ohio Canal Company, to the Governor of Maryland.'

And it is a further condition of this assignment that the said Fairfax S. Landstreet shall on or before the first day of January, 1906, cause a copy of said resolution, duly authenticated by the seal of the said Chesapeake and Ohio Canal Company, and attested by the signature of the presiding officer of the aforesaid meeting of the stockholders of the said Chesapeake and Ohio Canal Company, to be delivered to the then Governor of Maryland at his office in Annapolis.

If the said Fairfax S. Landstreet, and his heirs, personal representatives and assigns, shall fail to comply with both of the above-named conditions by the times herein specified, then this assignment shall be and become void, and all the right, title, interest and estate hereby conveyed to and vested in the said Fairfax S. Landstreet, his heirs, personal representatives and assigns, shall re-vest in the State of Maryland, and again become the property thereof, and the State of Maryland shall retain, as liquidated damages for the breach of these conditions, the purchase price, paid by the said Fairfax S. Landstreet, his heirs, personal representatives and assigns, for said interest of the State of Maryland in the Chesapeake and Ohio Canal, and in the property of the said Chesapeake and Ohio Canal Company.

It is expressly agreed, however, that if the said Landstreet, his heirs, personal representatives or assigns, shall be hindered, prevented or delayed in causing the passage, by the meeting of the stockholders of the said Chesapeake and Ohio Canal Company, of the above mentioned resolution, by an injunction or other order of court, then, if the said Landstreet, his heirs, personal representatives or assigns, shall, with good faith and ordinary diligence resist the petition or suit in or upon which the injunction or other restraining or hindering order was passed, and shall prosecute said petition or suit to the court of last resort, the said Landstreet, his heirs, personal representatives

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and assigns shall have an extension of six months from the date of the final dissolution of said injunction, or from the date of the final rescission of such other order restraining, hindering or preventing the passage of said resolution by the said stockholders' meeting of the Chesapeake and Ohio Canal Company, in which to cause or procure the passage of the aforesaid resolution; and the said Landstreet shall have a further extension of one month within which to have an authenticated copy of said resolution presented to the then Governor of Maryland, as hereinbefore required. But should any such litigation result in a final judgment in a court of last resort preventing the passage of said resolution, the said conditions of said transfer of the State's interest to said Landstreet shall be regarded as abandoned, released, and satisfied without further action on his part."

AND WHEREAS, On the 23rd day of December, 1904, the said second party did accept said condition imposed upon said sale by said Board of Public Works, without further qualification, said acceptance of the second party being in the words following, to wit:

Baltimore, Md., December 23, 1904.

To the

Hon. Edwin Warfield,

Hon. Gordon T. Atkinson,

Hon. Murray Vandiver,

Members of the Board of Public Works of Maryland.

Annapolis, Maryland.

Gentlemen:

Confirming my verbal assent of yesterday to the conditions attached to your resolution accepting my bid for the interest of the State of Maryland in the Chesapeake and Ohio Canal Company and its property, and in order to complete the formal record of the same, I hereby write to say that I accept said conditions attached to your said resolution and assent to the same in its

entirety, and agree that the same shall be inserted in the assignment of your Honorable Body transferring to me the aforesaid interests of the State of Maryland in said Canal Company and its property, in exact accordance with the terms of your resolution. I am,

Very respectfully yours,

F. S. LANDSTREET.

AND WHEREAS, The said second party, in consummation of the sale and purchase of all the aforesaid interests of the State of Maryland, in accordance with his bid and contract has this day paid and delivered to the first party for the use of said State bonds, or registered debt of the State of Maryland, of the par value of \$155,000.00, in securities of the State Debt known as registered certificates of the State of Maryland Consolidated Loan of 1899, bearing three per cent. interest per annum, payable January 1, 1914, but redeemable at pleasure of the State on the first day of January, 1909; the receipt of all of which said bonds or registered debt of the State of Maryland, to the aforesaid par value of \$155,000.00, is hereby acknowledged by the first party at and before the ensembling and delivery of these presents; and

WHEREAS, This form of conveyance and assignment of all the aforesaid interests of the State of Maryland in and to the Chesapeake and Ohio Canal Company and all its works and property, has been submitted to and has been approved by the Attorney General, as is required by said Chapter 310 of the Acts of 1892, whereby, by reason of all the foregoing, the first party is fully authorized by law to execute these presents:

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES and of said bonds and registered debt of the State of Maryland, so paid and delivered as aforesaid, the said Edwin Warfield, Governor of the State of Maryland; Gordon T. Atkinson, Comptroller of the State of Maryland, and Murray Vandiver, Treasurer of the State of Maryland, being and constituting the Board of Public Works of the State of Maryland, ~~being and constituting~~ have bargained and sold, given, granted, conveyed, released, assigned, transferred, set over and confirmed unto the said Fairfax S. Land-

street, his heirs, executors, administrators and assigns, each and all the aforesaid mortgages of the State of Maryland, and all said capital stock, preferred, common or deferred common stock of the Chesapeake and Ohio Canal Company, and all the right, title and interest of the State of Maryland in and to the same and every part thereof, at law or in equity, and also all the right, title and interest of the State of Maryland in and to any other interests, claims or demands of any kind whatsoever which the said State of Maryland, in addition to the foregoing, now has in the Chesapeake and Ohio Canal Company and all its property and works of every description and wherever situated.

The object of this deed of assignment being to absolutely vest in the second party, his heirs, executors, administrators and assigns all the right, title and interest of the State of Maryland, of every kind and in every way which it now has in any way or manner, either as mortgagee, creditor or stockholder, or in any other capacity, in and to the Chesapeake and Ohio Canal Company, and all its property, real, personal or mixed, wherever situated, whether hereinbefore specifically mentioned or not, with the power to use and own the same as fully and completely as the State of Maryland itself could do had this assignment not been made.

IT BEING EXPRESSLY UNDERSTOOD, HOWEVER, that this deed of assignment is made upon all the conditions set out in the foregoing resolution of the Board of Public Works accepting said bid of the second party, and with express reference to said resolution, all of which said conditions have been, as aforesaid, and are now, accepted by the said second party.

IN WITNESS WHEREOF the parties of the first part, being and constituting the Board of Public Works of the State of Maryland, and as such, have hereunto set their hands and affixed their seals, the date first above written.

\_\_\_\_\_  
Edwin Warfield (Seal)  
GOVERNOR

\_\_\_\_\_  
Gordon T. Atkinson (SEAL)  
COMPTROLLER

\*\*\*\*  
\_\_\_\_\_  
Murray Vandiver (SEAL)  
TREASURER

BEING AND CONSTITUTING THE BOARD OF PUBLIC  
WORKS OF THE STATE OF MARYLAND.

11.

STATE OF MARYLAND,

BALTIMORE CITY, TO WIT:

I HEREBY CERTIFY that on this 4th day of January, 1905, before me, the subscriber, a Notary Public in and for the State and City aforesaid, personally appeared Edwin Warfield, Governor of the State of Maryland; Gordon T. Atkinson, Comptroller of the State of Maryland; and Murray Vandiver, Treasurer of the State of Maryland, they being and constituting the Board of Public Works of the State of Maryland of the State of Maryland, and did each, for himself and as a member of said Board of Public Works of the State of Maryland, acknowledge the foregoing deed of assignment to be his act, as such, and the act of the Board of Public Works of the State of Maryland.

IN WITNESS WHEREOF I have hereunto set my hand and notarial seal the date last above written.

WINSON G. GOTT.  
NOTARY PUBLIC.

SEAL

(This assignment is in proper legal form and is proper to be executed by the Governor, Comptroller and the Treasurer and on receipt of the purchase price to be delivered to Fairfax S. Landstreet.

(Signed)

William D. Bryan, Jr., Attorney-General)

No 4191 + 4198 Equity

"Exhibit claim of  
Charles P. Ranneberger"



Filed May 29 1928

THE CHESAPEAKE AND OHIO CANAL COMPANY

TO CHARLES P. RANNEBERGER

Dr.

To amount due me for work and labor done by me as Boss Workman on said Canal in employ of said Canal Company for month of November in year 1887	\$ 50.00
To amount due me for work and labor done by me as Boss Workman on said Canal in employ of said Canal Company for month of December in year 1887	\$ 50.00
	<u>\$ 100.00</u>

STATE OF MARYLAND, FREDERICK COUNTY, Sct:

I hereby certify that on this 28th day of August in the year nineteen hundred before me the subscriber, a Notary Public of the State of Maryland in and for Frederick County, personally appeared Jacob B. Tyson one of Jacob B. Tyson and Henry B. Tyson Co. partners trading in the firm name of J. Tyson & Son and made oath in due form of law that said Jacob B. Tyson and Harry B. Tyson are co-partners constituting and comprising the firm of J. T. Tyson & Son and were such in the year 1887 and that the order Nos. 172 and 173 on the paymaster of The Chesapeake and Ohio Canal Company for Fifty Dollars each which are hereto attached were delivered to said firm as security for an indebtedness owing said firm by Charles P. Ranneberger but that there was never anything directly or indirectly paid to said firm of J. T. Tyson & son or any member thereof for or on account of said orders by said Canal Company or any one on its behalf though demand therefor was only made on said Company and that upon payment by said Charles P. Ranneberger of his indebtedness aforesaid to said J. Tyson & Son the said orders were duly assigned by said J. Tyson & Son to the said Charles P. Ranneberger.

JACOB B. TYSON

Test GEO. W. HEINLEIN.

Sworn to and subscribed before me by the aforesaid Jacob B. Tyson the affiant. In testimony whereof I have hereunto subscribed my name and affixed my official and Notarial Seal the said 28th day of August in the year nineteen hundred.

GEO. W. HEINLEIN  
Notary Public

(N.P. SEAL)

STATE OF MARYLAND, FREDERICK COUNTY, Sct:

I hereby certify that on this 28th day of August in the year nineteen hundred before me the subscriber, a Notary Public of the State of Maryland in and for Frederick County personally appeared Charles P. Ranneberger who made oath in due form of law that he is the same person whose name is subscribed to orders Nos. 172 and 173 on the Paymaster of the Chesapeake and Ohio Canal Company for Fifty Dollars each hereto attached and which are for work and labor done in on and upon said Canal by me the said Charles P. Ranneberger and which each represent valid and subsisting claims owned and held by me the said Charles P. Ranneberger for work and labor done by me as Boss Workman upon said Canal while in the employ of said Canal Company as such as charged in the account therefor attached hereto and said affiant further made oath as aforesaid that said claims have not directly or indirectly been paid by said Canal Company or anyone on behalf of said Company nor has any part thereof been so paid but the whole amount so charged by him the said Charles P. Ranneberger is still due owing and unpaid by said Canal Company and that he was ignorant of the limitations expressed in the Act of 1896.

CHAS. P. RANNEBERGER

Test: GEO W. HEINLEIN.

Sworn and subscribed before me by the said affiant Charles P. Ranneberger. In testimony whereof I have hereunto subscribed my name and affixed my official and Notarial Seal this said 28th day of August, A.D. 1900.

GEO. W. HEINLEIN  
Notary Public

(N.P.SEAL)

STATE OF MARYLAND, Aug.29 COUNTY PRINCE GEORGE'S:

I, Stephen Gambrell of P.Geo's County in the State of Maryland hereby certify that I was treasurer of The Chesapeake and Ohio Canal Company during the year eighteen hundred and eighty seven and at the time when the claims of Charles P. Ranneberger, hereto attached, for work and labor done by him as Boss Workman in on and about said Canal accrued and said work and labor was performed by him as charged in his account therefor which is hereto attached and which claims are also represented in the Orders Nos. 172 and 173 on the Paymaster of the said The Chesapeake and Ohio Canal Company for Fifty Dollars each and altogether amounting to the sum of One Hundred Dollars, and I hereby further certify that said claims of said Charles P. Ranneberger were correct due and unpaid at the time of issue and to the best of my knowledge are still unpaid.

In testimony whereof I have hereunto subscribed my name this 29 day of August in the year nineteen hundred.

STEPHEN GAMBRILL.

(Filed Aug. 30, 1900).

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:-

I hereby certify that the foregoing is a true copy of claim filed in No. 4191 and 4198 Equity consolidated in the Circuit Court for Washington County, the same having been filed August 30, 1900.

IN TESTIMONY WHEREOF I hereunto subscribe my name and affix the Seal of the Circuit Court for Washington County at Hagerstown, this 24<sup>th</sup> day of *May* A.D. 1928.

*Edward Oswald* Clerk.

THE CHESAPEAKE AND OHIO CANAL COMPANY,

to

CHARLES P. RANNEBERGER, Dr.

To	Amount due for work and labor done by me as boss workman on said canal in employ of said Canal Company for month of November, 1887	\$ 50.00
"	Amount due me for work and labor done by me as boss workman in said Canal in employ of said Canal Company for month of December, 1887	\$ <u>50.00</u>
		\$ 100.00
To	Interest on above	

BALTIMORE  
OFFICE SUPPLY CO.

STATE OF MARYLAND, FREDERICK COUNTY, to-wit:-

I hereby certify that on this 9<sup>th</sup> day of May, A. D. 1928, before me, the subscriber, a Notary Public of the State of Maryland, in and for Frederick County, personally appeared Charles P. Ranneberger, and made oath in due form of law that the annexed account as stated is just and true and that he hath not received any part of the money stated to be due, or any security or satisfaction for the same and that no other person has received any parcel of the said sum nor any security or satisfaction for the same, or any part thereof, to the best of his knowledge and belief.

Witness whereof my hand and Notarial Seal:

Geo. W. Heinlein  
Notary Public.

No 4191 & 4198 Equity

"Exhibit claim of  
R. E. Ganey."

Filed May 29 1928



Stephen Gambrill, President  
P.O. Address-Laurel, Md.

PRESIDENT'S OFFICE  
CHESAPEAKE & OHIO CANAL COMPANY

Spencer Watkins  
Treasurer

Georgetown, D.C., August 7th, 1889.

Mr. R. E. Tanney,  
Dear Sir

The orders you sent in signed by Thomas Bootman  
are all right and have been marked to your credit on the Rolls.

Yours respectfully  
D.W. Snowden

\$155.00

Correct

S. Gambrill, Prest. C & O C Co.

Hancock, Md. Sept 1st, 1900.

CHESAPEAKE & OHIO CANAL CO.

to R. E. Taney

Dr.

July 1888	W. T. Bootman favor R.E. Taney	20.00
	Int from Aug. 1st, 1888 to Sept 1st, 1900	14.50
Aug. 1888	W. T. Bootman	20.00
	Int. from Sept 1st, 1888 to Sept 1st, 1900	14.40
Dec. 1888	W. T. Bootman	20.00
	Int. from Jan. 1st, 1889 to Sept. 1st, 1900	14.00
Jan. 1889	W. T. Bootman	15.00
	Int from Feby 1st 1889 to Sept 1st, 1900	10.42
Ap'l 1889	W. T. Bootman	20.00
	Int. from May 1st, 1889 to Sept 1st, 1900	13.60
May 1889	W. T. Bootman	20.00
	Int. from June 1st. 1889 to Sept 1st, 1900	13.50
Sept 1888	W. T. Bootman	20.00
	Int from Oct 1st 1888 to Sept 1st, 1900	14.30
Nov. 1888	W. T. Bootman	20.00
	Int from Dec 1st, 1888 to Sept, 1900	14.10
		<u>263.82</u>

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:-

On this 15th day of August, 1900, before the subscriber,  
Clerk of the Circuit Court for Washington County, personally appeared  
R. E. Taney and made oath in due form of law, that the annexed  
account, as stated, is just and true, and that he hath not received  
any part of the money stated to be due, or any security or satis-  
faction for the same.

GEO. B. OSWALD Clerk.

Laurel, Md. Aug. 29, 1900.

I hereby certify that certificates Nos. 47 to 54 inclusive of the  
Ches. & Ohio Canal Co., issued by Boss, Sam'l Sterling to W. T.  
Bootman, in favor of R. E. Taney amounting to \$155.00 are correct  
and unpaid. Evidence of same being that Mr. Taney holds the  
original certificates.

S. GAMBRILL  
Former Prest. C & O C Co.

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:-

I hereby certify that the foregoing is a true copy of claim  
filed in No. 4191 and 4198 Equity consolidated in the Circuit Court  
for Washington County, the same having been filed Aug. 15, 1900.

IN TESTIMONY WHEREOF, I hereunto sub-  
scribe my name and affix the seal of  
the Circuit Court for Washington County  
at Hagerstown, this 24<sup>th</sup> day of May  
A.D. 1928.

Edward Oswald Clerk.

CHESAPEAKE & OHIO CANAL COMPANY,

to

R. E. TANEY, Dr.

To orders signed by W. T. Bootman as follows:

July 1888	W. T. Bootman	favor	R. E. Taney	\$	20.00
Aug. "	" "	"	" " "		20.00
Dec. "	" "	"	" " "		20.00
Jan. 1889	" "	"	" " "		15.00
Apr. "	" "	"	" " "		20.00
May "	" "	"	" " "		20.00
Sept. 1888	" "	"	" " "		20.00
Nov. "	" "	"	" " "		20.00

To Interest on above

*Howard Boyd*

DISTRICT OF COLUMBIA, to-wit:-

I hereby certify that on this 7<sup>th</sup> day of May, A. D. 1928, before me, the subscriber, a Notary Public of the District of Columbia, personally appeared Howard Boyd, one of the Executors of R. E. Taney, and made oath in due form of law that the annexed account as stated is just and true and that he hath not received any part of the money stated to be due, or any security or satisfaction for the same and that no other person has received any parcel of the said sum nor any security or satisfaction for the same, or any part thereof, to the best of his knowledge and belief.

Witness whereof my hand and Notarial Seal:

*George Hub Bonnell*  
Notary Public.

No 4191 & 4198 Equity

"Exhibit claim of  
Clayton S. Fields."

Filed Mar 29 1928

The Chesapeake & Ohio Canal Co.  
to Clayton S. Fields, of Montgomery County,

Dr.

To certificates of indebtedness, hereunto appended,  
to the following named parties, and which for a  
valuable consideration were assigned to said Fields,  
namely:

April 19, 1899,	E. Wood	\$	17.50
" 20 "	P. Collier		2.80
" 27 "	E. Wood		2.80
" 27 "	L. Cornwell		13.20
May 1 "	J. C. Whalen		12.00
" " "	" " "		4.90
" " "	" " "		15.20
" 4 "	" " "		9.10
" 28 "	E. Wood		10.15
" " "	" " "		12.75
July 2 "	John Conley		4.40
			<u>105.80</u>

State of Maryland, Montgomery County, to-wit:-

I hereby certify that on this 29th day of August in the year 1900, before me, the subscriber, a Justice of the Peace of the State of Maryland in and for Montgomery County personally appeared Clayton S. Fields and made oath in due form of law that the certificates of indebtedness of the Chesapeake & Ohio Canal Co. mentioned in this account, and hereunto appended were assigned to him by the respective parties to whom they purport to be issued and he paid the face value thereof for the same and that no part of any have been paid to the payees thereof or to him.

JOHN B. BREWER J.P.

STATE OF MARYLAND, MONTGOMERY COUNTY, Sct:

I hereby certify, that John B. Brewer Esquire, before whom the annexed affidavit was made, and who has thereto subscribed his name, was, at the time of so doing, a Justice of the Peace of the State of Maryland, in and for Montgomery County, duly appointed, commissioned and sworn, and authorized by law to take acknowledgments, and administer oaths, and to exercise the jurisdiction conferred by law on such Justice, and further that I am well acquainted with the hand writing of such Justice, and that the signature attached thereto, purporting to be his, I believe to be genuine.

IN TESTIMONY WHEREOF, I have hereunto  
subscribed my name and affixed the Seal  
of the Circuit Court for Montgomery  
County this 29th day of August, A.D. 1900.

THOMAS DAWSON

Clerk of the Circuit Court for Montgomery  
County.

(Filed Aug. 31, 1900)

CHESAPEAKE & OHIO CANAL CO.

		TO	C. S. FIELDS	Dr.
1889				
Mar.	2	To	25 lbs. G. Sugar @ 9¢	2.25
"	"	"	8 " coffee @ 27¢	2.16
"	"	"	½ lb. pepper	.15
"	"	"	54 " shoulder @ 11¢	5.94
"	"	"	6½ " butter @ 22	1.43
"	"	"	15 " lard @ 12¢	1.80
"	"	"	½ " tea .30 ½ lb. soda .04	.34
"	"	"	6 bott. yeast powd. 10	.60
"	"	"	Matches .15 pk beans .80	.95
"	"	"	½ bu. meal .30 4 sks. flour @ 80	3.50
"	16	"	3 pks. potatoes @ 15	.45
"	"	"	1½ lbs. coff.	.40
"	"	"	145 " beef	11.60
"	25	"	2 bu. potatoes	1.20
"	"	"	1 sk. flour, 5 lbs. sugar	1.20
"	"	"	1 gal. syrup 1 pk. salt	.65
"	"	"	15 lbs. Butter	3.30
"	"	"	10 " Shoulder	1.10
"	"	"	2 gals. Oil	.40
Apr.	2	"	20 lbs. G. Sugar	1.80
"	"	"	10 " Coffee	2.80
"	"	"	6 bott. y. Powd.	.60
"	"	"	1 pk beans	.80
"	"	"	1 gal. Syrup	.50
"	"	"	1 " Oil, Matches	.33
"	"	"	8 cks. soap, 10 lbs. lard	1.50
"	"	"	1 bbl. flour	6.25
"	8	"	25 lbs. shoulder	2.50
"	"	"	Horse Hire	1.00
"	"	"	2 doz. fish	.36
"	10	"	1 bot. blue, 1 oz. Nutmeg	.18
"	"	"	4 doz. eggs, 1 gal. vinegar	.70
"	"	"	1 Bx. Lye, 1 Broom-	.40
"	"	"	½ Bu. Parsnips	.20
"	15	"	23 lbs. shoulder, ½ gal. syrup	2.55
"	16	"	5 lbs. lard, 1 coffee Boiler	1.33
"	"	"	3 " Eggs, ½ lb. Tea	.60
"	"	"	5 " Coffee, 1 Bu. Potatoes	1.85
"	"	"	2 cans tomatoes, 10 lbs. Sugar	1.14
"	18	"	2 Doz. Fish, 1 Dish Pan	.66
"	19	"	32½ lbs. whoulder, 2 doz. eggs	3.45
"	"	"	1 gal. Oil, 1 can corn	.30
"	"	"	½ Gal. Syrup, 2 doz eggs	.45
"	"	"	1 Bu. Meal, 4 doz eggs	1.00
"	"	"	1 Gal. Beans, 5 lbs. Lard	.95
"	"	"	2 Tomatoes, 1 Bot. Blue	.32
"	"	"	10 lbs. shoulder, 125 fish	2.35
"	27	"	5 " Sugar, 1 Lantern	1.20
"	"	"	2 " Lard, Matches	.27
"	"	"	2 cans Corn, to E. Jarboe 4.24	4.48
"	"	"	10 lbs. Butter	2.00
"	"	"	4 doz. eggs	.40
"	"	"	6½ lbs. shoulder	.71
May	1st	"	12 " Sugar	1.20
"	"	"	6 " Coffee, 1.68 cash to Blacksmith <sup>50</sup>	2.18
"	"	"	5 " Lard, 6 Bxs. Matches	.70
"	"	"	1 Gal. Syrup, 4 Bott. yeast Powd.	.80
"	2	"	Brown Sug., 1 pk. salt	.50
"	"	"	500 Fish, 1 Gal. Beans	4.30
"	"	"	17 lbs. side, ½ lb. pepper	2.19
"	"	"	7 " shoulder, Wash Pan	.92
"	4	"	2 " nails, 1 Gal Oil	.26
"	8	"	1 comp 5 cks. soap	.35
"	"	"	1 bot. blue, 5 lbs. coff.	1.48

May	8	To	5 lbs. sug. 1 Bx. Lye	.60
"	9	"	12 " shoulder, W.Wh.Brush	1.70
"	10	"	8 " Side, 5# Butter	1.96
"	"	"	Horse and Cart hire	1.00
"	11	"	2 cans Corn, 1 Can Tomatoes	.32
"	13	"	20 lbs. shoulder	2.00
"	"	"	10 " lard, $\frac{1}{2}$ gal. Beans	1.40
"	14	"	1 gal. vinegar, 2 cans tomatoes	.54
"	"	"	Flour, 10 lbs. sugar	2.16
"	15	"	4 Bxs. Blue, 2 Bxs. Matches	.15
"	"	"	2 Doz. Eggs, 5 lbs. coffee	1.60
"	17	"	Frt. on Lumber, .60, 1 qt. beans	.70
"	18	"	Chalk Line, 1 can Peaches	.35
"	20	"	25 lbs. shoulder	2.50
"	"	"	1 oz. Nutmeg, 1 Gal. C.Oil	.28
"	21	"	2 Bxs. Bk. Powd, 1 qt. beans	.30
"	23	"	$\frac{1}{2}$ Gal. Beans, 2 lbs. Lard	.42
"	24	"	5 Doz. Eggs, 20 lbs. shoulder	2.50
"	"	"	5 lbs. Sugar, 2 lbs. Coffee, 1 qt. beans	1.16
"	27	"	2 cans Tomatoes, 15 lbs. Shoulder	1.74
"	"	"	2 $\frac{1}{2}$ doz. eggs, $\frac{1}{2}$ Gal. Beans	.45
"	28	"	5 lbs. Sugar, 2 lbs. Lard	.72
"	29	"	1 Can Peaches, 7 lbs. Butter	1.65
June	1	"	1 lb. Coffee, 16 lbs. shoulder	1.88
"	"	"	$\frac{1}{2}$ Gal. Beans, 2 W.W.Brushes	1.20
"	"	"	1 lb. Coffee, 1 Gal. C.Oil	.46
"	2	"	5 " Butter	.80
"	"	"	2 Cans Corn, 2 Cans Tomatoes	.44
"	"	"	1 Bot. R. G. Powder, 2 lbs. Lard	.30
"	"	"	2 lbs. Coffee, 16 lbs. Shoulder	2.16
"	"	"	21 " Side, $\frac{1}{2}$ lb. Pepper	2.67
"	"	"	3 cans Corn, 3 cans Tomatoes	.66
"	"	"	2 lbs. coffee, (25 lbs. sugar, 6 lbs. lard)	.56
"	"	"	25 lbs. sugar, 6 lbs. lard	3.22
"	"	"	5 lbs. coffee $\frac{1}{2}$ lb. tea	1.70
"	"	"	6 cans corn, 6 cans tomatoes	1.32
"	"	"	6 bot. R.Y.Powders, 5 cks. soap	.85
"	"	"	6 bxs. matches, 3 lbs. rice	.36
"	"	"	7 lbs. side	.84

145.92

26.58  
172.50

1889

Mar.	1	To	5 lbs. sugar, 3 doz. eggs	.87
"	"	"	1 " coffee, salt	.37
"	5	"	$\frac{1}{4}$ " tea, 17 lbs. shoulder	2.02
"	"	"	$\frac{1}{2}$ Bu. potatoes, $\frac{1}{2}$ Bu. Parsnips	.60
"	7	"	1 sk. flour, 1 lb. apples	.92
"	"	"	Lamp Wicks, 3 doz. eggs	.44
"	"	"	5 lbs. sugar, 1 lb. coffee	.72
"	"	"	1 Gal. Oil, 4 lbs. Butter	1.06
"	14	"	25 lbs. sug. shoulder	2.75
"	"	"	$\frac{1}{2}$ Bu. Potatoes, 1 lb. coffee	.57
"	"	"	7 lbs. G. Sugar, 2 $\frac{1}{2}$ lbs. butter	1.18
"	"	"	3 doz. eggs, 3 cans Tomatoes	.78
"	"	"	2 lbs. coffee, 1 sk. Flour	1.34
"	15	"	1 ck. soap, qt. syrup, matches	.32
"	"	"	$\frac{1}{2}$ Bu. Potatoes, 2 cans Peaches	.90
"	"	"	1 yeast Powd, 18 lbs. side	2.28
"	16	"	3 doz. eggs, 5 lbs. sugar	.87
"	"	"	1 sk. flour, 1 qt. syrup	.92
"	18	"	1 lb. coff. 1 doz. eggs	.41
"	"	"	2 " Sug., 15 Cabbage	.93
"	19	"	3 doz. eggs, 6 lbs. side	1.14

Mar. 19	To	1 Qt. Vinegar, $\frac{1}{2}$ Gal. syrup	.33
" 21	"	1 lb. coffee, 3 Doz. Eggs	.69
" "	"	1 ck. soap	.05
" 22	"	5 lbs. sug., 1 lb. apples	.57
" "	"	3 " side, 2 lbs. tomatoes	.60
" 23	"	1 sk. flour, 1 pk. potatoes	.90
" 25	"	2 doz. eggs, 2 lb. apples	.52
" "	"	Soap, 2 Bx. Matches	.10
" "	"	13 lbs. shoulder	<u>1.43</u>
			26.58

State of Maryland, Montgomery County, to-wit:-

I hereby certify that on this 29th day of August 1900, before me, the subscriber, a Justice of the Peace of the State of Maryland, in and for Montgomery County, personally appeared Clayton S. Fields and made oath in due form of law that the above and annexed account against the Chesapeake & Ohio Canal Company were for goods sold to C. F. Elgin at the dates mentioned in said accounts and at which time the said Elgin was a boos of the said Chesapeake & Ohio Canal Company and had charge of two company boats, and that the said goods were used thereon for the benefit of the employees, and that no part of said account has been paid and that the same is correct.

JOHN B. BREWER, J.P.

I hereby certify that the goods mentioned in the foregoing account of Clayton S. Fields were ordered by me in the line of my duty as an official of the Chesapeake & Ohio Canal Company, and that the same were supplied to the Company boats under my direction and control at the dates mentioned in said accounts.

CHAS. F. ELGIN.

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:-

I hereby certify that the foregoing is a true copy of claim filed in No. 4191 and 4198 Equity consolidated in the Circuit Court for Washington County, the same having been filed August 31, 1900.

IN TESTIMONY WHEREOF I hereunto subscribe my name and affix the Seal of the Circuit Court for Washington County at Hagerstown, this 24<sup>th</sup> day of *May* A.D. 1928.

Edward Oswald Clerk.

BALTIMORE  
THE CHESAPEAKE & OHIO CANAL COMPANY,

to

CLAYTON S. FIELDS, Dr.,

To Certificates of indebtedness assigned for a consideration to the said Fields, namely:

April	19,	1899	E. Wood	\$	17.50
"	20,	"	R. Collier		2.80
"	27,	"	E. Wood		2.80
"	27,	"	L. Cornwell		13.20
May	1,	"	J. C. Whalen		12.00
"	"	"	" " "		4.90
"	"	"	" " "		15.20
"	4,	"	C. S. Fields		9.10
"	28,	"	E. Wood		10.15
"	"	"	" " "		12.75
July	2	"	John Conley		4.40
For provisions furnished said Canal Company as shown by itemized statement filed					<u>172.50</u>
					\$ 278.30

To Interest on above

STATE OF MARYLAND, MONTGOMERY COUNTY, to-wit:-

I hereby certify that on this 11<sup>th</sup> day of May, A.D. 1928, before me, the subscriber, a Notary Public of the State of Maryland, in and for Montgomery County, personally appeared John E. Oxley, Administrator of Clayton S. Fields, and made oath in due form of law that the annexed account as stated is just and true and that he hath not received any part of the money stated to be due, or any security or satisfaction for the same and that no other person has received any parcel of the said sum nor any security or satisfaction for the same, or any part thereof, to the best of his knowledge and belief.

Witness whereof my hand and Notarial Seal:

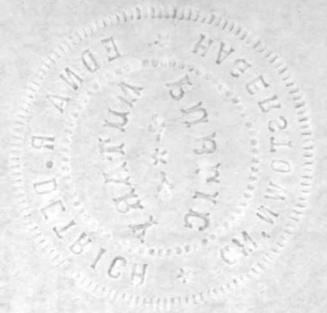
William E. Morgan,  
Notary Public.

No 4191 & 4198 Equity

210

"Exhibit claim of  
Daniel Marmaduke."

Filed May 29 1928



Stephen Gambrill, President  
P.O. Address, Laurel, Md.

Spencer Watkins,  
Treasurer

PRESIDENT'S OFFICE  
CHESAPEAKE & OHIO CANAL COMPANY

Mr. Dan. Marmaduke,  
Dear Sir

As requested I herewith enclose you statement  
of your time as taken from the unpaid Rolls.

Yours respect  
D. W. Snowden

April 1888	\$ 33.00	OK.
April 1889	22.00	OK.
May "	31.90	OK.
	<u>86.90</u>	

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:-

On this 21st day of August in the year of our Lord nineteen hundred before me, the subscriber, one of the Justices of the Peace in and for the said County, personally appeared Daniel Marmaduke and made oath in due form of Law that the above account is just and true, and that he hath not directly or indirectly received, (to his knowledge,) any part or parcel of the money therein charged as due by such account, or any security or satisfaction for the same.

Sworn before

GEO.S.MILLER J.P. (L.S.)

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:-

I hereby certify that the foregoing is a true copy of claim filed in No. 4191 and 4198 Equity consolidated in the Circuit Court of Washington County, the same having been filed Aug. 21, 1900.

IN TESTIMONY WHEREOF, I hereunto subscribe my name and affix the seal of the Circuit Court for Washington County at Hagerstown this 24<sup>th</sup> day of May A.D. 1928.

Edward Oswald Clerk.

BALTIMORE  
CHESAPEAKE & OHIO CANAL COMPANY,

to

DANIEL MARMADUKE, Dr.

To Labor for said Company:

April, 1888	33.00
" 1889	22.00
May "	31.90

To Interest on above

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:

I hereby certify that on this 10<sup>th</sup> day of May, A. D. 1928, before me, the subscriber, a Notary Public of the State of Maryland, in and for Washington County, personally appeared John H. Marmaduke, Administrator of Daniel Marmaduke, and made oath in due form of law that the annexed account as stated is just and true and that he hath not received any part of the money stated to be due, or any security or satisfaction for the same and that to the best of his knowledge and belief, no other person has received any parcel of the said sum nor any security or satisfaction for the same, or any part thereof.

Witness whereof my hand and Notarial Seal:

Edna R. Stsich  
Notary Public.

No 4191 & 4198 Equity

"Exhibit claim of  
John H. Burgess."

Filed May 29 1928



STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:-

On this 30th day of August 1900, before the subscriber, Clerk of the Circuit Court for Washington County, personally appeared J. W. Burgess and made oath in due form of law, that the annexed account, as stated, is just and true, and that he hath not received any part of the money stated to be due, or any security or satisfaction for the same.

GEO. B. OSWALD, Clerk.

Ches & Ohio Canal Company  
to J. W. Burgess Dr.  
For services as Carpenter

March	1886	60.00
November	1887	60.00
December	1887	60.00
April	1888	60.00
May	1888	60.00
June	1888	60.00
July	1888	60.00
August	1888	60.00
September	1888	60.00
November	1888	60.00
December	1888	60.00
February	1889	15.75
March	1889	60.00
April	1889	60.00
May	1889	60.00
June	1889	60.00
		<u>915.75</u>

Interest to date of Audit by C. A. Little	
October 1st, 1895	388.44
Interest from October 1st, 1895 to September	
1st, 1900	<u>270.14</u>
	1 574.33

I, Charles A. Little having been duly appointed and authorized by his then Excellency Frank Brown Governor of Maryland, to audit the outstanding claims against The Chesapeake and Ohio Canal Company do hereby certify that the claim of John W. Burgess was so audited by me and is mentioned and contained in my report to the said Governor bearing date the First day of October A. D. 1895 and that I audited said claim for the amount of \$915.75 principal and interest thereon to making to the date of audit the amount of \$1304.19.

CHARLES A. LITTLE

Auditor as above stated.

(Filed Aug. 30th, 1900)

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:-

I hereby certify that the foregoing is a true copy of claim filed in No. 4191 and 4198 Equity consolidated in the Circuit Court for Washington County, the same having been filed August 30th, 1900.

IN TESTIMONY WHEREOF I hereunto subscribe my name and affix the Seal of the Circuit Court for Washington County at Hagerstown, this 24<sup>th</sup> day of *May* A. D. 1928.

*Edward Oswald* Clerk.

BALTIMORE

CHESAPEAKE & OHIO CANAL COMPANY,

to

J. W. BURGESS, Dr.

For services as carpenter:

March	1886	60.00
November	1887	60.00
December	1887	60.00
April	1888	60.00
May	1888	60.00
June	1888	60.00
July	1888	60.00
August	1888	60.00
September	1888	60.00
November	1888	60.00
December	1888	60.00
February	1889	15.75
March	1889	60.00
April	1889	60.00
May	1889	60.00
June	1889	60.00

60.00  
\$915.75

To Interest on above

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:-

I hereby certify that on this *9<sup>th</sup>* day of May, A.D. 1928, before me, the subscriber, a Notary Public of the State of Maryland, in and for Washington County, personally appeared Mary M. Henry, administratrix of J. W. Burgess, and made oath in due form of law that the annexed account as stated is just and true and that she hath not received any part of the money stated to be due, or any security or satisfaction for the same and that no other person has received any parcel of the said sum nor any security or satisfaction for the same, or any part thereof, to the best of her knowledge and belief.

Witness whereof my hand and Notarial Seal:

*Edna R. Detsich*  
Notary Public.

Nos. 4191 and 4198 Equity.

Certificate in Claim  
of George L. Scaggs.

*Filed Dec 17 1928*

JNO. E. WAGAMAN  
ATTORNEY AT LAW  
HAGERSTOWN, MARYLAND

November 17, 1928

The Clerk of the Circuit Court, of Prince George's Co.,  
Upper Marlboro, Maryland.

Dear Sir:

We have an affidavit here subscribed  
by John T. Burch, Justice of the Peace of your  
County, dated August 13, 1900.

Will you please send me a certificate  
certifying that John T. Burch was a Justice of the  
Peace of your County in the month of August, 1900,  
with your bill for the same, and oblige,

Yours very truly,

*Jno. E. Wagaman.*

JEW:ED

*Dear Sir -*

*Our records show that Jno. T. Burch was a Justice of the Peace August 13<sup>th</sup> 1900. Can not use any regular form of certificate unless the original paper was present in our books very truly  
J. C. P. - Geo. Leo. - Sec. -*

No 4191 & 4198 Equity

"Exhibit claim of  
Thomas E. Bissett."

Filed May 29 1928

Great Falls, Md.  
August 20/1900.

The Chesapeake & Ohio Canal Company,

	Dr.
To 29 days carpenter's work done in the month of March, 1889, at \$1.50 per day	43.50
" 35 days carpenter's work done in the month of April 1889 at \$1.50 per day	52.50
" 28 days carpenter's work done in the month of May 1889 at \$1.50 per day	42.00
" 11 days carpenter's work done in the month of June 1889 at \$1.50 per day	16.50
" To services rendered as watchman at Great Falls by order from Stephen Gambrill from June 10th. to Dec. 31st. 1889 at \$15. per month	100.00
	<u>\$254.50</u>

Note: That during the performance of the carpenter's work charged for in the foregoing account I was the boss carpenter on a section of the canal extending from the foot of the Seven Locks to Edwards' Ferry, and as such I was frequently required to work on the Sabbath day as well as during the night.

THOS. E. BISSETT.

State of Maryland, Montgomery County, to wit.

I hereby certify that on this twentieth day of August, A.D. 1900, before the subscriber a Notary Public of the said State in and for the County aforesaid, personally appeared Thomas E. Bissett and made oath in due form of law, that the above account is just and true, and that he hath not directly or indirectly received any part or parcel of the amount charged as due by such account, or any security or satisfaction for the same, that he still owns said account and has not assigned the same or any part thereof.

(N.P. SEAL)

GEORGE M. HUNTER, Notary Public.

(Filed August 20, 1900)

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:-

I hereby certify that the foregoing is a true copy of claim filed in No. 4191 and 4198 Equity consolidated in the Circuit Court for Washington County, the same having been filed August 29, 1900.

IN TESTIMONY WHEREOF I hereunto subscribe my name and affix the Seal of the Circuit Court for Washington County at Hagerstown this 24<sup>th</sup> day of *May* A.D. 1928.

Edward Oswald Clerk.

THE CHESAPEAKE & OHIO CANAL COMPANY,

to

THOMAS E. BISSETT, Dr.

To	29 days carpenter work done in the month of March 1889 at \$1.50 per day	\$ 43.50
"	35 days carpenter work done in the month of April, 1889 at \$1.50 per day	52.50
"	28 days carpenter work done in the month of May, 1889 at \$1.50 per day	42.00
"	11 days carpenter work done in the month of June, 1889 at \$1.50 per day	15.50
"	Services rendered as watchman at Great Falls by order from Stephen Gambrill from June 10 to December 31, 1889 at \$15.00 per month	<u>100.00</u>
		\$ 254.50
To	Interest on above	

*Thomas E. Bissett*

STATE OF MARYLAND, MONTGOMERY COUNTY, to-wit:

I hereby certify that on this *8<sup>th</sup>* day of May, A. D. 1928, before me, the subscriber, a Notary Public of the State of Maryland in and for Montgomery County, personally appeared Thomas E. Bissett, and made oath in due form of law that the annexed account as stated is just and true and that he hath not received any part of the money stated to be due, or any security or satisfaction for the same and that no other person has received any parcel of the said sum nor any security or satisfaction for the same, or any part thereof, to the best of his knowledge and belief.

Witness whereof my hand and Notarial Seal:

*W. D. Bagley*  
Notary Public. *W. D. Bagley*  
*5/6/28*

No 4191 & 4198 Equity

"Exhibit Claim  
of John G. Stone."



Filed May 29 1928

2:10  
50:30  
50:00  
50:00  
7:20  
5:00

Montgomery Co. Md.

THE C & O. CANAL CO. to JOHN G. STONE, Dr.

Time of	Alex Hill	1888	July	assigned	4.90
" "	Sam. Anderson	"	Aug.	"	19.60
" "	James Williard	"	July	"	20.00
" "	Jos. West	"	"	"	20.00
" "	Saml. Mansfield	"	"	"	20.00
" "	Henry Gibbs	"	"	"	20.00
" "	John Sipe	"	"	"	5.60
					<u>110.10</u>

Bought at discount but cannot learn amount of discount.

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:-

I hereby certify that the foregoing is a true copy of claim filed in No. 4191 and 4198 Equity consolidated in the Circuit Court for Washington County, the same having been filed August 14, 1900.

IN TESTIMONY WHEREOF, I hereunto subscribe my name and affix the seal of the Circuit Court for Washington County at Hagerstown, this <sup>May</sup> 24 day of A.D. 1928.

Edward Oswald Clerk.

BALTIMORE

OFFICE SUPPLY CO.

CHESAPEAKE & OHIO CANAL COMPANY,

to

JOHN G. STONE, Dr.

To Orders drawn on the pay master of said Canal Company and signed by John G. Stone, for a consideration:

Time of	Alex Hill	July, 1888	4.90
" "	Sam Anderson	Aug. "	19.60
" "	James Willard	July "	20.60
" "	Joseph West	" "	20.00
" "	Sam Mansfield	" "	20.00
" "	Henry Gibbs	" "	20.00
" "	John Sipe	" "	5.60

To Interest on above

STATE OF MARYLAND, MONTGOMERY COUNTY, to-wit:-

I hereby certify that on this 8<sup>th</sup> day of May, A. D. 1928, before me, the subscriber, a Notary Public of the State of Maryland, in and for Montgomery County, personally appeared Bessie L. Stone (now Waters) Administratrix of John G. Stone, and made oath in due form of law that the annexed account as stated is just and true and that she hath not received any part of the money stated to be due, or any security or satisfaction for the same and that no other person has received any parcel of the said sum nor any security or satisfaction for the same, or any part thereof, to the best of her knowledge and belief.

Witness whereof my hand and Notarial Seal:

*Eydia F. Pellyman*  
Notary Public.

No 4191-4198 Equity

"Exhibit claim of  
John H. Fields."

Filed May 29 1928

THE CHESAPEAKE & OHIO CANAL COMPANY

To JOHN W. FIELDS

DR.

1887	Nov.	To Labor as Lock Keeper	20.00
	Dec.	" " " " "	20.00
1888	Aprl.	" " " " "	20.00
	May	" " " " "	20.00
	June	" " " " "	20.00
	July	" " " " "	20.00
	August	" " " " "	20.00
	September	" " " " "	20.00
	November	" " " " "	20.00
	December	" " " " "	20.00
1889	January	" " " " "	15.00
	Febry	" " " " "	15.00
	March	" " " " "	15.00
	April	" " " " "	20.00
	May	" " " " "	20.00
	June	" " " " "	20.00
			<u>\$305.00</u>

State of Maryland, Montgomery County, to-wit:-

I hereby certify that on this 16th day August, in the year nineteen hundred, before the Subscriber, a Justice of the Peace of the State of Maryland, in and for Montgomery County, personally appeared John W. Fields and made oath in due form of law that the annexed account is just and true as stated, and that he has not received, either directly or indirectly any part or parcel of the money so stated to be due or any security or satisfaction of the same.

JOHN B. BREWER  
Justice of the Peace

STATE OF MARYLAND, MONTGOMERY COUNTY, Sct;

I hereby certify, that John B. Brewer Esquire, before whom the annexed affidavit was made, and who has thereto subscribed his name, was, at the time of so doing, a Justice of the Peace of the State of Maryland, in and for Montgomery County, duly appointed, commissioned and sworn, and authorized by law to take acknowledgments, and administer oaths, and to exercise the jurisdiction conferred by law on such Justice, and further that I am well acquainted with the hand writing of such Justice, and that the signature attached thereto, purporting to be his, I believe to be genuine.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the Seal of the Circuit Court for Montgomery County this 16th day of August, A.D. 1900.

THOMAS DAWSON  
Clerk of the Circuit Court for Montgomery County.

I hereby certify that at the time the claims of John W. Fields set out in the above statement accrued I was the President of the Chesapeake and Ohio Canal Company, and I further certify that the same are correct, due and unpaid.

STEPHEN GAMBRILL.

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:-

I hereby certify that the foregoing is a true copy of claim filed in No. 4191 and 4198 Equity consolidated in the Circuit Court for Washington County, the same having been filed Aug. 20th, 1900.

IN TESTIMONY WHEREOF, I hereunto subscribe my name and affix the seal of the Circuit Court for Washington Co. at Hagerstown, this 24 day of May A.D. 1928.

Edward Oswald Clerk.

THE CHESAPEAKE & OHIO CANAL COMPANY,

to

JOHN W. FIELDS, Dr.

1887	November	To labor as lock keeper	20.00
"	December	" " " " "	20.00
1888	April	" " " " "	20.00
"	May	" " " " "	20.00
"	June	" " " " "	20.00
"	July	" " " " "	20.00
"	August	" " " " "	20.00
"	September	" " " " "	20.60
"	November	" " " " "	20.00
"	December	" " " " "	20.00
1889	January	" " " " "	15.00
"	February	" " " " "	15.00
"	March	" " " " "	15.00
"	April	" " " " "	20.00
"	May	" " " " "	20.00
"	June	" " " " "	# 20.00

To Interest on above

DISTRICT OF COLUMBIA, to-wit:

I hereby certify that on this *8th* day of May, A.D. 1928, before me, the subscriber, a Notary Public of the District of Columbia, personally appeared John W. Fields, and made oath in due form of law that the annexed account as stated is just and true and that he hath not received any part of the money stated to be due, or any security or satisfaction for the same and that no other person has received any parcel of the said sum nor any security or satisfaction for the same, or any part thereof, to the best of his knowledge and belief.

Witness whereof my hand and Notarial Seal:

*[Signature]*  
Notary Public, D.C.

No 4191 + 4198 Egeuby



"Exhibit Letters of  
Administration of  
John H. Marmaduke."

Filed May 29 1928

State of Maryland, Washington County, ss: wit:

I, the undersigned, Clerk of the County, do hereby certify that the

above named letters of administration were filed in my office on the

\_\_\_\_\_ day of \_\_\_\_\_, 1928.

Witness my hand and the seal of said County at \_\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_, 1928.

\_\_\_\_\_ Clerk of the County

# State of Maryland, Washington County, to-wit :

*To all whom these Presents shall come or may Concern :*

KNOW YE, That on the 10th day of May A. D., ~~1922~~<sup>1912</sup>

before the Orphans' Court of Washington County, duly thereunto elected, commissioned and qualified according to the Constitution of the State of Maryland, the last

Will and Testament of Daniel Marmaduke

late of said County, deceased, was in due form of law admitted to probate; and that on the

10th day of May A. D., ~~1922~~<sup>1912</sup> Letters Testamentary of all and singular the goods, chattels, rights and credits, which were of the said deceased, or in any manner or

way concerning said last Will and Testament, were granted unto \_\_\_\_\_

John H. Marmaduke,

the Executor in and by the said Will named and appointed, he having first entered into bond with approved security for the due performance thereof according to law, and that

he is still the acting Executor of said estate.

In testimony whereof, I Chas. A. Weagly,

Register of Wills for Washington County aforesaid, do hereunto set my hand and affix the Seal of the Orphans' Court of Washington County, this 14th day of May A. D., 1928

Chas. A. Weagly Register of Wills.

Registers of Wills  
Book

No. 41904198 Equity



"Exhibit Letters  
of Howard Boyd,  
et al."

Filed May 29 1928

# State of Maryland, Washington County, to-wit :

*To all whom these Presents shall come or may Concern :*

KNOW YE, That on the 22nd day of April, A. D., 1923  
before the Orphans' Court of Washington County, duly thereunto elected,  
commissioned and qualified according to the Constitution of the State of Maryland, the last  
Will and Testament of Raphael E. Taney,  
late of said County, deceased, was in due form of law admitted to probate; and that on the  
16th day of May, A. D., 1923 Letters Testamentary of all and singular  
the goods, chattels, rights and credits, which were of the said deceased, or in any manner or  
way concerning said last Will and Testament, were granted unto Howard Boyd, E. Ashby  
Barnett and Harry W. Boyd  
the Execut ors in and by the said Will named and appointed, they having first entered  
into bond with approved security for the due performance thereof according to law, and that  
they are still the acting Execut ors of said estate.

In testimony whereof, I Chas. A. Weagly,

Register of Wills for Washington County aforesaid, do hereunto set my  
hand and affix the Seal of the Orphans' Court of Washington County,  
this 18th day of April, A. D., 1923

Chas. A. Weagly Register of Wills.

No 4191 & 4198 Equity

"Exhibit Letters of  
Administration of  
Mary M. Heney."

Filed May 29 1928

THE STATE OF MARYLAND

# THE STATE OF MARYLAND

To All Persons to Whom These Presents Shall Come or May Concern:

KNOW YE, That on the 9th day of May, in the year of our Lord one thousand nine hundred and twenty-eight, Letters of Administration -----  
\_\_\_\_\_ on the personal estate of John W. Burgess  
late of Washington County, deceased, were regularly granted unto Mary M. Henry  
\_\_\_\_\_ by the Register of Wills  
said County, duly thereunto elected, commissioned and qualified according to the Constitution of the State of Maryland, aforesaid, and on the same day and year aforesaid the said \_\_\_\_\_  
Mary M. Henry accepted the said appointment, and gave bond in the penalty of Fifteen Hundred Dollars, (\$1500.00) with security which was approved by the said Register for the faithful performance of her trust as Administrarix aforesaid, and that she is still acting Administrarix of said estate.

In testimony whereof, I Chas A. Weagly,

Register of Wills for said County, do hereunto set my hand and affix the Seal of my office this 14th  
day of May 1928

Chas. A. Weagly  
Register of Wills.

No 4191 - 4198 Equity

Trustees Report  
1927

Filed May 29<sup>th</sup> 1928

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY

.....  
George S. Brown et al., :  
Trustees, :  
vs. : Nos. 4191 and 4198  
The Chesapeake and Ohio Canal Company et al. : Consolidated  
: Causes.  
.....

Report of George A. Colston and Herbert R. Preston,  
Surviving Trustees.

To the Honorable,

the Judges of the Circuit Court for Washington County:

In accordance with decree of this Court entered on the Twenty-seventh day of December, 1905, the undersigned Trustees respectfully report to the Court their receipts and disbursements for the year ended December 31, 1927, as such Trustees, and file herewith and make a part hereof the following statements and accounts:

1. Statement of receipts and disbursements for the year ended December 31, 1927.
2. Statement of profit and loss account, December 31, 1927.
3. Balance sheet, December 31, 1927.

The conditions set out in the Trustees last report have continued substantially the same. There has been no unusual damage to the Canal during the past year, and should there be a change in the coal business which would justify the resumption of operation the Canal could be put into operation without great expense. The Trustees have continued a reduced force on the Canal, as small as is consistent with the looking after the property. Until there is some change in the coal business, which would make

it possible to resume the coal traffic on the Canal, the Trustees will continue to maintain the present organization and keep the property in proper condition for reopening as soon as conditions justify.

Respectfully submitted,

Herbert R. Preston  
George H. Colston

Surviving Trustees.

State of Maryland  
City of Baltimore

to wit:

On this *28<sup>th</sup>* day of May, 1928, personally appeared Herbert R. Preston, who, being duly sworn, did depose and say that the matters and facts set out in the foregoing report are true to the best of his knowledge and belief.

*Geo. W. Haulenbeck*

Notary Public.

My Commission  
expires. *May 6, 1929*

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY  
RECEIPTS AND DISBURSEMENTS FOR YEAR ENDED DECEMBER 31, 1927.

Balance, January 1, 1927, \$6,564.84

Receipts:

Earnings	\$34,033.46	
Received from Chesapeake and Ohio Transportation Company to cover deficit in operation	<u>8,957.87</u>	<u>42,991.33</u>
Gross receipts		49,556.17

Disbursements:

Operating expenses		<u>42,991.33</u>
		\$ 6,564.84

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY

PROFIT AND LOSS ACCOUNT, DECEMBER 31, 1927.

Balance, January 1, 1927, \$6,564.84

Earnings:

Rents, water	\$24,867.80
Rents, houses and lands	<u>9,165.66</u>
Total earnings	\$34,033.46

Expenses:

Operating expenses	\$42,991.33
Loss from operation for year	8,957.87
From Chesapeake and Ohio Transportation Company to cover deficit in operation	<u>8,957.87</u>

\$6,564.84

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY  
BALANCE SHEET FOR THE YEAR ENDED DECEMBER 31, 1927.

BONDS OF 1878.

Assets.

Bonds of 1878 acquired	\$132,500.00	
Farmers & Merchants National Bank, Baltimore, to meet outstanding coupons and interest as per Court's order	858.78	
Interest accrued from August 30, 1922, to December 31, 1927,	<u>121,927.57</u>	\$255,286.35

Liabilities.

Purchase money unpaid Bonds of 1878,	\$132,500.00	
Outstanding coupons, Bonds of 1878,	750.00	
Interest on outstanding coupons, Bonds of 1878,	.108.78	
Interest accrued on unpaid purchase money; August 30, 1922, to December 31, 1927,	<u>121,927.57</u>	\$255,286.35

No 4191-4198 Equity

IN THE CIRCUIT COURT FOR  
WASHINGTON COUNTY

George S. Brown

vs.

C. & O. Canal Co.

Nos. 4191 & 4198  
Consolidated Causes.

Petition of the Trustees  
for Authority to Increase  
the Water Supply at the  
Georgetown Level.

Filed Aug 9 1928

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY

George S. Brown et al. :  
vs. : Nos. 4191 & 4198  
The Chesapeake and Ohio Canal Company et al. : Consolidated  
: Causes.

PETITION OF THE TRUSTEES FOR AUTHORITY  
TO INCREASE THE WATER SUPPLY AT THE  
GEORGETOWN LEVEL.

To the Honorable, the Judges of said Court:

Your petitioners respectfully show that under the various leases now in force the District of Columbia Paper Manufacturing Company is entitled to receive 12,214 cubic feet per minute of water for which it pays \$14,041.80 per year, and the Wilkins-Rogers Milling Company is entitled to receive 3,296 cubic feet of water per minute, for which it pays \$3,000. per year, and the Crystal Ice Company is entitled to receive 5,790 cubic feet of water per minute for which it pays \$6,026. per year; that the dam which furnishes water for the Georgetown Level, which supplies water for these plants, is a rough stone dam, which each year requires an expenditure of about \$500. to stop the leaks in it, and at times of low water, when the Canal is operating, it does not furnish sufficient supply of water for the operation of the Canal and for these plants. The lessees have been anxious for some years to have a greater water supply which will be better assured to them with an improvement to the dam, but the Trustees have not had the money to improve this dam as it should be im-

proved. The lessees have agreed that they will advance the money, which is estimated to be about \$25,000., but not more than \$28,000. in any event, which is to be returned to them by the Trustees by crediting the rentals against the amount advanced with interest thereon at 6%. Upon the increase of the water supply by the improvement of the dam, The District of Columbia Paper Manufacturing Company and the Crystal Ice Company agree jointly to take 3,000 cubic feet of water per minute additional for which they will pay at the rate of \$1,2136 per cubic foot per minute, and the Wilkins-Rogers Milling Company agrees to take not less than 544 additional cubic feet of water per minute per year for which it agrees to pay at the same rate. The latter company is expected to improve its facilities for taking water, and expects to take considerably more water. This will increase the revenue of the Trustees about \$4,250. per year, and, if the Wilkins-Rogers Milling Company takes water as is expected, it will further increase the revenue of the Canal Company, and the Trustees have agreed to ask authority of the Court to enter into an agreement substantially in the form attached.

Your petitioners are of opinion that this is greatly to the advantage of the trust they represent, as the increase of the rental and the lessening of the cost of keeping this dam in repair will be approximately \$5,000. per year, and may be more than that sum. They, therefore, ask that the Court

authorize the execution of this agreement substantially  
in form attached.

*Herbert R. Preston*  
*George A. Colston*

Trustees.

State of Maryland  
City of Baltimore

to wit;

On this *7<sup>th</sup>* day of August, 1928, before me, the  
subscriber, a Notary Public of the State of Maryland in and  
for the City of Baltimore aforesaid, personally appeared  
Herbert R. Preston, one of the Trustees of The Chesapeake  
and Ohio Canal Company, and made oath in due form of law that  
the matters and facts stated in the foregoing petition are  
true to the best of his knowledge and belief.

*Geo. W. Haulenbeck*

Notary Public.

My Commission  
expires

*May 6, 1929.*

ORDERED by the Circuit Court of Washington County that Herbert R. Preston and George A. Colston, Surviving Trustees, be and they are hereby authorized to enter into an agreement substantially in the form filed in this cause, authorizing them to permit the lessees of water rights named in said petition to improve the dam supplying the Georgetown Level, for which the lessees will provide the funds, not exceeding \$28,000., to be refunded with interest from the rents payable by each of the lessees.

*August 9<sup>th</sup> 1928.*

*Frank G. Wagman*

REVISED AGREEMENT

THIS AGREEMENT made this                    day of                    ,  
 1928, between Herbert R. Preston and George A. Colston,  
 Surviving Trustees, lawfully vested with the possession,  
 control and management of all the property of the Chesapeake  
 and Ohio Canal Company by virtue of the decree of the Circuit  
 Court for Washington County, Maryland, passed October 2, 1890,  
 in the Consolidated Causes in Equity Nos. 4191 and 4198 on  
 the docket of said Court, and by virtue of the decree of the  
 Supreme Court of the District of Columbia, passed November 1,  
 1890, in the Consolidated Causes in Equity No. 12240 on the  
 docket of the said Court, The District of Columbia Paper Manu-  
 facturing Company, Crystal Ice Company and Wilkins-Rogers  
 Milling Company.

WHEREAS the following companies are now lessees and holders  
 of certain water rights held under renewals, extensions and  
 consolidation of previous leases, the amount of water taken by  
 each and the rental now paid being as follows:

District of Columbia			
Paper Manufacturing Company	12,214 cu.ft.per min.		\$14,041.80
Wilkins-Rogers Milling Company	3,296 " " " "		3,000.00
Crystal Ice Company	5,790 " " " "		6,026.00

WHEREAS each of said companies desires to increase the amount  
 of water to be taken by it; and

WHEREAS in order to furnish additional water it is necessary  
 to improve the dam at the intake which furnishes water for the

Georgetown Level of the Canal at a cost estimated not to exceed \$28,000., and said Trustees have agreed with each of said companies that if they will pay the cost of the improvement of the dam they will refund to each of the companies the amount paid by it by crediting the rentals as a refund upon the amount paid by each of them for the improvement of said dam, with interest thereon at 6% from the date of the expenditure of the money until the whole amount with interest has been refunded.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH that the District of Columbia Paper Manufacturing Company agrees to advance \$16,000. and the Crystal Ice Company agrees to advance \$7,600. for the improvement of said dam and the Wilkins-Rogers Milling Company agrees to advance \$4,400. for the improvement of said dam, the work to be done and the money to be disbursed under the direction of the General Manager for the Trustees, and that when the dam has been improved and is capable of supplying the additional amount of water the District of Columbia Paper Manufacturing Company and the Crystal Ice Company will take jointly 3000 cubic feet per minute of additional water for which they agree to pay at the rate of \$1.2136 per cubic foot per minute per year, and the Wilkins-Rogers Milling Company will take not less than 544 additional cubic feet per minute per year for which it will pay at the rate of \$1.2136 per cubic foot per minute per year.

Upon each day when the water rent falls due upon any of the leases held by each of the parties, the Trustees will be credited with the amount of rental as a refund upon the advance

made by them, and interest on the said advances will be adjusted accordingly.

This grant of the right to take additional water shall continue as long as the leases now held by each of said parties continue, and shall be subject to and shall have the benefit of all the terms and conditions of said leases, it being intended by this agreement to increase the amount of water available under said leases, but not otherwise to affect the same.

The work shall be begun at the first available low water period in the Potomac River, and shall be continued until the dam is completed, unless interfered with by high water, and, if it cannot be completed in the summer of 1928, it will be completed as soon thereafter as the condition of the water in the Potomac River will permit the work to be done.

IN WITNESS WHEREOF said Surviving Trustees have hereunto set their hands and seals, and the said companies, parties hereto, have caused this agreement to be signed by their Presidents and their corporate seals to be hereunto affixed attested by their Secretaries.

\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
(SEAL)  
Surviving Trustees.

ATTEST:

THE DISTRICT OF COLUMBIA PAPER MANUFACTURING COMPANY  
By

President.

Secretary.

CRYSTAL ICE COMPANY  
By

ATTEST:

President.

Secretary

WILKINS-ROGERS MILLING COMPANY  
By

President.

ATTEST:

Secretary.

REMYCO PARAGON LINEN  
MADE IN U.S.A.

*No 4191 + 4198 Equity*

IN THE CIRCUIT COURT FOR  
WASHINGTON COUNTY

George S. Brown et al.

vs.

C. & O. Canal Company et al.

Answer of Herbert R. Preston  
and George A. Colston,  
Trustees, to petition  
of Mary M. Henry, Adminis-  
trator, et al.

*Filed Sept 17 1928*

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY:

George S. Brown, et al., Trustees	:	
	:	Nos. 4191 and 4198
vs.	:	
	:	Equity
Chesapeake and Ohio Canal Company, et al.	:	Consolidated Causes

To the Honorable, the Judges of said Court:

The answer of Herbert R. Preston and George A. Colston, Trustees, to the petition of Mary M. Henry, Administrator, et al. respectfully shows:

1. That your respondents are Trustees lawfully vested with the possession, control and management of all the property of the Chesapeake and Ohio Canal Company by virtue of the decree of this Court passed October 2, 1890, in this cause.

2. That your respondents and their predecessors as Trustees have performed all their duties as Trustees in compliance with the orders of the decree appointing them, and the further decrees and orders of this Court, and they deny that they have in any way failed to fulfill their duties as Trustees.

3. That none of the petitioners as creditors of the Canal Company are the holders of valid and enforceable claims against the Canal Company, or the Canal and its works, for the following reasons:

The Act approved April 2, 1896, Chapter 136½ of the Acts of 1896, provides in Section 1 that the State of Maryland waives all its liens upon the property, tolls and revenues of the Canal Company in favor of all claims against said Company for work and

labor done and material furnished between January 1, 1877, and January 1, 1890, in favor of all valid and subsisting judgments, and, in Section 2, that in case of the sale of said Canal said claims and judgments, when proven as specified in the Act, should have priority in distribution of the funds arising from such sale over the liens, claims and demands of the State, and, in Section 3, that the proof of such judgments and claims should be, in the case of judgments, the ordinary authentication thereof, and claims not reduced to judgments should be verified by affidavit of the owners and certified to be correct and unpaid by the President or Treasurer of the Canal Company, who was such when the claims accrued, and against such claims the plea of limitations should not be available. Section 4 required the Trustees of the bondholders of 1844 to permit inspection of books, etc. Section 5 provided that such judgments and claims should be authenticated, proven and certified before the first of September, 1896, and that when presented to any Judge having jurisdiction it should be the duty of the Judge to pass an order on such judgment or claim, certifying that the same had been duly authenticated, and in what amount, and directing the Clerk to file said claim and order in said case, and that such judgments and claims when filed should bear interest from the date of said order and entitled to the benefits of the Act. Your respondents, therefore, submit that ~~under~~ said Act of April 2, 1896, provided only for the ~~primary~~ waiver of the State's interest in favor of claims proven and certified in accordance therewith,

and only effected the law in respect to the plea of limitations in so far as the State's interest was concerned, and did not affect the bonds of 1844 or the bonds of 1878, which bonds are valid obligations of the Canal Company, and as such are at least entitled to the same rights and priorities as those accorded to any claims filed in pursuance of said Act, whether said bonds of 1844 are finally determined to be ~~liens~~ upon the tolls, and revenues of the Canal Company only, or liens upon the corpus of said Canal Company.

The Act approved April 5, 1900, recited the appointment by Governor Brown of Charles A. Little, of Washington County, as Auditor to ascertain the amounts of indebtedness due for labor and materials furnished the Canal Company, and that after the passage of said Act of 1896 the owners of a large number of claims and judgments were innocently under the impression that they had complied with the requirements of law so as to entitle their claims to the benefit of the waiver of the State's liens, and that they had since discovered that their claims, not having been proven in accordance with said Act they were not entitled to the benefits thereof. The Act then provided, in Section 1, that the provisions of the Act of 1896 were extended in favor of all of the creditors of the Canal Company who had theretofore filed their claims with the said Charles A Little, Auditor, but who were innocently under the impression that in so filing their claims they had com-

plied with the law, and that creditors complying with the provisions of this Act of 1900 should be entitled to the benefits of the Act of 1896 as though they had complied with the provisions thereof, and if their claims were not on the first day of September, 1896, under the provisions of said Act barred by limitation, then no limitations should run against them on account of the lapse of time from said date to the date of the filing of their claims under this Act of 1900, and that their claims should stand precisely as though they had filed their claims under the Act of 1896. Said Act in Section 2 provided that to avail themselves of the provisions of said Act of 1900 it should be necessary for said creditors for whose benefit the Act of 1896 was extended to file their claims on or before September 1, 1900, and to satisfy the Court that they each come within the classes of creditors mentioned in said Act. These respondents submit that under the Act of 1900 only those claimants who were entitled to the benefit of the Act of 1896 were entitled to the benefit of the Act of 1900, and, in order to entitle such claimants to the benefits of said last mentioned Act, it was necessary to show that they had filed their claims with said Charles A. Little, Auditor, prior to the passage of the Act of 1900, and that they were innocently under the impression that in so filing their claims they had complied with the Act of 1896, and to satisfy the Court that they had come within the classes of creditors mentioned in the Act of 1900; that the Act of 1900 did not supersede any of the provisions of

the Act of 1896, but only extended the benefits of said Act to certain creditors who could comply ~~but~~ <sup>and</sup> did ~~not~~ comply with the provisions of the Act of 1900 in respect of their claims.

Your respondents, therefore, deny that any of the petitioners named in said petition have complied with the requirements of these Acts, except as to the claim of John W. Burgess, which has been paid, for the following reasons:

The claim of John W. Burgess filed August 30, 1900, for \$915.75 was paid in March, 1916, before the death of said Burgess.

The claim of Clayton S. Fields filed August 31, 1900, for \$278.30 does not show that it was filed with the Auditor, or that the claimant was innocently under the impression that the claim had been properly filed, and was not proved by the Court or certified as correct by the President or Treasurer of the Canal Company.

The claim of Thomas E. Bissett, filed August 29, 1900, for \$254.50 is subject to the same objections.

The claim of John W. Fields, filed August 20, 1900, for \$305.00, is subject to the same objections, except that it does contain the approval of the President of the Canal Company.

The claim of Charles P. Ranneberger, filed August 30, 1900, for \$100. is subject to the same objections, except that the affidavit contains the statement that he was ignorant of the limitations of the Act of 1896, and it is proved by the President of the Canal Company.

The claim of R. E. Taney, filed August 15, 1900, for \$263.82

is subject to the same objections, except that it is proved by the President of the Canal Company.

The claim of Daniel Marmaduke, filed August 21, 1900, for \$86.90 is subject to the same objections, and the letter filed therewith is not such an approval as is required by the Act, not having been signed by the President or Treasurer of the Canal Company.

The claim of John G. Stone, filed August 14, 1900, for \$110.10 is subject to the same objections.

Your respondents, therefore, submit that none of these claims have been proven in accordance with the provisions of the said Acts for the reasons above given, and for other reasons to be given at the hearing, and that the Act of 1900 did not supersede the Act of 1896 in respect of the method of authentication, proof and certification of said claims, but only added the additional requirement that the claimant must satisfy the Court that the claims come within the classes for whose benefit the Act of 1896 was extended; that each of said Acts contemplates that the approval of the Court should be had at or before the filing of the claims, and further that the Act of 1896 provides that when properly filed and certified as to the amount of the claim such amount should bear interest from the date of the order of Court certifying as to such claims, and, therefore, if the Court at this time has jurisdiction to approve said claims, which your respondents respectfully submit is not the case, then no interest would accrue thereon until such certification.

Your respondents further submit that limitations have long since run against all of said claims, unless by the terms of said Acts such limitations were suspended, and that until proven as required by said Acts by order of Court said claims are not entitled to the benefit thereof.

Your respondents further submit that the State of Maryland did not and could not by said Acts do more than waive the statute of limitations as to its claims upon its interest in the Canal Company. Your respondents, therefore, further submit that none of the petitioners have established any valid claims against the Canal Company or the canal and its works, and, therefore, they are not entitled to ask that the decree heretofore passed be executed by a sale of the canal and its property.

4. Although your respondents submit that the petitioners have no standing in this cause to ask for a sale of the canal, nevertheless your respondents deny the allegations in Paragraph 5 of the petition, which states that the canal is in such condition that it cannot be operated and that the rehabilitation of it is impracticable, and that the said Trustees have no intention of ever operating said canal again. To the contrary your respondents refer to the several reports made by them to this Court from time to time for the past few years, giving the reasons why your respondents were not then operating said canal. They aver that the general condition of the coal business is such that no coal traffic, which is substantially all the traffic offered for transportation for many years, has

been offered for transportation on the canal. The history of the canal from the time of its organization is fully set out in this cause, and particularly in the several opinions of the Court of Appeals, and it is only necessary to make reference thereto to show that it was begun as a great public work more than one hundred years ago, and the State of Maryland expended large sums of money in the purchase of its capital stock and loans to it. Your respondents, therefore, do not deem it necessary at this time and before the establishment of these claims to answer fully the allegations as to the present situation of the Canal, and the possible development of it, which would involve many difficult questions which it is not necessary to put before the Court until application is made by persons whose claims have been adjudicated and established.

Your respondents nevertheless deny that the situation of the canal is such as the petitioners aver, and, on the contrary, state that the possibility of the restoration of the canal as a water way has had the serious consideration of your respondents and those having large interests in the Canal Company and its securities, and that without great cost the canal can be put in condition for operation when traffic offers. There are no breaks in the canal of any importance, and the work necessary to be done to put the canal in condition for operation consists principally in the removal of sand bars and improvement of the tow path and restoration of some of the lock gates and houses, a very considerable part of which work has to be done each

spring. There are a number of boats which could be put into service with small expenditure, and the canal could be put in condition for operation and a sufficient number of boats provided for the operation of it by the opening of the season next year.

Your respondents, therefore, submit that the first question to be passed upon by the Court is as to the validity of the claims of the petitioners, and that until such claims or some of them are established these respondents should not be required to answer fully all the questions involved in the prayer of the petition that the decree of sale, which was entered in 1890 and suspended, be executed.

Respectfully submitted,

A handwritten signature in cursive script, reading "Wm P Lane Jr". The signature is written in dark ink and is positioned above the typed name of the attorney.

Attorney for Respondents.

State of Maryland  
to wit:  
City of Baltimore

I hereby certify that on this *11th* day of  
September, 1928, before me, the subscriber, a Notary Public  
of the State of Maryland, in and for the City of Baltimore  
aforesaid, personally appeared Herbert R. Preston and made  
oath in due form of law that the matters and facts stated  
in the foregoing answer are true to the best of his information  
and belief.

Witness my hand and notarial seal.

*Geo. W. Haulebeck,*

Notary Public.

My Commission  
expires *May 6, 1929*

IN THE CIRCUIT COURT FOR  
WASHINGTON COUNTY.

George S. Brown et al., Trustees,

vs.

C. & O. Canal Company et al.

Nos. 4191 and 4198, Equity,  
Consolidated Causes.

Answer of Continental Trust  
Company to petition of Mary  
M. Henry, Administratrix,  
et al.

*Filed Sept 17 1928*

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY:

George S. Brown et al., Trustees :  
vs. : Nos. 4191 and 4198  
Chesapeake and Ohio Canal Company et al. : Equity  
: Consolidated Causes.

To the Honorable, the Judges of said Court:

Answer of the Continental Trust Company to the  
petition of Mary M. Henry, Administratrix, et al.

This respondent answering shows:

1. It admits the recitals of the proceedings in this  
cause so far as they correctly recite such proceedings, but  
reserves the right to refer to the original proceedings in  
any matter pertinent to the issues raised by this petition.  
It denies that the inferences drawn from the recital of these  
proceedings are correct in many particulars.

2. This respondent is not advised as to the claims  
alleged to be held by the petitioners except as said claims  
appear in the papers filed as exhibits with the petition.  
This respondent submits that said claims do not appear upon  
the face thereof to conform to the Act of 1896 of Maryland,  
Chapter 136½, and the Act of 1900 of Maryland, Chapter 270.

3. This respondent admits that Fairfax S. Landstreet,  
by deed dated July 29, 1907, conveyed and assigned all his  
interest in the Chesapeake and Ohio Canal Company acquired  
by him from the State of Maryland unto this respondent, said  
deed being recorded in Washington County, Maryland, in Liber 126,

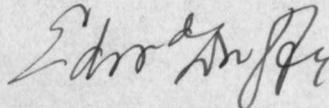
Folio 209, and also recorded in Allegany County, Maryland, in Liber 101, Folio 637.

4. This respondent further shows that until the petitioners have established their claims they have no right to require this respondent to file an answer setting forth all the facts bearing on the question of whether the decree for sale should be executed at this time, and this respondent reserves the right hereafter to file an answer covering all the matters which are necessary to put before the Court in respect to the execution of said decree until after the petitioners have established their right to intervene in this cause.

Respectfully submitted,

CONTINENTAL TRUST COMPANY

By



Attorney.

IN THE CIRCUIT COURT FOR  
WASHINGTON COUNTY

George S. Brown et al., Trustees,

vs.

C. & O. Canal Company.

Nos. 4191 and 4198, Equity,  
Consolidated Causes.

Answer of Chesapeake and Ohio  
Canal Company to petition of  
Mary M. Henry, Administratrix,  
et al.

Filed Sept 17<sup>th</sup> 1928

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY

George S. Brown et al., Trustees :  
 :  
 vs. : Nos. 4191 and 4198  
 :  
 Chesapeake and Ohio Canal Company et al. : Equity  
 : Consolidated Causes.

To the Honorable, the Judges of said Court:

Answer of the Chesapeake and Ohio Canal Company to the petition of Mary M. Henry, Administratrix, et al.

This respondent answering shows:

1. It admits the recitals of the proceedings in this cause so far as they correctly recite such proceedings, but reserves the right to refer to the original proceedings in any matter pertinent to the issues raised by this petition. It denies that the inferences drawn from the recital of these proceedings are correct in many particulars.

2. This respondent denies that the petitioners have any valid and enforceable claims against this respondent, or the Canal and its appurtenances, for the reasons more specifically set out in the answer of the Trustees to this petition, and for other reasons to be given at the hearing.

3. This respondent further shows that until the petitioners have established their claims that they have no right to require this respondent to answer fully in respect of the matters bearing upon the sale of the canal and its property. This respondent submits that the questions involved are of such a nature that they require a complete and full consideration of all of the proceedings which have been had since the institution of these

consolidated causes in 1889, and that it is not necessary at this time to file an answer setting forth all the facts bearing on the question of whether the decree for sale should be executed at this time, and this respondent reserves the right hereafter to file an answer covering all the matters which are necessary to put before the Court in respect to the execution of said decree until after the petitioners have established their right to intervene in this cause. This respondent submits that the question of whether the operation of the canal should remain in the hands of the Trustees or what disposition should be made of the canal is a matter involving many difficult questions of law, and a full consideration of the present status of the canal and the future possibilities of it; that this question cannot be properly presented to the Court unless there is a full consideration of the whole situation and a study of it by engineers and others as to the future possibilities of the canal as a water way; that the decree of sale entered by this Court on October 2, 1890, and suspended by the further order of this Court, provided for the sale of the canal as a going concern; that the question of whether the canal can be sold under said decree as a going concern or not depends upon many considerations, and this respondent submits that the time ~~has~~ not arrived when a proper determination of these questions can be made; that the Trustees have complied with the requirements of the decree appointing them, and subsequent decrees, by the operation of the Canal for many years, and, until the traffic declined by

reason of the situation of the coal traffic, without increasing the indebtedness of the Canal Company, and without prejudice to the claims against the property; that no party holding a large interest in the property has requested or is now requesting a sale of the property, but so far as the record in this cause shows are willing that the property shall remain in the possession of the Trustees until the canal be put into operation as a water way, or the time has arrived when it has become apparent that its use as a water way is no longer possible, and the use of it as a canal should be abandoned and the property sold for the best advantage of all interests.

Your respondent, therefore, submits that it is not necessary for it to prepare a case at great expense and burden the Court with a long and difficult case until the petitioners have established the validity of their claims, and their right to intervene, and ask for a decree of sale.

Respectfully submitted,

CHESAPEAKE AND OHIO CANAL COMPANY

By

  
Vice-President.

ATTEST:



Secretary.

Nos. 4191 & 4198 Equity  
Canal Co Cases,

Opinion of Court on  
Labor & Supply Claims

Filed January 2<sup>nd</sup> 1929

CANAL COMPANY CASES.

Nos. 4191 and 4198.  
In the Circuit Court for  
Washington County, Maryland.

Chapter 136 $\frac{1}{2}$  of the Acts of the General Assembly was passed for the purpose of providing a means whereby certain claims for labor done and materials furnished to the Chesapeake and Ohio Canal Company between the years 1877 and 1890 could be paid out of the proceeds arising from the sale of the Canal Company's property. It was later thought by the Legislature that certain persons having these claims against the Canal Company had been misled because the Governor of Maryland had appointed Charles A. Little, of Washington County as an auditor to audit the claims against the Canal Company and they, by reason thereof, having filed their claims with him, had failed to take advantage of the benefits to which they were entitled under the Act of 1896. In consequence thereof, and for the purpose of enabling such claimants to have their claims paid, the Legislature passed chapter 270 of the Acts of 1900.

In pursuance of the provisions of the lastmentioned Act, certain of these claimants filed with the Clerk of the Circuit Court for Washington County in the equity causes then pending in said court and known as the "Canal Company cases", their claims prior to September 1, 1900 and now ask as a means of payment for an order for the execution of the decree for the sale of the Canal Company property passed by Judge Alvey on the second day of October, 1890.

The trustees of the bondholders under the Act of 1844, who are likewise the holders of the unpaid balance of the bonds issued under the Act of 1878 and the assignees of all of the interests of the state of Maryland, whether by way of bonds or stock in the Canal Company, have answered the petition of these claimants. The respondents resist the petition upon the contention that the petitioning claimants have no such interest in the proceeds of the sale of the Canal property as would entitle them to the relief prayed, and request the court, as a preliminary matter, to determine whether all or any of them are to be deemed valid claims against the Canal

Company and also, if any such claims are valid, to fix the amount of each of the claims. The claimants have acquiesced in this request. Inasmuch as the second section of chapter 270 of the Acts of 1900 as well as chapter 136 $\frac{1}{2}$  of the Acts of 1896 requires the court to determine whether the claimants or any of them come within the classes of creditors mentioned in said acts, the court has determined to comply with these requests.

These creditors, or nearly all of them, neglected to file their claims before the first of September, 1896, and contend that they are entitled to the benefit of that Act by reason of the fact that its benefits were extended by the Act of 1900, with which they claim to have complied. So it is for the court to determine now whether there has been compliance with either the Act of 1900 or the Act of 1896. It is argued that Section 5 of the Act of 1896 requiring the judges to certify that the judgment or claim has been "duly authenticated, proven and certified" as required by the Act would prevent the passing of an order as provided for in said Act. There was no method of compelling the president or treasurer of the Canal Company to certify to these claims. Some of them were for groceries, wire, explosives etc. ordered by the foremen upon the works. These officers could not know whether such claims were correct, nor would the books of the Canal Company show the correctness of these claims unless it be assumed that the foremen correctly reported the items of each and every purchase. It can scarcely be supposed that the state intended to deprive any person who actually held a valid claim against the Canal Company of the benefit of the Act merely because the officers of the Company could not certify to the correctness of the claim. Many of these claims were assigned. The orders of the paymaster issued to laborers were used by them in making purchases. Some of these orders were cashed by individuals. The holders of such orders could not themselves make affidavits that they were issued for labor that was actually performed upon the works. The Act makes no provision by which to have a judgment "proven and certified". The Act itself requires the judge to pass the order whenever any such judg-

ment or claim "authenticated, proven or certified", shall be presented to him. The evident purpose of the Act was to make its benefits applicable to every individual who could have his judgment authenticated or could make affidavit to the correctness of his claim; or, in the event that he could not make such affidavit, have it certified by the president or treasurer of the Canal Company.

Prior to the Act of 1896 the Governor of Maryland had appointed Charles A. Little, of Washington County, to proceed along the route of the canal and to audit the claims due by the said Canal Company to the material men and the laborers or their assigns; and a considerable number of these claimants had filed their claims with said auditor. Some of them, thinking they had done everything necessary to entitle them to the benefit of chapter 136½ of the Acts of 1896, took no further proceedings in reference to their claims. In view of this situation the General Assembly of Maryland passed chapter 270 of the Acts of 1900. This Act, after referring to the passage of the former Act and the appointment of the auditor by the Governor, recites that a considerable number of those to whom the said Canal Company is indebted for labor done for the said company in and upon said canal and for supplies and materials furnished, filed their claims with said auditor and therefore were innocently under the impression that they had complied with the requirements of the law giving them the benefit of the former act; that their claims are just as meritorious as those which come under the provisions of that Act and the benefits thereof, and that it is right for the state of Maryland to recognize such claims and the owners thereof. It then enacted that the provisions of the former Act "be and the same are hereby extended, continued and made operative in favor of all the creditors of the said Canal Company who have heretofore filed their claims with the said Charles A. Little, Auditor, but who were innocently under the impression that in so filing their said claims they had complied with all the requirements of law so as to entitle their said claims to the benefit of the said Act of 1896, chapter 136½. It was therein further enacted that "the said creditors, upon complying with

the provisions of this Act shall be entitled to all the benefits thereof (the former Act) "as though they had complied with the provisions thereof." It was further enacted that "to avail themselves of the provisions of this Act" it "shall be necessary for the said creditors for whose benefit the said" (former) "Act is extended to file their claims with the Circuit Court for Washington County as a court of equity on or before September 1st, 1900, and to satisfy the said court that they each come within the classes of creditors mentioned herein and for whose benefit the former Act was extended." Under the former Act the claimants were required to have their claims authenticated, proven and certified on or before September 1, 1896, that is to say: these claimants were required to collect their proof within the time limit, and while such proof was more certainly available than it would be as as time went on. But after having collected such proof it was there provided that whenever such proof should be submitted to one of the judges of the Circuit such proof should be accepted by such judge and the identity of the claimant as a beneficiary of that Act established by an order of said judge. Such claimants, identified as aforesaid, were entitled to distribution as assignees of the state of Maryland without regard to whether or not as mere creditors they became parties plaintiff to the equity proceedings by the filing of their claims in the case. The Act of 1900, however, provided that the claimants should file their claims in the proceedings in this case, and as by so doing they became parties plaintiff in these proceedings as mere creditors, and asserted their rights as such, they were to be regarded also as assignees of the state whenever they satisfied the court as to the matters stated in said Act. There is nothing in the Act of 1900 which tends to sustain the contention that the same method of proof was to be followed by the court or a judge thereof, in establishing the claimant's right to be an assignee of the state as were provided for by the Act of 1896. The plain language of the Act of 1900 is that these claimants, upon complying with the provisions of this Act shall be entitled to the benefits of the former Act.

The only benefit created by the former Act was to make them assignees of the state, and the only provision of this Act to be complied with in order to entitle them to be considered as assignees of the state as stated in this Act, that is, the Act of 1900, is as follows: "That to avail themselves of the provisions of this Act it shall be necessary for the said creditors for whose benefit the former Act is extended, to file their claims with the Circuit Court for Washington County as a court of equity on or before September 1, 1900, and to satisfy said court" etc. The reason for dispensing with the specific method of proof required by the Act of 1896, especially with regard to open accounts, is apparent. Many of the owners of them could no longer make the necessary affidavit. The books and papers of the Canal Company to which the president and secretary had to refer in order to certify to their correctness may then have been destroyed. It was stated at the hearing and is a matter of common knowledge that all of these books and papers were destroyed by fire, but the court is not informed as to the exact date of the fire.

It appears from affidavits filed with some of these claims that at the time of the passage of the Act of 1900 the books and papers of the Canal Company were no longer accessible to the president. In some of the certificates executed by him his language clearly implies that the certification is not from an examination of the books but that the evidence of the correctness of the claim "is the possession" of the orders of the paymasters.

The court is to be satisfied that each of the claimants now before us had filed his claim with Charles A. Little, Auditor, and was innocently ignorant of his rights under the Act of 1896. The Act itself recites that "a considerable number of those to whom the said Canal Company is indebted for labor done and for supplies furnished did file their claims with the said Auditor." It further recites that "a considerable number of those to whom the said Canal Company is indebted for labor done and for supplies and materials furnished" did file their claims with the said auditor. It further recites that "said owners of a large number of said claims were innocently under the impression that

they had complied with the requirements of the law," etc. and "they were innocently ignorant of their rights under said law".

The Act itself and the public notice provided for in the Act showed that it was for the benefit of those who had filed their claims with the Auditor. This notice was published in accordance with the provisions of the Act, by the clerk of the court, and a copy of such notice is filed in this case as proof thereof. All of the claims were filed with the clerk in these causes <sup>on or</sup> prior to September 1, 1900 and, we believe, in pursuance of the notice. Many of the claims were filed by such lawyers as Edward C. Peter of Rockville, Armstrong and Scott of Hagerstown, Benjamin A. Richmond of Cumberland and William H. Hinke, of Frederick, who were familiar with the provisions of the Act of 1900, and it can scarcely be supposed that these claims would have been filed by them in pursuance of the provisions of this Act unless they were entitled to its benefits by having been already filed with Colonel Little. From among the papers in these equity causes it appears that Colonel Little filed his report with the Governor on the 2nd day of October, 1895. Diligent search by the office force of the Governor of Maryland and by the attorneys for the claimants as well as the attorneys for the respondents shows that that report has been lost. Many of the claimants have died. Under all these circumstances we have no hesitation in concluding that all of the claims which upon their face appear to have been filed subsequent to the Act of 1896 and <sup>not</sup> prior to September 1, 1900 come within the classes of claims mentioned in the Act of 1900, and for whose benefit the Act of 1896 was extended. We have both come to this conclusion, but it might not be improper to say that one of us has long been familiar with the handwriting of Colonel Charles A. Little and has personal knowledge that some of these claims are in his own handwriting and many of them contain notations in his handwriting.

The question of interest in cases of this kind is left to the discretion of the court, which may or may not allow it as the circumstances of the case may or may not warrant. Under all the circum-

stances appearing in these proceedings we can think of no equitable reason opposed to the allowance of interest on these claims. On the other hand, many circumstances appear which seem to demand its allowance. These claimants have been prevented from collecting their claims by the action of the court in postponing the sale of the canal property. They are assignees from the state to the extent of their claims, and, for the purpose of securing their payment, assignees of liens upon the property, by the terms of which interest is allowable as a matter of law. The services rendered and the materials and supplies furnished were furnished and supplied for the purpose of protecting the rights of all of the lien holders, and these lien holders are also entitled to interest on their claims as a matter of law. These and other circumstances appearing in the proceedings bring us to the conclusion that interest ought to be allowed from the date of the claim.

If we had any doubt as to the correctness of our conclusion it would seem to be impossible to escape the conviction that these claims are entitled to priority of payment under the decree passed by Judge Alvey on the 2nd day of October 1890 and affirmed by the Court of appeals. This decree directs that the tolls and revenues received from the use and operation of the canal shall be applied by the trustees as follows:

1st: To pay all current and ordinary expenses incurred in operating the canal and for keeping the same in good working order.

2nd: To reimburse the trustees the amount of money brought in by them with which to pay the expenses incurred by the receivers and their compensation, with interest thereon.

3rd: To pay and reimburse to the said trustees the amount expended by them in restoring said canal to good working order from its waste and broken condition, with interest thereon.

4th: To pay and reimburse said trustees any amount that they may be required to pay as constituting a superior lien on the tolls and revenues of said Canal Company to that of the bonds issued under said Act of 1844, chapter 281, for labor and supplies furnished to said Canal Company while said Canal ~~Company~~ was operated and controlled by said company with interest on the amount so paid.

5th: To pay the interest that has accrued and that may accrue due on the bonds issued under the Act of 1878, chapter 58, and then the principal of said bonds.

So there has been a judicial determination by the Court of

Appeals that these claimants have always had a lien on the tolls and revenues of the Canal Company which ought to have been paid by the trustees before the application of any of the funds from tolls and revenues to the bonds issued under the Act of 1878, chapter 58, because the decree so provides. All of these claims were filed <sup>in or</sup> before September 1900 and the trustees, therefore, had knowledge of these obligations. They filed no objections to the claims and the claimants had a right to assume that they were unobjectionable. There was nothing the claimants could do to enforce their payment, ~~but~~ the decree provides that after the payment of these claims for labor and supplies the trustees shall receive interest on the amount so paid. It therefore contemplated prompt payment of the claims, after the trustees were reimbursed for the restoration of the canal and the expenses of the receivers. In the face of such a decree it is impossible to understand why these claims have not been taken care of long before this time and how there could be any serious contention as to the right of the claimants to receive interest until the time of payment. Since this decree the state of Maryland, by the Act of 1896, has assigned to these claimants its priority in the distribution of the funds arising from the sale of the canal property free of all liens, claims and demands of the state whatsoever, the language of the statute being: "said liens, claims and demands of the state being hereby assigned, waived, deferred and postponed pro tanto to and for the holders and owners of such claims and judgments, so as to make the same first liens on the property of the Chesapeake and Ohio Canal Company in preference to all liens and claims of the state." Above everything else it is apparent that the state meant that these claims for labor and supplies should be paid in full. After examining the claims of the respective petitioners and considering the testimony taken in open court, we are satisfied that the claim of John W. Burgess has already been paid and that the claims of the remaining petitioners are entitled to payment with interest.

A decree will be passed to give effect to the conclusions we have reached.

December = 31-1928

Frank G. Wagaman  
Albert H. Doub

4191-4198 Equity  
Consolidated Cases

Report of  
Trustees for  
year 1928.

Filed June 14, 1929

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY

.....: :  
George S. Brown et al., : : Nos. 4191 and 4198  
Trustees, : : Consolidated Causes.  
vs. : :  
The Chesapeake and Ohio Canal Company et al. : :  
.....: :

Report of George A. Colston and Herbert R. Preston,  
Surviving Trustees.

To the Honorable

the Judges of the Circuit Court for Washington County:

In accordance with decree of this Court entered on the Twenty-seventh day of December, 1905, the undersigned Trustees respectfully report to the Court their receipts and disbursements for the year ended December 31, 1928, as such Trustees, and file herewith and make a part hereof the following statements and accounts:

1. Statement of receipts and disbursements for the year ended December 31, 1928.
2. Statement of profit and loss account, December 31, 1928.
3. Balance sheet, December 31, 1928.

The Canal has not been operated for the past year because there was no prospect of sufficient traffic to justify the resumption of operation. During the past year the Trustees have had under consideration the opening of the Canal for traffic as far as Williamsport, and were hopeful that this might be done. After careful consideration, it was decided that there would not be sufficient traffic at present to do more than pay operating expenses, and it would have required a considerable expenditure to put the Canal in condition for operation, although such expenditure would not greatly exceed the usual expenditure each spring. If conditions change and additional



TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY  
RECEIPTS AND DISBURSEMENTS FOR YEAR ENDED DECEMBER 31, 1928.

Balance, January 1, 1928 \$6,564.84

Receipts:

Earnings	\$36,888.86	
Received from Chesapeake and Ohio Transportation Company to cover deficit in operation	<u>7,094.11</u>	<u>43,982.97</u>
Gross Receipts		\$59,547.81

Disbursements:

Operating expenses		<u>43,982.97</u>
		6,564.84

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY  
PROFIT AND LOSS ACCOUNT, DECEMBER 31, 1928.

Balance, January 1, 1928 \$6,564.84

Earnings:

Rents, water	\$25,142.80
Rents, houses and lands	<u>11,746.06</u>
Total Earnings	\$36,888.86

Expenses:

Operating expenses	\$43,982.97
Loss from operation for year	7,094.11
From Chesapeake and Ohio Transportation Company to cover deficit in operation	<u>7,094.11</u>

\$6,564.84

TRUSTEES - THE CHESAPEAKE AND OHIO CANAL COMPANY  
BALANCE SHEET FOR THE YEAR ENDED DECEMBER 31, 1928.

BONDS OF 1878.

Assets.

Bonds of 1878 acquired	\$132,500.00	
Farmers & Merchants National Bank, Baltimore, to meet outstanding coupons and interest as per Court's order	858.78	
Interest accrued from August 30, 1912, to December 31, 1928	<u>129,877.57</u>	\$263,236.35

Liabilities.

Purchase money unpaid Bonds of 1878	132,500.00	
Outstanding coupons Bonds of 1878	750.00	
Interest on outstanding coupons, Bonds of 1878	108.78	
Interest accrued on unpaid purchase money, August 30, 1912, to December 31, 1928.	<u>129,877.57</u>	\$263,236.35