

NOS. 4191-4198 CONSOLIDATED  
CASES

GEORGE S. BROWN et al

vs.

CHESAPEAKE AND OHIO CANAL  
COMPANY et al

AUDITOR'S FIFTH ACCOUNT

*Filed Jan'y 12<sup>th</sup> 1940*

GEORGE S. BROWN et al : IN THE CIRCUIT COURT FOR  
vs. : WASHINGTON COUNTY, MARYLAND,  
CHESAPEAKE AND OHIO CANAL : NOS. 4191 and 4198 EQUITY  
COMPANY et al : CONSOLIDATED CASES

TO THE HONORABLE, THE JUDGES OF SAID COURT:

This, the Auditor Fifth Report in the above entitled cause, respectfully shows:

That he has examined the proceedings in said cause and has had presented to him various claims in these proceedings and from them has stated the within Account.

Among the claims presented to your Auditor were the claims of Archibald Ensminger, which were respectively for the principal sum of \$32.05 and \$34.98. These claims purport to be based upon two judgments recovered before James E. Hawken, Justice of the Peace for Washington County. However, the certified copies of the said claims which were filed in these proceedings on August 28, 1900, contain the certificate of the Justice of the Peace who tried the case that the amount of judgment and costs were paid by Jonathan Spielman, Collector, on July 15, 1889. There was also presented evidence to show that prior to that date the money with which to pay said claims had been advanced by Mr. Stephen Gambrill, the President of the Chesapeake and Ohio Canal Company, prior to the institution of these proceedings, and further appears upon the papers filed a notation in the handwriting of Col. Charles A. Little, who had been appointed an Auditor of the Canal claims, to the effect that the claims were "paid in full." For that reason the claims have been disallowed because it appears that they were paid by the Canal Company prior to the institution of these proceedings.

Among the claims presented to your Auditor was the claim of William R. Barnard in the principal amount of \$450.00 with interest from April 1, 1890, in the amount of \$1307.25, making an aggregate claim of \$1757.25. The claim was presented by R. Marshall Barnard, Administrator d.b.n. of the aforesaid William R. Barnard, deceased. This claim was filed in these proceedings on August 30, 1900, under the provisions of Chapter 270 of the Acts of Assembly of Maryland of 1900. An examination of the claim discloses that it was entitled to be considered under said Act of the Assembly, therefore distribution has been made to said claim in this account.

All of the other claims that have been presented to your Auditor have been reserved for future distribution from the funds retained in the hands of the Receivers with the right reserved to each of said claimants to produce further proof as to what claim, if any, he may have and as to whether said claims comply with the provisions of either Chapter 136 $\frac{1}{2}$  of the Acts of 1896 or of Chapter 270 of the Acts of 1900, in order to entitle them to distribution of the funds in this cause.

That he has charged Edgar W. Young, R. S. B. Hartz and G. L. Nicolson, Receivers in the above entitled cause, with the balance of the funds in these proceedings as shown by the Auditor's Fourth Account in the amount of \$149,664.38.

That he has allowed the sum of \$520.00 to McComas-Armstrong, Inc., which represents the premium paid by the Receivers on the renewal of the Receivers' bonds filed in this cause in the total principal amount of \$130,000.00.

That he has allowed the bill of the Security Storage Company, 1140-15th Street, Washington, D. C., in the amount of \$96.00, to cover the expenses of the Receivers for the rental of space for the storage of records of Canal Trustees for the period ending September 27, 1940.

That he has allowed the charge of the First National Bank, Baltimore, Maryland, of \$85.00 as an expense of the Receivers covering the rental of a safe deposit box for the storage of securities and records of the Receivers for the period ending September 30, 1940.

That he has allowed the sum of \$425.00 to the Clerk of the Court as costs for recording the proceedings in this cause from the period from 1912 to date.

That he has allowed the sum of \$56.00 to the Herald-Mail Company which represents the costs of printing the brief in the appeal to the Court of Appeals by S. Rinehart Cohill and docketed as No. 7, October Term, 1939.

That in accordance with the order of this Court he has allowed to William P. Lane, Jr., for services as solicitor and counsel to the Receivers, in connection with the prosecution of the appeal to the Court of Appeals in No. 7 Appeals, October Term, 1939, the sum of \$5,000.00.

That in accordance with the order of this Court he has allowed Messrs. Hamilton and Hamilton, Attorneys at Law, for services as solicitors and counsel to the Receivers, in the District of Columbia, for the period from September 15, 1938, to date, the sum of \$1500.00.

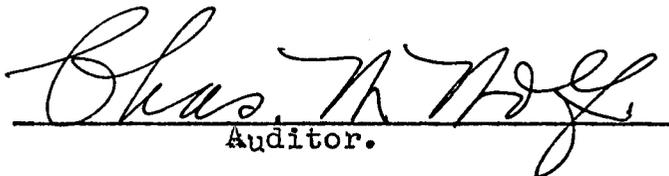
That in accordance with the request of the Receivers he has allowed to them in part of the commissions to which they would be entitled the sum of \$15,000.00, which together with the amount of \$22,500.00, heretofore allowed them in the Auditor's Second Account, would in the aggregate be in part of the commissions to which they are entitled by the rules of this Court.

That your Auditor has charged for his services as Auditor in this cause the sum of \$500.00 as compensation for

hearings, audits and work done by him since the statement of the Auditor's Second Account, which was heretofore stated in this cause on November 29, 1938.

That after the allowance of the respective disbursements herein above set forth, he has allowed to be retained by the Receivers a balance of \$124,725.13 for further distribution to labor claims and judgments, including interest, that may possibly be filed and proven under the Acts of 1896 and 1900 and for further distribution to costs, commissions and fees and for further distribution to claims properly proven in the order of their priorities, and which amount will be more than sufficient to pay any claims that have been presented to your Auditor but which have not been allowed in this account.

All of which will more fully appear from the within annexed account which is herewith respectfully submitted.

  
Auditor.

THE TRUST ESTATE OF CHESAPEAKE & OHIO CANAL  
 COMPANY, IN ACCOUNT WITH EDGAR W. YOUNG, R. S.  
 B. HARTZ AND G. L. NICOLSON, RECEIVERS IN EQUITY  
 CAUSES NOS. 4191-4198 CONSOLIDATES CASES

January 12th, 1940	Dr.	Cr.
By Balance as shown by Auditor's Report No. 4		\$ 149,664.38
To McComas-Armstrong, Inc., Premium on Receivers' bond for \$130,000.00.	\$ 520.00	
" Security Storage Co., For rental of storage space for records of Canal Trustees, to Sept. 27, 1940	96.00	
" First National Bank, Baltimore, Md., For rental of safe deposit box for storing securities and records of Receivers to Sept. 30, 1940	85.00	
" Edward Oswald, Clerk, Recording proceedings in this case from 1913 to date	425.00	
" Herald-Mail Co., For printing brief of Receivers in No. 7 Appeals, Oct. Term, 1939, in the Court of Appeals	56.00	
" William P. Lane, Jr., For services as Solicitor and Counsel to Receivers rendered in connection with hearing, appeal and argument of above case as per order of Court passed Dec. 1939	5,000.00	
" Messrs. Hamilton & Hamilton Attorneys at Law For services as Solicitors and Counsel to Receivers from Sept. 15, 1938 to date	1,500.00	
" Edgar W. Young, R. S. B. Hartz and G. L. Nicolson, Receivers in this cause, In further part of the commissions to which they are entitled by the rules of this Court as per petition of said Receivers filed with the Auditor and attached hereto,	15,000.00	

To Charles W. Wolf  
Auditor's fees covering  
Accounts Nos. 3 to 5  
inclusive 500.00

Balance for further distribu-  
tion, 126,482.38  
149,664.38 \$149,664.38

By Balance for further distribution,  
which is distributed as follows: \$126,482.38

To R. Marshall Barnard,  
Administrator, d.b.n.  
of William R. Barnard,  
deceased,  
for claim filed under  
Act of 1900, Chapter 270:  
Principal \$450.00  
Interest 1307.25 \$1,757.25

To Balance retained in the  
hands of these Receivers for  
further distribution to labor  
claims and judgments, including  
interest, that may possibly be  
proven under the Acts of 1896 and  
1900, and further distribution to  
costs, commissions, expenses and  
fees, and for further distribution  
to claims properly proven in the  
order of their priority 124,725.13  
\$ 126,482.38 \$ 126,482.38

GEORGE S. BROWN, et al	:	IN THE CIRCUIT COURT FOR
	:	
vs.	:	WASHINGTON COUNTY, MARYLAND
	:	
CHESAPEAKE AND OHIO CANAL	:	NOS. 4191 and 4198 EQUITY
COMPANY, et al	:	
	:	CONSOLIDATED CASES

HONORABLE CHARLES W. WOLF, AUDITOR

The petition of Edgar W. Young, R. S. B. Hartz and G. L. Nicolson, Receivers in the above entitled cause, respectfully represents:

1. That these Receivers have heretofore reported the receipt of the proceeds of sale of the property in these proceedings in the aggregate amount of \$2,100,000.
2. That there has been allowed to these Receivers in the second Auditor's Account for their services and commissions on the said sales the amount of \$22,500.
3. These Receivers now desire that there be distributed to them the further sum of \$15,000 as commissions, and they therefore authorize and request the Auditor of this Court to make such distribution in the next Account stated.
4. That the total amount of commissions to which these Receivers would be entitled under the rules of Court would exceed the amount heretofore distributed as commissions and the amount herein authorized.

And as in duty bound, etc.,

Edgar W. Young

---

R. S. B. Hartz

---

G. L. Nicolson

Receivers in Nos. 4191 & 4198 Equity  
in the Circuit Court for Washington  
County.

NOS. 4191 AND 4198 EQUITY  
CONSOLIDATED CASES

GEORGE S. BROWN et al

vs.

CHEASPEAKE AND OHIO CANAL  
COMPANY et al

Petition of George E. Hamil-  
ton, John J. Hamilton, George  
E. Hamilton, Jr., and Henry  
R. Gower, for counsel fee and

Order of Court thereon.

*Filed Jan. 13, 1940*



Government in regard to the sale of said Chesapeake and Ohio Canal. They have continued to represent said Receivers from said date of March 1st, 1938, down to the present time.

These petitioners were requested by said Receivers to furnish them with an account of services rendered by these petitioners between the dates of March 1st, 1938, and September 15th, 1938, setting out all work done by these petitioners during that period for and on behalf of said Receivers, which said statement was duly furnished said Receivers, requesting payment for the services rendered during said period of \$2,500.00, it being understood and agreed with said Receivers that subsequent bills should be furnished from time to time for services rendered from and after September 15th, 1938. Said Receivers have now requested that these petitioners furnish them with a statement of charges and costs expended up to the date of the filing of this petition.

After careful consideration of the services rendered to said Receivers since the 15th day of September, 1938, covering consultations and time spent in the preparation and filing of papers, amounting to 103 hours, these petitioners believe they are reasonably entitled to receive from said Receivers, covering services from said 15th day of September, 1938, to date, the sum of \$1,500.00.

These petitioners further aver that they have heretofore filed an ejectment suit in the District Court of the United States for the District of Columbia at the request of said Receivers, in the name of George L. Nicolson, Trustee, against the present occupants of certain land in the

District of Columbia, which the Receivers are under agreement to convey to the United States when and if said ejectment suit is successfully terminated in favor of the Trustee. Said suit is still pending awaiting trial, and the costs expended and services rendered and to be rendered in same, as well as any other services which these petitioners may hereafter be called upon to render said Receivers, are not included in this petition.

WHEREFORE, these petitioners pray that the court will allow them for the services rendered said Receivers in the District of Columbia, the sum of \$1,500.00, and that said Receivers be authorized to pay the same.

And for such other and further relief as to the court may seem just and proper.

*George E. Hamilton*  
*John J. Hamilton*  
*James S. Hamilton*  
*Henry R. Jones*

We do solemnly swear that we have read the foregoing petition by us subscribed, and know the contents thereof; that the matters and facts set forth therein are true to the best of our knowledge and belief.

*George E. Hamilton*  
*John J. Hamilton*  
*James S. Hamilton*  
*Henry R. Jones*

Subscribed and sworn to before  
me this 23<sup>rd</sup> day of December, 1939.

*Regina C. Muller*  
Notary Public, D. C.

My Commission Expires Feb. 29, 1944.

GEORGE S. BROWN, et al : NOS. 4191 and 4198 EQUITY  
: :  
vs. : CONSOLIDATED CASES  
: :  
CHESAPEAKE AND OHIO CANAL : IN THE CIRCUIT COURT  
COMPANY, et al : :  
: FOR WASHINGTON COUNTY.

ORDER OF COURT

The foregoing petition having been read and considered,  
it is, thereupon, this 12<sup>th</sup> day of <sup>January</sup> ~~December~~, A. D., <sup>1940</sup> ~~1939~~, by the  
Circuit Court for Washington County, sitting as a Court of Equity,  
ORDERED, ADJUDGED AND DECREED: That GEORGE E. HAMILTON, JOHN J.  
HAMILTON, GEORGE E. HAMILTON, JR., and HENRY E. GOWER, members of  
the law firm of HAMILTON and HAMILTON, be paid the sum of Fifteen  
Hundred (\$1,500.00) Dollars for their services as counselors and  
solicitors retained for and on behalf of the Receivers in this  
cause, in the District of Columbia, from the 15th day of September,  
1938, to date.

Frank G. Magaw

No. 4191 Equity

Mandate  
Copy of Order of Court

Filed Jan. 18, 1940

# COURT OF APPEALS OF MARYLAND

No. 7, October Term 1939

S. Rinehart Cohill,

vs.

Chesapeake and Ohio Canal Company,  
et al.

Appeal from the Circuit Court for  
Washington County.  
Filed: March 20th, 1939.  
Continued from No. 36, April Term, 1939.  
December 13, 1939, Decree affirmed with  
costs.  
Opinion filed. Op.- Shehan, J.  
January 12, 1940, Decree filed.

Appellant's Cost in the Court of Appeals of Maryland,

Record . . . . . \$ 85.50

Brief . . . . . \$ 42.50

Appearance Fee . . . \$ 10.00

Clerk's Costs . . . . . \$ 2.45

" " for con-  
tinuance ..... 1.25 \$141.70

Appellee's Cost in the Court of Appeals of Maryland,

Brief . . . . . \$ 56.00

Appearance Fee . . . \$ 10.00

Clerk's Costs . . . . . \$ .75

" " for con-  
tinuance ..... .75 67.50 \$209.20

STATE OF MARYLAND, Sct:

*I, James A. Young, Clerk of the Court of Appeals of Maryland, do hereby certify that the foregoing is truly taken from the record and proceedings of the said Court of Appeals.*

*In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal  
of the Court of Appeals, this ----- seventeenth -----  
day of ---- January ---- A. D. 1940*

*James A. Young* Clerk  
of the Court of Appeals of Maryland.

S. Rinehart Cohill, : In the Court of Appeals  
 : of Maryland.  
 v. : October Term, 1939.  
 Chesapeake & Ohio Canal : No. 7.  
 Co., et al. :  
 :

THE APPEAL in the above entitled case, standing ready for hearing, was argued by counsel for the respective parties, and the proceedings have since been considered by the court.

It is thereupon on the 9th day of January, 1940, by the Court of Appeals of Maryland, and by the authority thereof, adjudged, ordered and decreed, that the decree dated October 25th, 1938, of the Circuit Court for Washington County, be and the same is hereby affirmed, with costs.

Carroll T. Bond  
Chief Judge  
For the Court

Filed: January 12, 1940.

No. 4191 &  
No. 4198 Equity

Ratification of  
Auditor's Report &  
Account No. 5

Notice filed as per is O  
Auditor's Report and Account No  
No objection or exception thereto filed in this case

NO.  
IN THE CIRCUIT COURT FOR WASHINGTON COUNTY  
COURT OF EQUITY  
SITTING AS A  
No. 4191 & 4198 Equity

ORDERED: BY the Circuit Court for Washington County sitting as a Court of Equity (V) the above entitled cause be and the same is hereby finally settled and concluded, according to the contents of the Auditor's Report and Account No. 5. The Auditor's Report and Account No. 5 be and the same is hereby ratified and confirmed, according to the contents thereof. The Auditor's Report and Account No. 5 be and the same is hereby ratified and confirmed, according to the contents thereof. The Auditor's Report and Account No. 5 be and the same is hereby ratified and confirmed, according to the contents thereof.

Filed Jan'y 27, 1940

George S Brown  
et al

vs.

Chesapeake & Ohio  
Canal Co et al

4191

No. 4198 EQUITY

In the Circuit Court for Washington County

SITTING AS A

COURT OF EQUITY

Auditor's Report and Account No. 5 — filed in this cause.....

July 12 1940  
193..... will be ready for final ratification after the same shall have  
lain fourteen days in Court agreeable to Rule No. XXI.

Test

Edward Oswald..... Clerk.

GEORGE S. BROWN ET AL

*VS.*

CHESAPEAKE AND OHIO CANAL COMPANY,

ET AL

*No. 4191 & 4198 Equity*

**In the Circuit Court for Washington County,**

**SITTING AS A**

**COURT OF EQUITY**

Auditor's Report and Account No. 5, filed January 12th, 1940, ~~193~~

Notice thereof set up in Clerk's Office same day. No objection or exception thereto filed to this date,

January 27th, 1940, ~~193~~

TEST :

*Edward Oswald* Clerk.

GEORGE S. BROWN ET AL

*VS.*

CHESAPEAKE AND OHIO CANAL COMPANY,

ET AL

*No. 4191 & 4198 Equity*

**In the Circuit Court for Washington County,**

**SITTING AS A**

**COURT OF EQUITY**

ORDERED, By the Circuit Court for Washington County, sitting as a Court of Equity, this 27<sup>th</sup> day of January, 1940, ~~193~~, that the Auditor's Report and Account No. 5, in the above entitled cause, be and the same is hereby finally ratified and confirmed, no cause to the contrary thereof having been shown, and no exception thereto having been filed, although notice appears to have been given as required by Rule 21 of this Court, and the trustee is hereby directed to pay out the fund accordingly.

*Frank G. Wagoner*

NOS. 4191 and 4198 EQUITY  
CONSOLIDATED CASES

REPORT OF EDGAR W. YOUNG,  
R.S.B. HARTZ AND G. L.  
NICOLSON, RECEIVERS

*Filed July 8<sup>th</sup> 1940*  
*pd*

GEORGE S. BROWN, et al           :    IN THE CIRCUIT COURT FOR  
                                  vs.                               :    WASHINGTON COUNTY, MARYLAND  
CHESAPEAKE AND OHIO CANAL       :    NOS. 4191 and 4198 EQUITY  
COMPANY, et al                     :    CONSOLIDATED CASES

REPORT OF EDGAR W. YOUNG, R. S. B. HARTZ  
AND G. L. NICOLSON, RECEIVERS

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The Report of Edgar W. Young, R. S. B. Hartz and G. L. Nicolson, Receivers in the above entitled cause, respectfully shows:

That under the Auditor's Report and Account No. 1, filed in this cause on September.30, 1938, there was distributed to the Baltimore and Ohio Railroad Company:

For Principal and Interest on Canal Bonds of 1878 issued and outstanding	
For principal amount of Bonds	\$132,500.00
For interest accrued thereon to September 1, 1938	176,226.75
	<u>                                  </u>
	\$308,726.75

That thereafter said Report and Account was ratified by this Court on October 25, 1938, overruling exceptions that had been filed thereto.

That thereafter, on December 22, 1938, an appeal was taken to the Court of Appeals of Maryland.

That said appeal was heard by the Court of Appeals as No. 7 October Term, 1939, and that on December 13, 1939, the Court of Appeals of Maryland rendered its opinion affirming the Order of Ratification of said Account, a copy of which opinion is attached hereto and marked Exhibit "No. 1."

That pursuant to the distribution above mentioned as made in said Auditor's Report and Account these Receivers have paid said amount to the Baltimore and Ohio Railroad Company and have received for said payment Bonds Nos. 168 to 300, inclusive, each for the principal amount of \$1,000.00, making an aggregate principal amount of \$133,000.00.

That the amount of \$500.00 was heretofore paid on the principal of one of said bonds in the Auditor's Report and Account No. 4, filed in this cause on July 30, 1912.

That there are none of said bonds now outstanding and entitled to be paid.

These Receivers, therefore, bring into Court herewith, for cancellation, Bonds Nos. 168 to 300, inclusive, each for the principal amount of \$1,000.00, and which were secured by the mortgage from the Chesapeake and Ohio Canal Company to George S. Brown, et al, Trustees, dated March 15, 1878.

Respectfully submitted,

*Edgar W. Young*

*R. B. Hartz*

*E. Nicholson*

GEORGE S. BROWN, et al : IN THE CIRCUIT COURT FOR  
vs. : WASHINGTON COUNTY, MARYLAND  
CHESAPEAKE AND OHIO CANAL : NOS. 4191 and 4198 EQUITY  
COMPANY, et al : CONSOLIDATED CASES

ORDER OF COURT

Edgar W. Young, R. S. B. Hartz and G. L. Nicolson, Receivers, having paid Bonds Nos. 168 to 300, inclusive, for \$1,000.00 each, secured by the mortgage from the Chesapeake and Ohio Canal Company to George S. Brown, et al, Trustees, dated May 15, 1878, from the proceeds of the sale of the property in these proceedings, in accordance with the Auditor's Account No. 1, ratified on October 25, 1938, which Order of Ratification was confirmed by the Court of Appeals of Maryland on December 13, 1939, and having brought the said Bonds into Court for cancellation, it is hereby ordered by the Circuit Court for Washington County, in Equity, this 8<sup>th</sup> day of ~~February~~, 1940, that the Clerk is hereby authorized and directed to cancel said Bonds, filing in these proceedings his certificate that said Bonds have been cancelled, and it is further ordered that the Clerk retain the possession of said Bonds until the further Order of this Court.

*Frederick G. Bagshaw*

No 4191 + 4198 Equity

Exhibit No 1

Court of Appeals

Opinion

Filed July 8 1940

In the order pronounced in his recent writ process. In fact  
and Ohio Canal Company, and it is allowed by the Auditor  
to be taken with respect to the claims against the Chesapeake  
Canal Company. The writs are now pending as to the  
claim is no exception to the rule that the writs are to be  
taken solely from the sale of the property and the proceeds  
and the proceeds, and since the writs being now distributed  
Chesapeake Canal and in fact a lien on the property, which  
shall be limited to the net revenues and profits of the  
property in the Maryland. The writs are now pending as to the

and we have said it is obvious that the writs from which  
the case and binding upon us and over the lower court. From  
position of the court in these cases manifested the law of  
distributing collections and the further stated that the dis-  
as above indicated, has already recognized all of those as  
that we do not have to pass upon, for the court of appeals  
and entirely beyond the scope of authority of the corporation,  
which the property was about disposed of, or conveyed.  
The collection of the appellant and the respondents, in  
the case of the appellant and the respondents, in

DECEMBER 1940

Exhibit No. 1

COURT OF APPEALS OF MARYLAND

-----  
October Term, 1939

No. 7  
-----

S. Rinehart Cohill

vs.

Chesapeake and Ohio Canal  
Company, et al

-----  
Bond, C.J., and Offutt,  
Parke, Sloan, Mitchell,  
Shehan, Johnson and  
Deleplaine, J.J.

-----  
Opinion by Shehan, J.

-----  
Filed December 13, 1939  
-----

NO. 7.

OCTOBER TERM, 1939.

The appeal in this case is from an Order of the Circuit Court for Washington County overruling Exceptions to, and ratifying, an Audit, distributing a large sum of money in the hands of the Receivers of the Chesapeake and Ohio Canal Company, with certain specific directions and reservations with respect to a part of this fund. In this case is presented an exceedingly interesting, historical review of facts and circumstances extending over a period of more than a hundred years; relating to the construction, and financing of the Chesapeake and Ohio Canal, and its relation to the District of Columbia, the States of Maryland and Virginia. In its inception it was one of the greatest enterprises that has ever been inaugurated, sanctioned or promoted by the State of Maryland. It brought to the State, and to many people, financial losses, and disappointments; nevertheless, in its day it served a great and beneficial use. In its conception, and promotion, the plan was to establish a great waterway for transportation, connecting the Chesapeake Bay and the Ohio River. The ultimate design was never perfected but it did serve a great use in transportation from the far western part of our State to the tidewater country of Maryland.

The Charter of the Chesapeake and Ohio Canal was originally granted by the State of Virginia in 1824, and this Charter was confirmed by the Congress of the United States and the Legislature of Maryland. No express authority, or power, to borrow money was originally granted to the Company, but subsequently the Assembly of Virginia, in 1844, and the General Assembly of Maryland, in 1843, and the Congress of the United States, in 1848, gave express authority to the Corporation, through it's proper officials, to borrow money from time to time, to carry into effect the purposes and powers authorized by the Charter, and to issue bonds, and other evidences of such loan, and to pledge the properties and revenue of the Company for their payment, and the interest accruing thereon, but the prior rights or liens of the State of Maryland were preserved except insofar as they were waived, deferred or postponed by the Legislature to other obligations. After the Company had begun it's construction of the canal, through the sale and issuance of stock, of which the State of Maryland became a large holder, it became necessary for it to borrow large additional sums of money for that purpose; it therefore turned to the State of Maryland for further assistance in financing, and completing, it's projects. Under the authority of the Act of 1834, Chapter 241, the State of

Maryland loaned the Chesapeake and Ohio Canal Company the sum of \$2,000,000.00, to be used in the construction of the canal and took as security therefor a mortgage, dated April 23rd, 1835, under the terms of which the following property was pledged, "All and singular the lands and tenements, capital stock, estates and securities, goods and chattels, property and rights, now, or at any time hereafter to be acquired, and the net tolls and revenue of said Company."

The above sum of money was insufficient to finish the construction of the canal and under the Act of 1838, Chapter 396, the Company executed another mortgage to the State of Maryland, on the 15th of May, 1839, in the sum of \$1,375,000.00, this being the amount for which the State had issued bonds to raise money with which to pay for it's subscription of shares of stock of the Canal Company, which mortgage covered, "all and singular the lands, tenements, estates and securities, goods and chattels, property rights, now or at any time hereafter to be acquired, and the net tolls and revenues of said Company."

The Company, in 1844, had developed a plan to complete the canal from Dam No. 6 to Cumberland, and for this purpose the Legislature of Maryland, by the Act of 1844, Chapter 281, authorized it to borrow money and issue it's bonds to

the amount of \$1,700,000.00. These obligations are known as the bonds of 1844. In order to add additional security for the bonds, and to facilitate their sale, the State of Maryland waived and deferred the pre-existing lien of the State in favor of the bonds so authorized to be issued, but this Act required the Company to execute to the State a further mortgage upon the said canal, it's lands, tolls and revenues, subject to the liens and pledges created and declared by the Act. The mortgage was duly made and executed on the 8th day of January, 1846, but was not recorded until May 1, 1848. This mortgage covered, "all and singular the lands and tenements now owned, or that may hereafter be acquired by the said Company, and all interest that the said Company now has, or may hereafter have, in and to any lands, tenements, estates and securities." This seems to have ended the financial assistance and relations of the State and the Company for a number of years; but in 1878, the canal having been seriously damaged by a flood or freshet, it became necessary for the State to come to it's aid, and the State of Maryland, in this emergency, waived it's liens in favor of a loan for that purpose, and gave authority to the Company to issue preferred bonds to the extent of \$500,000.00. This transaction was authorized by the Act of 1878, Chapter 58, and these obligations are known

as bonds of 1878, and were secured by a mortgage of the tolls and revenues, and also of all the property and franchises of the Company and were, "to be paid and discharged in preference to any other claims and liens upon the Company, or it's lands and property, and in preference to any bonds which may be subsequently issued by the Company."

In 1890 this litigation was begun, at which time it is stated that considerable indebtedness had been incurred to various persons for labor performed, and materials provided for the Company, and the State of Maryland further waived and released it's liens upon the property of the Company, and upon it's tolls and revenues, in favor of such persons who furnished labor and materials during the period between January 1, 1877, and January 1, 1890, and also in favor of judgment creditors, whose judgments were valid and subsisting on January 1, 1890, provided such claims were authenticated in the manner provided in the Act of 1896, Chapter 136 $\frac{1}{2}$ , which Act contained the provisions and effectuated the purposes above recited. All such claims were required by the Act to be filed on or before Sept. 1, 1896, in the Circuit Court for Washington County, but a number of persons had filed their claims with Charles A. Little, Auditor, appointed by the Governor of the State, believing

that they were complying with the provisions of the Act of 1896, but the Act of 1900, Chapter 270, undertook to, and did, remedy this error by providing that those persons filing with the Auditor should have the same rights as those filed with the Circuit Court. The obligations, above recited, were outstanding and unpaid and most of them had been so for many years. The Chesapeake and Ohio Canal Company had met with many reverses and its operation was discontinued in the year 1923. The Company had, for many years, been in the hands of Receivers. In 1938 new Receivers were appointed at the instame of the Baltimore and Ohio Railroad Company, a creditor of the Canal Company, holding large obligations by assignment. These Receivers were authorized to negotiate the sale of the entire assets of the Canal Company and the sale was made and for which \$2,100,000.00, was paid by the United States. This sum the Receivers reported to the Court on August 13, 1938, and the sale was finally ratified and confirmed. It now became the duty of the Receivers to distribute the proceeds of the sale to creditors according to their rights, preferences and priorities. Due notice was given to creditors, by the Auditor, to whom the matter had been referred, to file their claims, properly authenticated, with the Clerk of the Court. The Appellant filed his claims in due course.

|

The Auditor's Report, and Account, was filed on September 30, 1938, Exceptions thereto were filed by the Appellant on October 13, 1938, and after hearing was had, the Exceptions were overruled, "without prejudice to him but reserving to him the right to prove what claim, if any, he may have before the Auditor of this Court in connection with the further distribution of funds in this cause," and the Account was ratified by the Court. The Appellant's claims are in the form of five promissory notes of the Chesapeake and Ohio Canal Company, in the aggregate amount of \$1605.00, all dated September 13, 1842, with interest from that date, and also upon a judgment recovered in 1850 for the amount of \$315.00, with large accruals of interest, upon which judgment a sci fa was issued to the August Term of said Court in 1853. The exceptions filed to the Audit raise questions as to the rights, preferences and priorities of various creditors of the Chesapeake and Ohio Canal Company. The Auditor, in stating his Account, after the payment of sundry items of expense, had remaining for distribution \$2,091,514.97. He then allowed to the Potomac Light and Power Company its claim arising out of an Agreement of July 28, 1936, of \$11,500.00. With respect to this item, and the items for charges, costs and expenses, there seems to be no question, and we will not concern

ourselves further with them. The four large items which are in dispute, and which are questioned by the Exceptions to the ratification of the Audit, are as follows:

ONE. The principal and interest on the canal bonds of 1878 of \$132,500.00, and interest accrued thereon on \$176,226.75, or \$308,726.75. (This item, \$132,500.00, is the balance of the principal of the bonds of 1878. It is explained that certain properties not useful to the Canal Company had been sold, and that certain of the bonds had been liquidated and cancelled and the proceeds of their sale was applied on account of these bonds as a first lien upon the property of the Canal Company, leaving the balance above indicated.)

TWO. The aggregate of claims filed under the Act of 1896, Chapter 136 $\frac{1}{2}$ , and under the Act of 1900, Chapter 270, of \$141,926.38, with interest aggregating \$365,436.62, and Court costs with respect to said claims of \$884.15, make a total of \$508,647.15.

THIRD. The mortgage loan by the State of \$2,000,000.00, above recited, bearing date April 23, 1835, the amount paid on account of which was \$1,062,641.07.

The three large claims last mentioned are held by the Baltimore and Ohio Railroad Company by assignments, and were,

by this Company, presented to, and filed with, the Auditor, and allowed by him.

FOURTH. After allowing these claims, and making the payments, above recited, there was a balance of \$200,000.00 remaining in the hands of the Receivers, out of the said proceeds of sale. The Auditor stated in his Report that he allowed this balance, to be retained by the Receivers, for further distribution to labor claims and judgments that may be properly filed and proven under the Acts of 1896 and 1900, including interest thereon, and further distribution to costs, commissions, counsel fees and Auditor's fees, and for further distribution to claims properly proven in the order of their priority.

The Appellant excepts to the distribution to the Baltimore and Ohio Railroad Company of the sum of \$308,726.75, in preference to his judgment of record in Allegheny County, unpaid, and unsatisfied, and further because of distribution to the Baltimore and Ohio Railroad Company of that sum, or any other sum, as holder of the canal bonds of 1878, before other claims, including his own, are paid. There is also an Exception to certain claims of the Baltimore and Ohio Railroad Company, as Assignee, filed under the Acts of 1896 and 1900, amounting to \$508,647.15, as being entitled to payment without considering like claims of other Claimants

arising under the same Acts, and having the same priority. The Appellant excepted to the allowance to the Baltimore and Ohio Railroad Company of the sum of \$1,062,641.07, as part payment of the mortgage of \$2,000,000.00 given in 1835. With respect to this claim the bare statement is made that the Auditor had no authority to give preference to, and order distribution thereof, as was done. To recover in this case the Appellant must rely upon an equal or preferential equity with respect to his judgment of September 3, 1842, or on the notes held by him aggregating \$1605.00. He claims that he is to be preferred, or has equal equity, with respect to all of the claims asserted by the Baltimore and Ohio Railroad Company, as Assignee. There is a further objection to the retention of the sum of \$200,000.00 in order to pay prior claims and judgments, commissions and counsel fees and Auditor's charges, because the same was not sufficient for that purpose, and does not give to the Exceptant adequate protection as to his claim, but there is no evidence as to this. All of these Exceptions have been overruled and the Audit ratified from which action this appeal is taken. The three obligations, above described, are all held by the Baltimore and Ohio Railroad Company, and the preferences, with respect to each of these claims, is of little practical

importance, but the question of preferences over the claims of the Appellant presents the issue to be here decided. We are confronted with three major questions for consideration in the disposition of this case. They all involve large sums of money.

The first question presented is: Was there error in giving preference to the Baltimore and Ohio Railroad Company, Assignee, of the canal bonds, of 1878, in the sum of \$308,726.75? This includes principal and interest on these outstanding bonds. The answer to this question is found in the Act of 1878, Chapter 58, wherein the State waived it's interest as a Claimant in behalf, and to the extent that the bonds should be issued under that Act. The status of these bonds was before this Court in the case of State v. Brown, 73 Md. 484. This Court has passed upon the rights and priorities under the mortgage of 1835, the bonds of 1844 and the bonds of 1878, and the claims under the Acts of 1896, chapter 136 $\frac{1}{2}$ ; and of 1900, chapter 270. Considering these questions in the order set out in the Audit we find that under the Act of 1878, chapter 58, these bonds were authorized to be issued and the State of Maryland, in order to give them more stability and security, and to make them easily marketable, waived it's liens in favor of these bonds, but only to that

extent. In Brady v. Johnson, 75 Md. 445, this Court adopted the opinion of Chief Judge Alvey, in the Washington County Court in which he states, "It does appear that, by these Statutes and the mortgages executed as thereby required, all the property, of every kind and description then owned, or that might be thereafter acquired by the Company, was, and still is, pledged and bound for the debts due the State, subject only to the lien and pledge of the tolls and revenues in favor of the holders of the bonds issued under the Act of 1844, chapter 281, and the priority given to the bonds issued under the Act of 1878, chapter 58," has been recognized and defined in the case of State v. Brown, (*supra*), and it has been held that the bonds of 1878 were the first lien upon the property of the Canal Company. In consequence of the Acts of the Assembly, and the decisions of this Court, the Auditor first distributed to the Baltimore and Ohio Railroad Company the sum of \$308,726.75, being the amount of it's claim, including interest, as the holder of the 1878 bonds. With respect to these canal bonds of 1878 it will be recalled, as above stated, that these were repair bonds made necessary by the destruction of property by a flood or freshet happening on or about this time. There cannot be any doubt as to this item

and the Audit should have been ratified and confirmed and in passing, it may be said that it is claimed, and not denied, that the very judgment sought to be asserted in this case as a preference, was before this Court in Brady v. State, 26 Md. 290, and there the Court held that the judgment could not be maintained as a preference against the property embraced in the mortgages of the State. A number of years later, in the Canal Company's case, 83 Md. 549, this Court was asked to determine the relative priority of the bonds of 1878, and the bonds of 1844 and the State's mortgage lien of \$2,000,000.00, and this Court, in passing upon that question stated, "That the bonds of 1878 have a first lien on the proceeds of sale; the claim of the State, under its mortgages, have the second, and the bonds of 1844 have the third. As the Legislature, at its last session, enacted that certain labor claims should be paid out of the amount coming to the State, these claims will be paid according to the directions of these statutes."

These pronouncements of the Court defining relative rights and priorities, as above indicated, are binding in effect upon the parties, the property, and upon the Court below, for in State v. Cowen 94 Md. 487 this Court said,

"Whatever, therefore, has been definitely decided by This Court in the prior appeals should be regarded as settled, and the principles upon which such decision rests should be taken, as far as applicable, to control the questions now before us. They should be held to constitute the 'law of the case,' binding alike upon this Court as upon the Court below."

Therefore, these various obligations of the Chesapeake and Ohio Canal having been recognized and classified as to their respective priorities over each other and in regard to the claims of others, the status thus given to them is binding upon us on this appeal. With respect to the allowance in the Audit of the item of \$508,647.15, which we will now consider, the principal amount of this claim, and accrued interest, is asserted by the Baltimore and Ohio Railroad Company by virtue of the Act of 1896, chapter 136 $\frac{1}{2}$ , and the Act of 1900, chapter 270. The history, and purposes, of this Act have already been recited. This sum of money was allowed as the second of the large items in the Audit. The exceptant claimed that this allowance was made in disregard of others who had equal rights in the funds to be distributed but this is denied by the Appellees who assert that the claims of the Appellant do not come within the definition, or description, of those claims that were to be

allowed and paid out of the sums of money to which the State of Maryland was entitled, and this has in it a great deal of force. There is nothing in the proceedings to show that these several notes, aggregating \$1605.00, are possessed of the characteristics that are necessary to bring them within the Acts, above mentioned; on the contrary, these notes were all dated about thirty-five years previous to the period, January 1st, 1877 to January 1, 1890, in which the labor and material must have been furnished in order to comply with the provisions of the Acts of 1896 and 1900.

To the contention that the Appellant was not afforded an adequate opportunity to describe, or classify, or assert, his claims, the answer is that at no time did he take any affirmative action to accomplish this purpose, and on the face of the record, their position, with respect to the claims that were allowed in the Audit, is definitely established. But suppose this case were remanded for the purpose of enabling the Appellant to take testimony with respect to his rights and priorities, what could be accomplished? This Court, as already pointed out, has stated this very judgment could not take precedence to the claims, or liens, of the State of Maryland on the property embraced in the mortgages to the State, Brady v. State, (supra); Canal Company cases, (supra), and, as herein pointed out, all of these notes are dated long before the

period (1877 to 1890) in which the claims for labor and material must have been contracted (Act of 1896, Chapter 136 $\frac{1}{2}$ ), in order to give them precedence over the claims of the State of Maryland. It can serve no purpose in remanding this case in order to give to the Appellant an opportunity to present and define the character or nature of his claim. The Auditor, no doubt, was well informed as to all these matters and did not allow these claims in preference to those of the State of Maryland, or its Assignee. A large number of claims defined by the Acts were acquired by assignment by the Baltimore and Ohio Railroad Company, and these claims were filed with the Auditor and listed by him and allowed. It is pointed out that this Exceptant is not injured by the allowance of these claims because if they were not allowed the distribution on account of the mortgage of \$2,000,000.00, held by the Baltimore and Ohio Railroad Company by assignment, would be, to the extent of these claims, increased, because, according to the Statute, the payment of the claims comes out of the funds to which the State was entitled, and the Baltimore and Ohio Railroad Company having acquired this large mortgage of \$2,000,000.00, its distributive share thereof was decreased by the sum of \$508,647.15, and unless we hold that the claims of the Appellant have a preference over this mortgage the Appellant could not have benefited by failure to allow to the Baltimore and Ohio Railroad Company this sum of \$508,647.15. It is -----

contended by the Appellees, and properly so, that the claims of the Appellant show upon their face that they come neither within the provisions of the Act of 1896, or the Act of 1900, or that the Acts apply to them in any particular. The record is entirely lacking in proof as to the status of the Appellant's claims, or the things for which he contends, outside of the statement in his Exceptions. If he desired to offer proof of his claims, and their status, a seasonable application to the Court for permission to take testimony would doubtless have been granted, but nothing of the kind appears in the record. We find no error in the action of the Court in ratifying the Audit insofar as it concerns this allowance.

With respect to the third of these large items of indebtedness, namely the mortgage for \$2,000,000.00, given in pursuance of the Act of 1834, chapter 231, and recorded in Liber P. P., Folio 738, and thereafter confirmed by a mortgage dated January 8, 1846, and given in consequence of the Act of 1844, and recorded in Liber I. N. No. 3, Folio 137, and acquired by mesne assignments by the Baltimore and Ohio Railroad Company, there is less to be said with respect to this mortgage

than the other items above discussed and allowed in the Audit. After the allowance for the bonds of 1878, and interest, and for the claims acquired by the Baltimore and Ohio Railroad Company under the Acts of 1896 and 1900, and the setting aside of the \$200,000.00 herein referred to, there were insufficient funds to pay this mortgage in full but there was allowed on account thereof \$1,062,641.07. The Court of Appeals of this State has definitely said that this mortgage was a first lien upon the property and assets of the Canal Company and is such unto this day, except insofar as it's priority ~~a~~ lien has been waived in favor of the bonds of 1844, and more specifically and fully with regard to the bonds of 1878. It was also waived as to the aforesaid claims mentioned in the Acts of 1896 and 1900. With respect to the bonds of 1844, amounting to \$1,700,000.00, the Auditor did not allow anything on them and assigned as a reason that, "under a certain mortgage dated June 5, 1848, given by the Chesapeake and Ohio Canal Company in pursuance of an Act of 1844, Chapter 281, to secure an issue of bonds amounting to \$1,700,000.00, and in accordance with the opinion of Chief Judge Alvey, in the Consolidated Canal Cases, reported in 73 Maryland 567, and the opinion of the Court of Appeals of Maryland, in said Canal Cases,

reported in 83 Maryland, 549 \*\*\*\* that the lien of said bonds is limited to the net revenues and tolls of the Canal Company and is not a lien on that property, rights and franchises, and since the funds being here distributed arise solely from the sale of property rights and franchises, he has made no distribution to said bonds."

There is no exception to the Audit with respect to this question. The mortgage has been classified as to its preference with respect to the claims against the Chesapeake and Ohio Canal Company, and its allowance by the Auditor in the order indicated in his account was proper. In that respect the Chancellor did not err in ratifying the Audit. The contention of the Appellant that the transactions, in which the property was either disposed of, or mortgaged, was entirely beyond the scope of authority of the corporation. This we do not have to pass upon, for this Court of Appeals, as above indicated, has already recognized all of these as subsisting obligations and has further stated that the disposition of the Court in these cases constituted the law of the case and binding upon us and upon the lower Court. From what we have said it is obvious that the decree from which this appeal is taken should be affirmed.

DECREE AFFIRMED WITH COSTS.

No 41912 Equity  
41985 Equity

Certificate of  
Clerk of Circuit  
Court for Washington  
County

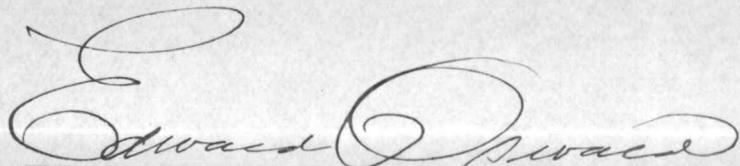
Filed July 8<sup>th</sup> 1940

GEORGE S. BROWN, et al : IN THE CIRCUIT COURT FOR  
vs. : WASHINGTON COUNTY, MARYLAND  
CHESAPEAKE AND OHIO CANAL : NOS. 4191 and 4198 EQUITY  
COMPANY, et al : CONSOLIDATED CASES

TO THE HONORABLE, THE JUDGES OF SAID COURT:

I, Edward Oswald, Clerk of the Circuit Court for Washington County, do hereby certify that Edgar W. Young, R. S. B. Hartz and G. L. Nicolson, Receivers in the above entitled cause, pursuant to the order of this Court passed on the 8<sup>th</sup> day of February, 1940, have brought into Court and delivered to me Bonds of the C. & O. Canal Company issued under the authority of Chapter 58 of the Acts of 1878 of Maryland, in the aggregate principal amount of \$133,000.00, said Bonds being numbered 168 to 300, inclusive, each for the principal amount of \$1,000.00 and each dated May 15, 1878. And I, the said Edward Oswald, Clerk as aforesaid, do further certify that I have cancelled each of said Bonds and that I have and will retain the possession thereof until the further order of this Court.

Respectfully submitted and filed in these proceedings this 8<sup>th</sup> day of February, 1940, in compliance with the Order of this Court passed on the 8<sup>th</sup> day of February, 1940.

  
Clerk of the Circuit Court for  
Washington County, Maryland.

NOS. 4191 and 4198 EQUITY  
CONSOLIDATED CASES

AUDITOR'S SIXTH REPORT AND  
ACCOUNT.

*Filed Mar. 16, 1940*

GEORGE S. BROWN et al           :    IN THE CIRCUIT COURT FOR  
                                  vs.                           :    WASHINGTON COUNTY, MARYLAND  
CHESAPEAKE AND OHIO            :    NOS. 4191 and 4198 EQUITY  
CANAL COMPANY et al            :                                CONSOLIDATED CASES

TO THE HONORABLE, THE JUDGES OF SAID COURT:

This, the Auditor's Sixth Report in the above entitled case, respectfully shows:

That on Tuesday, March 12, 1940, pursuant to notice, he held a meeting at his office in Hagerstown, Maryland, for the purpose of considering the allowance of claims against the funds retained in the hands of the Receivers for distribution.

Mr. Leo H. Miller requested that no action be taken on the claim of S. Rinehart Cohill, which was heretofore presented for distribution, and with respect to the allowance of which an appeal was taken to the Court of Appeals of Maryland, being No. 7 Appeals in the October Term, 1939, but that at a future hearing to be held by the Auditor the question of the status of said claim would be presented.

The claim of J. R. Trail, in the principal amount of \$77.00 which with interest would amount to \$309.16, was presented for allowance under the provisions of Chapter 270 of the Acts of 1900. Objection was made to the allowance of this claim for the reason that it was not filed on or before September 1, 1900 in compliance with said Act. The claim was accordingly disallowed.

The claim of D. S. Dellinger, in the principal amount of \$45.15 which with interest would amount to \$193.24, was presented for allowance and distribution. Objection was made to the allowance of said claim for the reason that it did not comply with the provisions of Chapter 270 of the Acts of 1900,

in that there was no evidence that said claim had ever been filed with Col. Charles A. Little, Auditor, as required by the provisions of said Act. The claim was disallowed.

The claim of William Driscoal, in the principal amount of \$42.25 which, together with interest and costs, amounted to \$165.73, was presented for distribution. Objection was made to the allowance of said claim on the ground that it did not comply with the provisions of Chapter 270 of the Acts of 1900, in that there was no evidence that said claim had ever been filed with Col. Charles A. Little, Auditor, as required by the provisions of said Act. The claim was disallowed.

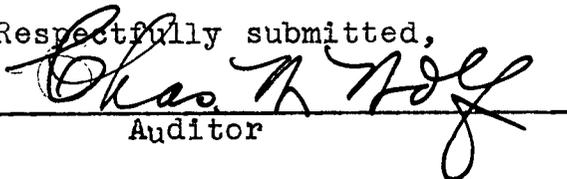
The claim of W. C. McCardell, in the principal amount of \$70.00 which, together with interest, amounted to \$276.50, was presented for distribution. Objection was made to the allowance of said claim on the ground that it did not comply with the provisions of Chapter 270 of the Acts of 1900, in that there was no evidence that said claim had ever been filed with Col. Charles A. Little, Auditor, as required by the provisions of said Act. The claim was disallowed.

The claim of John P. Ayers, in the principal sum of \$600.00, which together with interest amounted to \$2,334.00, was presented for distribution. It was shown that said claim had been assigned to John Mulholland who died on December 22, 1910, the claim being presented by Irene M. Mulholland, surviving Administratrix of the estate of the said John Mulholland, through her attorney, Richard Gordon Babbage. The claim was allowed in the amount of \$2,334.00.

No further claims were presented to your Auditor for consideration at this time.

That there now remains in the hands of the Receivers a balance of \$122,391.13 for further distribution to labor claims and judgments, including interest, in the aggregate amount of \$5474.32, that may be filed and proven under the Acts of 1896 and 1900, and for further distribution to costs, commissions, fees and claims, properly proven in said case, all of which will more fully appear from the within and annexed Account, which is herewith

Respectfully submitted,

  
Auditor

Dated March 15th, 1940.

THE REAL ESTATE OF THE CHESAPEAKE AND OHIO CANAL COMPANY, ET AL.,  
 IN ACCOUNT WITH EDGAR W. YOUNG, R. S. B. HARTZ AND G. L. NICOLSON,  
 RECEIVERS, IN EQUITY CAUSES NOS. 4191 and 4198

March 15th, 1940

DR.

CR.

By this sum being the total  
 amount of cash in hands  
 of the Receivers, as per  
 Auditor's Report and  
 Account No. 5,

\$ 124,725.13

To Irene M. Mulholland, sur-  
 viving Administratrix of  
 John Mulholland, assignee,  
 of John P. Ayers, claimant,  
 by Richard Gordon Babbage,  
 her attorney, in full pay-  
 ment of claim of \$600.00  
 and interest in the amount  
 of \$1734.00

\$ 2,334.00

" Balance in hands of the Re-  
 ceivers for further distri-  
 bution to labor claims and  
 judgments, including inter-  
 est, in the aggregate amount  
 of \$5474.32, that may be  
 filed and proven under the  
 Acts of 1896 and 1900, and  
 for further distribution to  
 costs, commissions, fees and  
 claims proven in said case,

122,391.13  
\$ 124,725.13

\$ 124,725.13



George S. Brown  
et al.

VS.

Chesapeake & Ohio  
Canal Company  
et al.

Auditor's Report and Account No. 6 — filed in this cause

Mar. 16 1940, will be ready for final ratification after the same shall have  
lain fourteen days in Court agreeable to Rule No. XXI.

Test:

Edward Oswald Clerk.

4191  
Nos. 419.8 EQUITY  
Consolidated  
In the Circuit Court for Washington County

SITTING AS A

COURT OF EQUITY

GEORGE S. BROWN, ET AL

*VS.*

CHESAPEAKE & OHIO CANAL COMPANY

ET AL

4191 &  
No. 4198 *Equity*

Consolidated

**In the Circuit Court for Washington County,**

SITTING AS A

**COURT OF EQUITY**

Auditor's Report and Account No. 6....., filed..... March 16th..... 1940....., 193-.....

Notice thereof set up in Clerk's Office same day. No objection or exception thereto filed to this date,

.....April 2nd....., 1940....., 193-

TEST :

.....*Edward Oswald*..... Clerk.

GEORGE S. BROWN ET AL

*VS.*

CHESAPEAKE & OHIO CANAL COMPANY

ET AL

4191 &  
No. 4198 *Equity*

Consolidated

**In the Circuit Court for Washington County,**

SITTING AS A

**COURT OF EQUITY**

ORDERED, By the Circuit Court for Washington County, sitting as a Court of Equity, this.....2<sup>nd</sup>.....  
day of.....APRIL..... 1940....., 193-....., that the Auditor's Report and Account No. 6....., in  
the above entitled cause, be and the same is hereby finally ratified and confirmed, no cause to the contrary  
thereof having been shown, and no exception thereto having been filed, although notice appears to have  
been given as required by Rule 21 of this Court, and the trustee is hereby directed to pay out the fund  
accordingly.

.....*Frank E. Maguire*.....

NOS. 4,191 and 4,198 EQUITY

AUDITOR'S REPORT  
AND ACCOUNT NO. 7.

CHARLES W. WOLF  
ATTORNEY AT LAW  
HAGERSTOWN, MARYLAND

*Filed July 3 1940.*

GEORGE S. BROWN, et al

VS.

CHESAPEAKE AND OHIO  
CANAL COMPANY, et al

¶  
(¶  
¶  
¶  
¶  
¶

IN THE CIRCUIT COURT FOR  
WASHINGTON COUNTY, MARYLAND  
NOS. 4,191 and 4,198 EQUITY  
CONSOLIDATED CASES

TO THE HONORABLE, THE JUDGES OF SAID COURT:-

This, the Auditor's Seventh Report in the above  
entitled cause, respectfully shows:-

That on Tuesday, July 2, 1940, pursuant to notice given  
he held a meeting at his office in Hagerstown, Maryland, for the  
purpose of considering the allowance of certain claims against  
the funds retained in the hands of the Receivers for distribution.

The claim of A. W. Latchford, in the principal amount  
of One Hundred Two Dollars and Twenty Cents (\$102.20), which with  
interest would amount to Four Hundred Nine Dollars and Eighty-two  
Cents (\$409.82), was presented for allowance under the Provisions  
of Chapter Two Hundred Seventy (270) of the Acts of 1900. Object-  
ion was made to the allowance of this claim for the reason in  
that there was no evidence that said claim had ever been filed with  
Col. Charles A. Little, Auditor, as required by the provisions of  
said act. The claim was accordingly disallowed.

The claim of F. S. Mead, in the principal amount of  
Seventy-five Dollars (\$75.00), which with interest would amount to  
Two Hundred Ninety-four Dollars (\$294.00), was presented for  
allowance under the provisions of Chapter Two Hundred Seventy  
(270) of the Acts of 1900. Objection was made to the allowance  
of this claim for the reason in that there was no evidence that  
said claim had ever been filed with Col. Charles A. Little,  
Auditor, as required by the provisions of said act. The claim  
was accordingly disallowed.

The claim of James Daley, in the principal amount of Sixty-two Dollars and Twenty-five Cents (\$62.25), which with interest would amount to Two Hundred Forty-six Dollars and Eighty-two Cents (\$246.82), was presented for allowance under the provisions of Chapter Two Hundred Seventy (270) of the Acts of 1900. Objection was made to the allowance of this claim for the reason that there was no evidence that said claim had ever been filed with Col. Charles A. Little, Auditor, as required by the provisions of said act. The claim was accordingly disallowed.

The claim of Edward Farmon, in the principal amount of Ninety-five Dollars (\$95.00), which with interest would amount to Three Hundred Seventy-five Dollars and Twenty-five Cents (\$375.25), was presented for allowance under the provisions of Chapter Two Hundred Seventy (270), of the Acts of 1900. Objection was made to the allowance of this claim for the reason that there was no evidence that said claim had ever been filed with Col. Charles A. Little, Auditor, as required by the provisions of said act. The claim was accordingly disallowed.

The claim of George G. Latchford, in the principal amount of Eighty-eight Dollars and Twenty-five Cents (\$88.25), which with interest would amount to Three Hundred Fifty-six Dollars and Ninety-seven Cents (\$356.97), was presented for allowance under the provisions of Chapter Two Hundred Seventy (270) of the Acts of 1900. Objection was made to the allowance of this claim for the reason that there was no evidence that said claim had ever been filed with Col. Charles A. Little, Auditor, as required by the provisions of said act. The claim was accordingly disallowed.

In the claim of A. B. Jackson, deceased, in the principal amount of One Hundred Fifty-five Dollars and Fifteen Cents (\$155.15), which together with interest amounted to Six Hundred Seventeen Dollars and Forty-nine Cents (\$617.49), was presented

for distribution, the claim was presented by Edna P. (Jackson) Baker, Administratrix, c. t. a., of the estate of A. B. Jackson, deceased, to the Receivers. This claim was allowed in the amount of Six Hundred Seventeen Dollars and Forty-nine Cents (\$617.49).

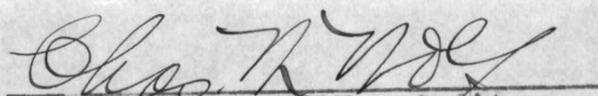
The claim of Samuel Deeble, deceased, in the principal amount of One Hundred Dollars (\$100.00), which together with interest amounted to Three Hundred Ninety-two Dollars (\$392.00), was presented for distribution. There was evidence to show that this claim complied with Chapter Two Hundred Seventy (270) of the Acts of 1900, and had been filed with Col. Charles A. Little, Auditor, and was allowed for that reason in the total amount of the claim, the sum being Three Hundred Ninety-two Dollars (\$392.00).

No further claims were presented to your Auditor for consideration at this time.

There now remains in the hands of the Receivers at this time the balance of One Hundred Twenty-one Thousand Two Hundred Thirty-six Dollars and Sixty-four Cents (\$121,236.64) for further distribution to labor claims, and judgments, including interest, in the aggregate amount of Two Thousand Seven Hundred Eighty-one Dollars and Ninety-seven Cents (\$2,781.97), that may be filed and proven under the Acts of 1896 and 1900, and for further distribution to costs, commissions, fees, and claims, properly proven in said case.

All of which will more fully appear in the within and annexed account, which is herewith

Respectfully submitted,

  
CHARLES W. WOLF - Auditor

Dated July 2, 1940.

THE REAL ESTATE OF THE CHESAPEAKE AND OHIO CANAL COMPANY, ET AL,  
 IN ACCOUNT WITH EDWARD W. YOUNG, R. S. B. HARTZ, AND G. L. NICOLSON,  
 RECEIVERS, IN EQUITY CAUSES NOS. 4,191 and 4,198.

July 2, 1940.

DR.

CR.

BY This sum being the total amount of Cash in the hands of the Receivers as per Auditor's Report and Account No. 6		\$ 122,391.13
TO Tongue, Brooks, and Zimmerman, Inc. for premium on renewal of Receivers' Bond No. 129,155, issued by Maryland Casualty Company, and filed in the ancillary proceedings No. 12,240 in the District of Columbia, in the principal amount of \$5,000.00 at 1/2 of 1%	\$ 25.00	
Leonard, Griffin, and Anderson, Inc. for premium on renewal of Receivers' Bond No. 163,000 issued by Maryland Casualty Company, and filed in the Circuit Court for Washington County, in Equity Nos. 4,191 and 4,198, in the principal amount of \$30,000.00 at 4/10 of 1%	120.00	
Balance for Distribution	122,246.13	
	<u>\$ 122,391.13</u>	<u>\$ 122,391.13</u>
BY Balance for Distribution		\$ 122,246.13
TO Edna P. (Jackson) Baker, Administratrix, c. t. a. of A. B. Jackson, deceased, Claimant in full payment of claim of \$155.15 and interest in the amount of \$462.34.	\$ 617.49	
Watson Ahlenfeld, Administrator, in the matter of the claim filed by Samuel Deeble in full payment of said claim, in the amount of \$100.00 and interest in the amount of \$292.00	392.00	
The balance in the hands of the Receivers for further distribution to labor claims and judgments, in- cluding interest, in the aggregate amount of \$2,781.97, that may be filed and proven under the Acts of 1896 and 1900, and for further distributions to costs, commissions, fees, and claims, proven in said case.	121,236.64	
	<u>\$ 122,246.13</u>	<u>\$ 122,246.13</u>



GEORGE S. BROWN, ET AL.

vs.

CHESAPEAKE AND OHIO CANAL  
COMPANY, ET AL.

4,191 and  
No. S. 4,198 EQUITY CONSOLIDATED  
CASES.

In the Circuit Court for Washington County

SITTING AS A

COURT OF EQUITY

*Auditor's Report and Account No. 7 filed in this cause July 3rd,*

*1940, will be ready for final ratification after the same shall have  
lain fourteen days in Court agreeable to Rule No. XXI.*

Test :

*Edward Oswald* Clerk.

GEORGE S. BROWN, ET AL.

VS.

CHEESAPEAKE and OHIO CANAL

COMPANY, ET AL.

No. 4,198

Consolidated  
Equity Cases.

In the Circuit Court for Washington County,

SITTING AS A

COURT OF EQUITY

Auditor's Report and Account No. 7, filed July 3rd, 1940

Notice thereof set up in Clerk's Office same day. No objection or exception thereto filed to this date,  
July 18th, 1940

TEST:

*Edward Oswald* Clerk.

GEORGE S. BROWN, ET AL.

VS.

CHEESAPEAKE and OHIO CANAL

COMPANY, ET AL.

4,191 and Consolidated  
No. 4,198 Equity Cases.

In the Circuit Court for Washington County,

SITTING AS A

COURT OF EQUITY

ORDERED, By the Circuit Court for Washington County, sitting as a Court of Equity, this 19<sup>th</sup> day of July, 1940, that the Auditor's Report and Account No. 7, in the above entitled cause, be and the same is hereby finally ratified and confirmed, no cause to the contrary thereof having been shown, and no exception thereto having been filed, although notice appears to have been given as required by Rule 21 of this Court, and the trustees <sup>are</sup> hereby directed to pay out the fund accordingly.

*Frank G. Waggoner*

NOS. 4,191 and 4,198  
EQUITY CONSOLIDATED CASES

AUDITOR'S  
REPORT AND ACCOUNT NO. 8

*Filed Sept. 8, 1940*  
CHARLES W. WOLF  
ATTORNEY AT LAW  
HAGERSTOWN, MARYLAND

GEORGE S. BROWN, et al

VS.

CHESAPEAKE AND OHIO  
CANAL COMPANY, et al

:  
: IN THE CIRCUIT COURT FOR  
: WASHINGTON COUNTY, MARYLAND,  
: NOS. 4,191 and 4,198 EQUITY  
: CONSOLIDATED CASES.  
:

TO THE HONORABLE, THE JUDGES OF SAID COURT:-

This, the Auditor's Report in the above entitled  
cause, respectfully shows:-

That on Wednesday, September 11th, pursuant to notice  
given he held a meeting in his office in Hagerstown, Maryland, for  
the purpose of considering the allowance of certain claims against  
the funds retained in the hands of the receivers for distribution.  
The claims of S. RINEHART COHILL were presented to your Auditor  
by Leo H. Miller, Attorney, as listed below:-

IN ALLEGANY COUNTY COURT, APRIL TERM 1850.

JAMES McCARTY use of : No. 85 Originals  
SAMUEL RINEHART per Order : Sci fa for \$315.00 and \$600.00 damages  
filed : and costs damages to be released  
VS. : on the payment of Debt with interest  
CHESAPEAKE AND OHIO CANAL : from the 3rd day of December, 1842,  
COMPANY : and costs.

Sci fa on above Judgment to A. C. 1853 No. 43

BONDS as follows, payable to bearer:

No. 308 amount \$100.00 date: September 13, 1842.  
payable Chesapeake and Ohio Canal Company to Samuel Rinehart,  
with interest.

No. 311 amount \$100.00 date: September 13, 1842.  
payable Chesapeake and Ohio Canal Company to Samuel Rinehart,  
with interest.

No. 320 amount \$300.00 date: September 13, 1842.  
payable Chesapeake and Ohio Canal Company to Samuel Rinehart,  
with interest.

No. 322 amount \$550.00 date: September 13, 1842.  
payable Chesapeake and Ohio Canal Company to Samuel Rinehart,  
with interest.

No. 323 amount \$555.10

date: September 13, 1842.

payable Chesapeake and Ohio Canal Company to Samuel Rinehart,  
with interest.

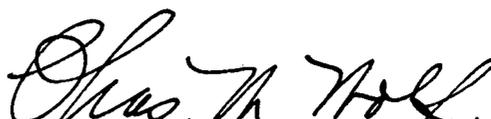
After these claims including all of the notes and the Judgment as listed were presented, objections to the allowance of the same were presented by Mr. Lane, Solicitor for the Receivers, in that there was no evidence that said claim had ever been filed with Col. Charles A. Little, Auditor, and did not comply with the Acts of 1896 and 1900. After due consideration of the same your Auditor found that said contention was good and that the Solicitor for the Claimant produced no evidence to that effect.

Furthermore, the Court of Appeals in passing on the Case of S. Rinehart Cohill Vs. Chesapeake and Ohio Canal Company and others, in their opinion when ruling on this same Judgment, said, "as already pointed out, has stated this very Judgment could not take precedence to the claims or liens of the State of Maryland on the property embraced in the mortgage to the State, and as herein pointed out all of the notes are dated long before the period (1877 to 1890) in which claims for labor and materials must have been contracted, in order to give them precedence over the claims of the State of Maryland."

None of their notes come within that period. The Court of Appeals specifically says on page 11 of said opinion, "These notes were all dated about thirty-five years previous to that period, January 1, 1877 to January 1, 1890, in which the labor and material must have been furnished in order to comply with the provisions of the Acts of 1896 and 1900."

All of these notes and the Judgment filed were dated during the months of September and December of 1842, relying on the opinion of the Court of Appeals in said case, it is the opinion of your Auditor that these notes and Judgment presented are not legal claims which should be paid out of the funds in the hands of the Receivers, and will be disallowed. A Copy of the opinion of the Court of Appeals is herewith attached and made

a part hereof. No other claims being presented at this time the Balance of said fund remaining in the hands of the Receivers is not disturbed and remains the same as that amount in the hands of said Receivers as shown by Auditor's Report and Account No. 7.



---

CHARLES W. WOLF - Auditor

THE REAL ESTATE OF THE CHESAPEAKE AND OHIO CANAL COMPANY, ET AL,  
IN ACCOUNT WITH EDWARD W. YOUNG, R. S. B. HARTZ, AND G. L. NICOLSON,  
RECEIVERS, IN EQUITY CAUSE NOS. 4,191 and 4,198.

September 11th.

DR.

CR.

By Balance in hands of receiver as  
shown by Auditor's Report and  
Account No. 7. \$ 121,236.64

To Balance in the hands of the re-  
ceivers for further distribution  
to labor claims and judgments,  
including interest, in the  
aggregate amount of \$2,781.97,  
that may be filed and proven  
under the Acts of 1896 and 1900,  
and for further distribution  
to costs, commissions, fees,  
and claims, proven in said  
case.

\$ 121,236.64

\$ 121,236.64

\$ 121,236.64

Court of Appeals of Maryland

October Term 1939

No. 7.

S. Rinehart Cohill

vs.

Chesapeake and Ohio Cannal Company, et al

---

Judge Shehan delivered the Opinion of the Court.

---

The appeal in this case is from an Order of the Circuit Court for Washington County overruling Exceptions to, and ratifying, an Audit, distributing a large sum of money in the hands of the Receivers of the Chesapeake and Ohio Canal Company, with certain specific directions and reservations with respect to a part of this fund. In this case is presented an exceedingly interesting~~ix~~, historical review of facts and circumstances extending over a period of more than a hundred years; relating to the construction, and financing of the Chesapeake and Ohio Canal, and its relation to the District of Columbia, the States of Maryland and Virginia. In its inception it was one of the greatest enterprises that has ever been inaugurated, sanctioned or promoted by the State of Maryland. It brought to the State, and to many people, financial losses, and disappointments; nevertheless, in it's day it served a great and beneficial use. In it's conception, and promotion, the plan was to establish a great waterway for transportation, connecting the Chesapeake Bay and the Ohio River. The ultimate design was never perfected but it did serve a great use in transportation from the far

western part of our State to the tidewater country of Maryland.

The Charter of the Chesapeake and Ohio Canal was ~~the~~ original, granted by the State of Virginia in 1824, and this Charter was confirmed by the Congress of the United States and the Legislature of Maryland. No express authority, or ~~power~~ power, to borrow money was originally granted to the Company, but subsequently the Assembly of Virginia, in ~~1834~~ 1844, and the General Assembly of Maryland, in 1843, and the Congress of the United States, in 1848~~m~~ gave express authority to the Corporation, through it's proper officials, to borrow money from time to time, to carry into effect the purposes and powers authorized by the Charter, and to issue bonds, and other evidences of such loan, and to pledge the properties and revenue of the Company for their payment, and the interest accruing thereon, but the prior rights or liens of the State of Maryland were preserved except insofar as they were waived, deferred or postponed by the Legislature to other obligations. After the Company had begun it's construction of the canal, through the sale and issuance of stock, of which the State of Maryland became a large holder, it became necessary for it to borrow large additional sums of money for that purpose; it therefore turned to the State of Maryland for further assistance in financing, and completing, it's projects. Under the authority of the Act of 1834, Chapter 241, the State of Maryland loaned the Chesapeake and Ohio Canal Company the sum of \$2,000,000.00, to be used in the construction of t he canal and took as security therefor a mort<sup>g</sup>gage, dated April 23rd, 1835, under the terms of which the following property was pledged, "All and singular the lands and tenements, capital stock, estates and securities, goods and chattels, property and rights, now, or at any time hereafter to be acquired, and the net tolls and revenue of said Company."

The above sum of money was insufficient to finish the construction of the canal and under the Act of 1838, Chapter 396, the Company executed another mortgage to the State of Maryland, on the 15th of May, 1839, in the sum of \$1,375,000.00, this being the amount for which the State had issued bonds to raise money with which to pay for its subscription of shares of stock of the Canal Company, which mortgage covered, "all and singular the lands, tenements, estates and securities, goods and chattels, property rights, now or at any time hereafter to be acquired, and the net tolls and revenues of said Company."

The Company, in 1844, had developed a plan to complete the canal from Dam No. 6 to Cumberland, and for this purpose the Legislature of Maryland, by the Act of 1844, Chapter 281, authorized it to borrow money and issue its bonds to the amount of \$1,700,000.00. These obligations are known as the bonds of 1844. In order to add additional security for the bonds, and to facilitate their sale, the State of Maryland waived and deferred the pre-existing lien of the State in favor of the bonds so authorized to be issued, but this Act required the Company to execute to the State a further mortgage upon the said canal, its lands, tolls and revenues, subject to the liens and ~~pledges~~ pledges created and declared by the Act. The mortgage was duly made and executed on the 8th day of January, 1846, but was not recorded until May 1, 1848. This mortgage covered, "all and singular the lands and tenements now owned, or that may hereafter be acquired by the said Company, and all interest that the said Company now has, or may hereafter have, in and to any lands, tenements, estates and securities." This seems to have ended the financial assistance and relations of the State and the Company for a number of years; but in 1878, the canal having been seriously damaged by a flood or freshet, it became necessary for the State to come to its aid, and the State of Maryland, in this emergency, waived

it's liens in favor of a loan for that purpose, and gave authority to the Company to issue preferred bonds to the extent of \$500,000.00. This transaction was authorized by the Act of 1878, Chapter 58, and these obligations are known as bonds of 1878, and were secured by a mortgage of the tolls and revenues, and also of all the property and franchises of the Company and were, "to be paid and discharged in preference to any other claims and liens upon the Company, or it's lands and property, and in preference to any bonds which may be subsequently issued by the Company."

In 1890 this litigation was begun, at which time it is stated that considerable indebtedness had been incurred to various persons for labor performed, and materials provided for the Company, and the State of Maryland further waived and released it's liens upon the property of the Company, and upon it's tolls and revenues, in favor of such persons who furnished labor and materials during the period between January 1, 1877, and January 1, 1890, and also in favor of judgment creditors, whose judgments were valid and subsisting on January 1, 1890, provided such claims were authenticated in the manner provided in the Act of 1896, Chapter 136 $\frac{1}{2}$ , which Act contained the provisions and effectuated the purposes above recited. All such claims were required by the Act to be filed on or before Sept. 1, 1896, in the Circuit Court for Washington County, but a number of persons had filed their claims with Charles A. Little, Auditor, appointed by the Governor of the State, believing that they were complying with the provisions of the Act of 1896, but the Act of 1900, Chapter 270, undertook to, and did, remedy this error by providing that those persons filing with the Auditor should have the same rights as those filing <sup>ED</sup> with the Circuit Court. The obligations, above recited, were outstanding and unpaid and most of them had been so for many years. The Chesapeake and Ohio Canal

Company had met with many reverses and its operation was discontinued in the year 1923. The Company had, for many years, been in the hands of Receivers. In 1938 new Receivers were appointed at the instance of the Baltimore and Ohio Railroad Company, a creditor of the Canal Company, holding large obligations by assignment. These Receivers were authorized to negotiate the sale of the entire assets of the Canal Company and the sale was made and for which \$2,100,000.00, was paid by the United States. This sum the Receivers reported to the Court on August 13, 1938, and the sale was finally ratified and confirmed. It now ~~became~~ became the duty of the Receivers to distribute the proceeds of the sale to creditors according to their rights, preferences and priorities. ~~Due~~ Due notice was given to creditors, by the Auditor, to whom the matter had been referred, to file their claims, properly authenticated, with the Clerk of the Court. The Appellant filed his claim in due course. The Auditor's Report, and Account, was filed on September 30, 1938, Exceptions thereto were filed by the Appellant on October 13, 1938, and after hearing was had, the Exceptions were overruled, "Without prejudice to him but reserving to him the right to prove what claim, if any, he may have before the Auditor of this Court in connection with the further distribution of funds in this ~~case~~ cause," and the Account was ratified by the Court. The Appellant's claims are in the form of five promissory notes of the Chesapeake and Ohio Canal Company, in the aggregate amount of \$1605.00, all dated September 13, 1842, with interest from that date, and also upon a judgment ~~recovered~~ recovered in 1850 for the amount of \$315.00, with large accruals of interest, upon which judgment a sci fa was issued to the August Term of said Court in 1853. The exceptions filed to the Audit raise questions as to the rights, preferences and priorities of various creditors of the Chesapeake and Ohio Canal Company. The Auditor, in stating

his Account, after the payment of sundry items of expense, had remaining for distribution \$2,091,514.97. He then allowed to the Potomac Light and Power Company its claim arising out of an Agreement of July 28, 1936, of \$11,500.00. With respect to this item, and the items for charges, costs and expenses, there seems to be no question, and we will not concern ourselves further with them. The four large items which are in dispute, and which are questioned by the Exceptions to the ratification of the Audit, are as follows:

ONE. The principal and interest on the canal bonds of 1878 of \$132,500.00, and interest accrued thereon of \$176,226.75, or \$308,726.75. (This item, \$132,500.00, is the balance of the principal of the bonds of 1878. It is explained that certain properties not useful to the Canal Company had been sold, and that certain of the bonds had been liquidated and cancelled and the proceeds of their sale was applied on account of these bonds as a first lien upon the property of the Canal Company, leaving the balance above indicated.)

TWO. The aggregate of claims filed under the Act of 1896, Chapter 136½, and under the Act of 1900, Chapter 270, of \$141,926.38, with interest aggregating \$365,436.62, and Court costs with respect to said claims of \$84.15, make a total of \$508,647.15.

THIRD. The mortgage loan by the State of \$2,000,000.00, above recited, bearing date April 23, 1835, the amount paid on account of which was \$1,062,641.07.

The three large claims last mentioned are held by the Baltimore and Ohio Railroad Company by assignments, and were by this Company, presented to, and filed with, the Auditor, and allowed by him.

FOURTH. After allowing these claims, and making the payments, above recited, there was a balance of \$200,000.00 remaining in the hands of the Receivers, out of the said proceeds of sale. The Auditor stated in his

Report that he allowed this balance, to be retained by the Receivers, for further distribution to labor claims and judgments that may be properly filed and proven under the Acts of 1896 and 1900, including interest thereon, and further ~~f~~ distribution to costs, commissions, counsel fees and Auditor's fees, and for further distribution to claims properly proven in the order of their priority.

The Appellant excepts to the distribution to the Baltimore and Ohio Railroad Company of the sum of \$308,726.75, in preference to his judgment of record  $\phi$  in Alleghany County, unpaid, and unsatisfied, and further because of distribution to the Baltimore and Ohio Railroad Company of that sum, or any other sum, as holder of the canal bonds of 1878, before other claims, including his own, are paid. There is also an Exception to certain claims of the Baltimore and Ohio Railroad Company, as Assignee, filed under the Acts of 1896 and 1900, amounting to \$508,647.15, as being entitled to payment without considering like claims of other Claimants arising under the same Acts, and having the same priority. The Appellant excepted to the allowance to the Baltimore and Ohio Railroad Company of the sum of \$1,062,641.07, as part payment of the mortgage of \$2,000,000.00 given in 1835. With respect to this claim the bare statement is made that the Auditor had no authority to give preference to, and order distribution thereof, as was done. To recover in this case the Appellant must rely upon an equal or preferential equity with respect to his judgment of September 3, 1842, or on the notes held by him aggregating \$1605.00. He claims that he is to be preferred, or has equal equity, with respect to all of the claims asserted by the Baltimore and Ohio Railroad Company, as Assignee. There is a further objection to the retention of the sum of \$200,000.00/<sup>in</sup>~~an~~ order to pay prior claims and judgments, commissions and counsel fees and Auditor's charges, because the same was not sufficient for that pur-

pose, and does not give to the Exceptant adequate protection as to his claim, but there is no evidence as to this. All of these Exceptions have been overruled and the Audit ratified from which action this appeal is taken. The three obligations, above described, are all held by the Baltimore and Ohio Railroad Company, and the preferences, with respect to each of these claims, is of little practical importance, but the question of preferences over the claims of the Appellant presents the issue to be here decided. We are confronted with three major questions for consideration in the disposition of this case. They all involve large sums of money.

The first question presented is: Was there error in giving preference to the Baltimore and Ohio Railroad Company, Assignee, of the canal bonds, of 1878, in the sum of \$308,726.75? This includes principal and interest on these outstanding bonds. The answer to this question is found in the Act of 1878, Chapter 58, wherein the State waived it's interest as a Claimant in behalf, and to the extent that the bonds should be issued under that Act. The status of these bonds was before this Court in the case of State v. Brown 73 Md. 484. This Court has passed upon the rights and priorities under the mortgage of 1835, the bonds of 1844 and the bonds of 1878, and the claims under the Acts of 1896, chapter 136 $\frac{1}{2}$ ; and of 1900, chapter 270. Considering these questions in the order set out in the Audit we find that under the Act of 1878, chapter 58, these bonds were authorized to be issued and the State of Maryland, in order to give them more stability and security, and to make them/easily marketable, waived it's liens in favor of these bonds, but ~~in~~ only to that extent. In Brady v. Johnson, 75 Md. 445, this Court adopted the opinion of Chief Judge Alvey, in the Washington County Court in which he states, "It does

appear that, by these Statutes and the mortgages executed as thereby required, all the property, of every kind and description then owned, or that might be thereafter acquired by the Company, was, and still is, pledged and bound for the debts due the State, subject only to the lien and pledge of the tolls and revenues in favor of the holders of the bonds issued under the Act of 1844, chapter 281, and the priority given to the bonds issued under the Act of 1878, chapter 58," has been recognized and defined in the case of State v. Brown, (supra), and it has been held that the bonds of 1878 were the first lien upon the property of the Canal Company. In consequence of the Acts of the Assembly, and the decisions of this Court, the Auditor first distributed to the Baltimore and Ohio Railroad Company the sum of \$308,726.75, being the amount of it's claim, including interest, as the holder of the 1878 bonds. With respect to these canal bonds of 1878 it will be recalled, as above stated, that these were repair bonds made necessary by the destruction of property by a flood or freshet happening on or about this time. There cannot be any doubt as to this item and the Audit should have been ratified and confirmed and in passing, it may be said that it is claimed, and not denied, that the very judgment sought to be asserted in this case as a preference, was before this Court in Brady v. State, 26 Md. 290, and there the Court held that the judgment could not be maintained as a preference against the property embraced in the mortgages of the State. A number of years later, in the Canal Company's case, 83 Md. 549, this Court was asked to determine the relative priority of the bonds of 1878, the bonds of 1844 and the State's mortgage lien of \$2,000,000.00, and this Court, in passing upon that question stated, "That the bonds of 1878 have a first lien on the proceeds of sale; the claim of the State, under its mortgages, have

the second, and the bonds of 1844 have the third. As the Legislature, at its last session, enacted that certain labor claims should be paid out of the amount coming to the State, these claims will be paid according to the directions of these statutes."

These pronouncements of the Court defining relative rights and priorities, as above indicated, are binding in effect upon the parties, the property, and upon the Court below, for in State v. Cowen 94 Md. 487 this Court said, "Whatever, therefore, has been definitely decided by this Court in the prior appeals should be regarded as settled, and the principles upon which such decision rests should be taken, as far as applicable, to control the questions now before us. They should be held to constitute the 'law of the case,' binding alike upon this Court as upon the Court below."

Therefore, these various obligations of the Chesapeake and Ohio Canal having been recognized and classified as to their respective priorities over each other and in regard to the claims of others, the status thus given to them is binding upon us on this appeal. With respect to the allowance in the Audit of the item of \$508,647.15, which we will now consider, the principal amount of this claim, and accrued interest, is asserted by the Baltimore and Ohio Railroad Company by virtue of the Act of 1896, chapter 136 $\frac{1}{2}$ , and the Act of 1900, chapter 270. The history, and purposes, of this Act have already been recited. This sum of money was allowed as the second of the large items in the audit. The exceptant claimed that this allowance was made in disregard of others who had equal rights in the funds to be distributed but this is denied by the Appellees who assert that the claims of the Appellant do not come within the definition, or description, of those claims that were to be

allowed and paid out of the sums of money to which the State of Maryland was entitled, and this has in it a great deal of force. There is nothing in the proceedings to show that these several notes, aggregating \$1605.00, are possessed of the characteristics that are necessary to bring them within the Acts, above mentioned; on the contrary, these notes were all dated about thirty-five years previous to the period, January 1st, 1877 to January 1, 1890, in which the labor and material must have been furnished in order to comply with the provisions of the Acts of 1896 and 1900.

To the contention that the Appellant was not afforded an adequate opportunity to describe, or classify, or assert, his claims, the answer is that at no time did he take any affirmative action to accomplish this purpose, and on the face of the record, their position, with respect to the claims that were allowed in the Audit, is definitely established. But suppose this case were remanded for the purpose of enabling the Appellant to take testimony with respect to his rights and priorities, what could be accomplished? This Court, as already pointed out, has stated this very judgment could not take precedence to the claims, or liens, of the State of Maryland on the property embraced in the mortgages to the State, Brady v. State, (supra); Canal Company cases, (supra), and, as herein pointed out, all of these notes are dated long before the period (1877 to 1890) in which the claims for labor and material must have been contracted (Act of 1896, Chapter 136 $\frac{1}{2}$ ), in order to give them precedence over the claims of the State of Maryland. It can serve no purpose in remanding this case in order to give to the Appellant an opportunity to present and define the character or nature of his claim. The Auditor, no doubt, was well informed as to all these matters and did not allow these claims in preference to those of the State of Maryland, or its assignee. A large

number of claims defined by the Acts were acquired by assignment by the Baltimore and Ohio Railroad Company, and these claims were filed with the Auditor and listed by him and allowed. It is ~~filed~~ pointed out that this Exceptant is not injured by the allowance of these claims because if they were not allowed the distribution on account of the mortgage of \$2,000,000.00, held by the Baltimore and Ohio Railroad Company by assignment, would be, to the extent of these claims, increased, because, according to the Statute, the payment of the claims comes out of the funds to which the State was entitled, and the Baltimore and Ohio Railroad Company having acquired this large mortgage of \$2,000,000.00, its distributive share thereof was decreased by the sum of \$508,647.15, and unless we hold that the claims of the Appellant have a preference over this mortgage the Appellant could not have benefited by failure to allow to the Baltimore and Ohio Railroad Company this sum of \$508,647.15. It is ----- contended by the Appellees, and properly so, that the claims of the Appellant show upon their face that they come neither within the provisions of the Act of 1896, or the Act of 1900, or that the Acts apply to them in any particular. The record is entirely lacking in proof as to the status of the Appellant's claims, or the things for which he contends, outside of the statement in his Exceptions. If he desired to offer proof of his claims, and their status, a reasonable application to the Court for permission to take testimony would doubtless have been granted, but nothing of the kind appears in the record. We find no error in the action of the Court in ratifying the Audit insofar as it concerns this allowance.

With respect to the third of these large items of indebtedness, namely the mortgage for \$2,000,000.00, given in pursuance of the Act of 1834, chapter 231, and

recorded in Liber P.P., Folio 738, and thereafter confirmed by a mortgage dated January 8, 1846, and given in consequence of the Act of 1844, and recorded in Liber I.N. No. 3, Folio 137, and acquired by mesne assignments by the Baltimore and Ohio Railroad Company, there is less to be said with respect to this mortgage than the other items above discussed and allowed in the Audit. After the allowance for the bonds of 1878, and interest, and for the claims acquired by the Baltimore and Ohio Railroad Company under the Acts of 1896 and 1900, and the setting aside of the \$200,000.00, hereon referred to, there were insufficient funds to pay this mortgage in full but there was allowed on account thereof \$1,062,641.07. The Court of Appeals of this State has definitely said that this mortgage was <sup>a</sup>first lien upon the property and assets of the Canal Company and is such unto this day, except insofar as it's priority and lien has been waived in favor of the bonds of 1844, and more specifically and fully with regard to the bonds of 1878. It was also waived as to the aforesaid claims mentioned in the Acts of 1896 and 1900. With respect to the bonds of 1844, amounting to \$1,700,000.00, the Auditor did not allow anything on them and assigned as a reason that, "under a certain mortgage dated June 5, 1848, given by the Chesapeake and Ohio Canal Company in pursuance of an Act of 1844, Chapter 281, to secure an issue of bonds amounting to \$1,700,000.00, and in accordance with the opinion of Chief Judge Alvey, in the Consolidated Canal Cases, reported in 73 Maryland 567, and the opinion of the Court of Appeals of Maryland, in said Canal Cases, reported in 83 Maryland, 549\*\*\*\* that the lien of said bonds is limited to the net revenues and tolls of the Canal Company and is not a lien on that property, rights and franchises, and since the funds being here distributed

arise solely from the sale of property rights and franchises, he has made no distribution of said bonds."

There is no exception to the Audit with respect to this question. The mortgage has been classified as to its preference with respect to the claims against the Chesapeake and Ohio Canal Company, and its allowance by the Auditor in the order indicated in his account was proper. In that respect the Chancellor did not err in ratifying the Audit. The contention of the Appellant that the transactions, in which the property was either disposed of, or mortgaged, was entirely beyond the scope of authority of the corporation. This we do not have to pass upon, for this Court of Appeals, as above  $\phi$  indicated, has already recognized all of these as subsisting obligations and has further stated that the disposition of the Court in these cases constituted the law of the case and binding upon us and upon the lower Court. From what we have said it is obvious that the decree from which this appeal is taken should be affirmed.

DECREE AFFIRMED WITH COSTS.

Filed December 13, 1939.

True Copy:  
Test: James A. Young, Clerk

NOS. 4191-4198 EQUITY  
CONSOLIDATED CASES

---

EXCEPTIONS OF S. RINEHART  
COHILL TO AUDITOR'S REPORT  
AND ACCOUNT NO. 8

---

*Filed Sept. 28. 1940*

GEORGE S. BROWN, ET AL       \*       IN THE CIRCUIT COURT FOR  
                                  \*       WASHINGTON COUNTY  
VS:                               \*  
CHESAPEAKE AND OHIO CANAL   \*       NOS. 4191 and 4198 EQUITY  
COMPANY, ET AL               \*       CONSOLIDATED CASES  
                                  \*

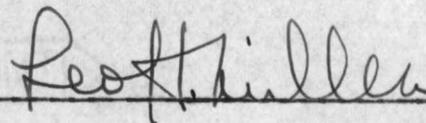
TO THE HONORABLE, THE JUDGES OF SAID COURT:--

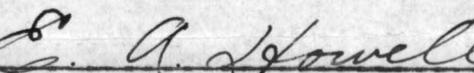
S. Rinehart Cohill, respectfully objects and excepts to the Auditor's Report and Account No. 8 filed in the above entitled case on the 16th day of September, 1940, for the following reasons:--

1. Because of the Auditor's failure to award to S. Rinehart Cohill the amount of his claim with interest and costs under No. 85 Judicials April Term 1850 in the Circuit Court for Allegany County.

2. This Exceptant objects to the ratification of the said Report for other reasons which will be presented to this Honorable Court at the hearing of these Exceptions.

Respectfully submitted,

  
\_\_\_\_\_

  
\_\_\_\_\_

Attorneys for Exceptant.

NOS. 4191 & 4198 \*Equity.

CONSOLIDATED CASES

ORDER OF COURT OVERRULING  
EXCEPTIONS FILED SEPTEMBER  
28TH, 1940, to AUDITOR'S  
REPORT AND ACCOUNT No. 8.

Filed:- December 23rd, 1940.

GEORGE S. BROWN, et al : NOS. 4191 and 4198 EQUITY  
vs. : CONSOLIDATED CASES  
CHESAPEAKE AND OHIO CANAL : IN THE CIRCUIT COURT  
COMPANY, et al : FOR WASHINGTON COUNTY

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The Exceptions in this case filed on the 28<sup>th</sup> day of September, 1940, to the ratification of the Auditor's Report and Account No. 8, filed on September 16, 1940, having come on for hearing and the parties thereto having been fully heard, it is, thereupon, this 23rd day of December, 1940, ORDERED, ADJUDGED AND DECREED by the Circuit Court for Washington County, sitting as a Court of Equity, that the Exceptions to the ratification of said Account be, and the same are hereby overruled.

AND IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the said Report and Account be and the same is hereby finally ratified and confirmed, no sufficient cause to the contrary having been shown.

*Frank F. Magowan*

BALTIMORE  
OFFICE SUPPLY CO



GEORGE S. BROWN, ET AL

VS.

CHESAPEAKE & OHIO CANAL COMPANY,  
ET AL

4,191  
No. 4,198..... EQUITY  
CONSOLIDATED CASES

IN THE CIRCUIT COURT FOR  
WASHINGTON COUNTY

SITTING AS A  
COURT OF EQUITY

Auditor's Report and Account No...8..... filed in this cause  
..September 16th, ... 19 40 , will be ready for final ratification after the same  
shall have lain fourteen days in Court agreeable to Rule No. 21.

Test:

.....  Clerk:

GEORGE S. BROWN, ET AL.

VS.

CHESAPEAKE & OHIO CANAL  
COMPANY, ET AL.

No. 4191 & 4198 *Equity*  
CONSOLIDATED CASES

In the Circuit Court for Washington County,

SITTING AS A

COURT OF EQUITY

Auditor's Report and Account No. 8, filed September 16th, 1940 on  
Notice thereof set up in Clerk's Office same day. ~~No objection~~ exceptions thereto filed ~~on~~ this date,  
September 28th, 1940 and overruled by Order of Court December 23 1940.

TEST:

*Edward Oswald* Clerk.

GEORGE S. BROWN ET AL.

VS.

CHESAPEAKE & OHIO CANAL  
COMPANY, ET AL.

No. 4191 & 4198 *Equity*  
CONSOLIDATED CASES

In the Circuit Court for Washington County,

SITTING AS A

COURT OF EQUITY

ORDERED, By the Circuit Court for Washington County, sitting as a Court of Equity, this 30<sup>th</sup>  
day of December, 1940, that the Auditor's Report and Account No. 8, in  
the above entitled cause, be and the same is hereby finally ratified and confirmed, no cause to the contrary  
thereof having been shown, and ~~no~~ exceptions thereto having been filed and overruled, although notice appears to have  
been given as required by Rule 21 of this Court, and the trustee is hereby directed to pay out the fund  
accordingly.

*Frank G. Wagoner*

NOS. 4191 and 4198 EQUITY  
CONSOLIDATED CASES

AUDITOR'S NINTH REPORT

*Filed Dec. 30 1940.*

GEORGE S. BROWN et al : NOS. 4191 and 4198 EQUITY  
vs. : CONSOLIDATED CASES  
CHESAPEAKE AND OHIO CANAL : IN THE CIRCUIT COURT FOR  
COMPANY et al : WASHINGTON COUNTY, MARYLAND

TO THE HONORABLE, THE JUDGES OF SAID COURT:

This, the Auditor's Ninth Report in the above entitled case, respectfully shows:

That he has examined the further proceedings in the said cause and from them has stated the within account.

That the said Receivers have further reported obligations as follows:

To Security Storage Company, Washington, D. C., for rental of storage space for records of Canal Trustees to September 27, 1941,	\$ 96.00
To McComas-Armstrong, Inc., Hagers- town, Maryland, for premium to September 10, 1941 on Receivers Bonds in the principal amount of \$130,000.00,	520.00
To Harold E. Doyle, Vice President, Thomas J. Fisher & Co., Washington, D. C., for appraisal of the Canal property sold to the United States, for use at an informal hearing be- fore the Under Secretary of the Department of the Interior, in con- nection with the negotiation of an agreement in final settlement of all details connected with the said sale,	100.00.

That he had presented before him the claim of Nelson C. Read in the amount of \$236.61, the said claim being made up in the principal amount of \$59.90 and interest in the amount of \$176.71. Upon examination of the same it was found that this claim was filed under the Act of 1900, Chapter 270 of the Laws of Maryland, and upon proof taken it was shown that G. Marshall

Gillette had been granted Letters of Administration on the Estate of Helen H. Read, deceased, on May 24, 1918, and that the said Helen H. Read, deceased, was the sole heir and legatee of the said Nelson C. Read who died testate on June 7, 1907, and it now being agreeable to all parties to have the said claim paid, he has distributed the said sum of \$236.61 to G. Marshall Gillette, Administrator of Helen H. Read, deceased, sole heir and legatee of Nelson C. Read, deceased.

That he had presented before him the claim of George B. F. Walters in the amount of \$355.50, the said claim being made up in the principal amount of \$90.00 and interest in the amount of \$265.50. Upon examination of the same it was found that this claim was filed under the Act of 1900, Chapter 270 of the Laws of Maryland, and upon proof taken it was shown that Abbie Colwell had been granted Letters of Administration on the Estate of George B. F. Walters on October 22, 1940, and it now being agreeable to all parties to have the said claim paid, he has distributed the said sum of \$355.50 to Abbie Colwell, Administratrix of George B. F. Walters.

That he had presented before him the claim of A. J. Padgett, in the amount of \$692.28, the said claim being made up in the principal amount of \$175.26 and interest in the amount of \$517.02. Upon examination of the same it was found that this claim was filed under the Act of 1900, Chapter 270 of the Laws of Maryland, and upon proof taken it was shown that Barton Padgett had been granted Letters of Administration on the Estate of the said A. J. Padgett on September 23, 1940, and it now being agreeable to all parties to have the said claim paid, he has distributed the said sum of \$692.28 to Barton Padgett, Administrator of A. J. Padgett.

The claim of John W. Kearns, in the principal amount of \$3.30, which with interest would amount to \$13.09, was presented for allowance under the provisions of Chapter 270 of the Act of 1900. Objection was made to the allowance of this claim for the reason that there was no evidence that this claim had been filed in the manner required by the provisions of said Act. The claim was accordingly disallowed.

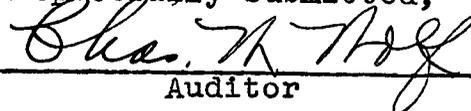
The claim of Mary E. McKernon, in the principal amount of \$20.00, which with interest would amount to \$79.10, was presented for allowance under the provisions of Chapter 270 of the Acts of 1900. Objection was made to the allowance of this claim for the reason that there was no evidence that said claim had been filed in the manner required by the provisions of said Act. The claim was accordingly disallowed.

No further claims were presented to your Auditor for consideration at this time.

There now remains in the hands of the Receivers at this time a balance of \$119,236.25 for further distribution to labor claims and judgments, including interest, in the aggregate amount of \$1405.39 that may possibly be filed and proven under the Acts of 1896 and 1900, and for further distribution to costs, commissions, fees and claims properly proven in said case.

All of which will more fully appear from the within and annexed account, which is herewith

Respectfully submitted,

  
Auditor

Dated - December 26, 1940.

THE REAL ESTATE OF THE CHESAPEAKE AND OHIO CANAL COMPANY, ET AL,  
 IN ACCOUNT WITH EDGAR W. YOUNG, R. S. B. HARTZ AND G. L. NICOLSON,  
 RECEIVERS, IN EQUITY CAUSES NOS. 4191 & 4198

December 26th, 1940

DR.

CR.

By This sum, being the total amount  
 of cash remaining in the hands of  
 the Receivers as per Auditor's Report  
 and Account No. 8, \$ 121,236.64

To Security Storage Company, Washington,  
 D. C., for rental of storage space  
 for records of Canal Trustees to  
 September 27, 1941, \$ 96.00

" McComas-Armstrong, Inc., Hagerstown,  
 Maryland, for premium to September 10,  
 1941 on Receivers Bonds in the princi-  
 pal amount of \$130,000.00, 520.00

" Harold E. Doyle, Vice President,  
 Thomas J. Fisher & Co., Washington,  
 D. C., for appraisal of the Canal  
 property sold to the United States,  
 for use at an informal hearing before  
 the Under Secretary of the Depart-  
 ment of the Interior, in con-  
 nection with negotiation of an  
 agreement in final settlement of  
 all details connected with the said  
 sale, 100.00

" Balance for further distribu-  
 tion \$120,520.64  
121,236.64 \$121,236.64

By Balance for further distribution \$120,520.64

To G. Marshall Gillette, Adminis-  
 trator of Helen H. Read, deceased,  
 sole heir and legatee of Nelson C.  
 Read, deceased, claimant, in full  
 payment of claim of \$59.70  
 and interest in the  
 amount of 176.71 236.61

" Abbie Colwell, Administratrix  
 of George B. F. Walters, de-  
 ceased, claimant, in full  
 payment of said claim in the  
 amount of \$90.00  
 and interest in the  
 amount of 265.50 355.50

To Barton Padgett, Administrator  
of A. J. Padgett, deceased,  
claimant, in full payment of  
claim of \$175.26  
and interest in the  
amount of 517.02 \$ 692.28

" Balance retained in the hands  
of these Receivers for further  
distribution to labor claims  
and judgments, including inter-  
est, that may possibly be  
proven under the Acts of  
1896 and 1900, and further  
distribution to costs, com-  
missions, expenses and fees,  
and for further distribution  
to claims properly proven  
in the order of their  
priority, \$119,236.25  
\$120,520.64 \$120,520.64



GEORGE S. BROWN, ET AL.

VS.

CHESAPEAKE AND OHIO CANAL  
COMPANY, ET AL.

4191 and 4198

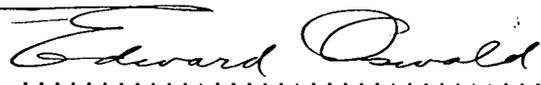
No.s.....EQUITY  
Consolidated Cases

IN THE CIRCUIT COURT FOR  
WASHINGTON COUNTY

SITTING AS A  
COURT OF EQUITY

Auditor's Report and Account No. 9..... filed in this cause  
..... December 30,..... 1940, will be ready for final ratification after the same  
shall have lain fourteen days in Court agreeable to Rule No. 21.

Test:

 Clerk.

GEORGE S. BROWN, ET AL.

VS.

CHESAPEAKE and OHIO CANAL

COMPANY, ET AL.

4191 and 4198

Nos \_\_\_\_\_ Equity  
Consolidated Cases

In the Circuit Court for Washington County,

SITTING AS A

COURT OF EQUITY

Auditor's Report and Account No. 9, filed December 30, 1940...  
Notice thereof set up in Clerk's Office same day. No objection or exception thereto filed to this date,  
January 14th, 1941.

TEST:

*Edward Oswald* Clerk.

4191 and 4198

Nos \_\_\_\_\_ Equity  
Consolidated Cases

In the Circuit Court for Washington County,

SITTING AS A

COURT OF EQUITY

GEORGE S. BROWN, ET AL.

VS.

CHESAPEAKE and OHIO CANAL

COMPANY, ET AL.

ORDERED, By the Circuit Court for Washington County, sitting as a Court of Equity, this 14th...  
day of January, 1941, that the Auditor's Report and Account No. 9, in  
the above entitled cause, be and the same is hereby finally ratified and confirmed, no cause to the contrary  
thereof having been shown, and no exception thereto having been filed, although notice appears to have  
been given as required by Rule 21 of this Court, and the trustee <sup>s are</sup> hereby directed to pay out the fund  
accordingly.

*J. D. Hirsch*

4191 and 4198 Equity  
Consol.

PETITION AND ORDER OF COURT  
RESCINDING ORDER OF COURT OF  
JUNE 1, 1937, AUTHORIZING  
SUR. TR. TO SELL AND CONVEY SIX  
PARCELS OF LAND

LAW OFFICES

LANE, BUSHONG & BYRON

HAGERSTOWN TRUST BUILDING

HAGERSTOWN, MD.

*Filed: Feb. 4, 1941*

GEORGE S. BROWN ET AL.,  
TRUSTEES

VS.

THE CHESAPEAKE AND OHIO  
CANAL COMPANY ET AL

: NOS. 4191 and 4198 EQUITY  
:  
: CONSOLIDATED CAUSES  
:  
: IN THE CIRCUIT COURT FOR  
:  
: WASHINGTON COUNTY, MARYLAND

TO THE HONORABLE, THE JUDGES OF SAID COURT:

This the Petition of G. L. Nicolson, Edgar W. Young and R. S. B. Hartz, Receivers in the above entitled cause, respectfully represents:

1- That on June 1, 1937, H. R. Preston, the Surviving Trustee in this cause presented to your Honorable Court a petition requesting authority to sell and convey to the Washington and Western Maryland Railroad Company six parcels of land, all situate in the District of Columbia, and upon the same date this Honorable Court passed an order authorizing the said H. R. Preston, Surviving Trustee to sell and convey to the Washington and Western Maryland Railroad Company the six parcels of land described in the several plats attached to the said petition, upon receiving payment of the sale price therefor stated in said petition and upon receiving from the Supreme Court of the District of Columbia an order authorizing said sale.

2- That said authority to sell and convey said six parcels of land was never executed and the purchase price therefor never paid.

3- That since said time your Receivers have entered into agreements of sale with the United States of America and with the Baltimore and Ohio Railroad Company for the sale of said property, and the purchase price therefor has been paid.

4- That your Receivers now desire to have said order of June 1, 1937, authorizing the sale and conveyance of said six parcels of land, rescinded, so that as a matter of record in this cause there can be no question of the authority of said Receivers to sell said property as hereinbefore indicated.

5- That the Washington and Western Maryland Railroad Company acquiesces and agrees to the passage of the order herein prayed rescinding the order of June 1, 1937, as evidenced by its certificate of approval and acquiescence herewith filed.

TO THE END THEREFORE:

Your Receivers pray your Honorable Court to pass an order rescinding the order of June 1, 1937 authorizing the said H. R. Preston, Surviving Trustee, to sell and convey the six parcels of land.

And as in duty bound, etc.,

Respectfully submitted,

  
\_\_\_\_\_  
Solicitor for Receivers.

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:

I HEREBY CERTIFY, that on this 30th day of January, 1941, before me, the subscriber, a Notary Public of the State of Maryland, in and for Washington County, personally appeared William P. Lane, Jr., Solicitor for the Receivers in this cause, 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.

WITNESS my hand and Official Notarial Seal.

Alice S. Heindelright  
Notary Public

GEORGE S. BROWN ET AL.,  
TRUSTEES

vs.

THE CHESAPEAKE AND OHIO  
CANAL COMPANY ET AL

: NOS. 4191 and 4198 EQUITY  
:  
: CONSOLIDATED CASES  
:  
: IN THE CIRCUIT COURT FOR  
:  
: WASHINGTON COUNTY, MARYLAND

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The Washington and Western Maryland Railroad Company respectfully represents:

1- That it requests your Honorable Court to pass the order herein prayed by the Receivers in this cause, to rescind the order of June 1, 1937, authorizing H. R. Preston, Surviving Trustee, to sell and convey the said six parcels of land to the Washington and Western Maryland Railroad Company.

2- That the Washington and Western Maryland Railroad Company acknowledges and asserts that it has no legal or equitable interest in the said six parcels of land.

Respectfully submitted,

The Washington and Western Maryland  
Railroad Company

By *Geo. W. [Signature]*  
Vice President.

ATTEST:

*[Signature]*  
Secretary.

GEORGE S. BROWN ET A.,  
TRUSTEES

vs.

THE CHESAPEAKE AND OHIO  
CANAL COMPANY ET AL

: NOS. 4191 and 4198 EQUITY  
:  
: CONSOLIDATED CASES  
:  
: IN THE CIRCUIT COURT FOR  
:  
: WASHINGTON COUNTY, MARYLAND  
:  
:

ORDER OF COURT

ORDERED by the Circuit Court for Washington County, Maryland, this 4<sup>th</sup> day of February, A. D., 1941, upon the foregoing petition, that the order of this Court heretofore passed on June 1, 1937 authorizing H. R. Preston, Surviving Trustee, to sell and convey to the Washington and Western Maryland Railroad Company the six parcels of land mentioned in said order, be and the same is hereby rescinded, the said sale never having been consummated and the sale price therefor never having been paid.

*Jos. D. Wish*

No 4191 & Equity  
4198 ) Equity

Report of death  
of Edgar W Young  
Co - Receiver June  
26. 1941 + Order of  
Court to note same  
on docket

Filed July 10 1941

July 10 1941

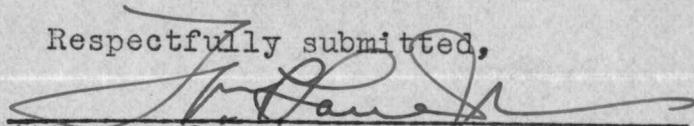
J. P. Jones

GEORGE S. BROWN et al : IN THE CIRCUIT COURT FOR  
vs. : WASHINGTON COUNTY, MARYLAND  
CHESAPEAKE AND OHIO CANAL : NOS. 4191 and 4198 EQUITY  
COMPANY et al : CONSOLIDATED CASES

TO THE HONORABLE, THE JUDGES OF SAID COURT:

This the report of R. S. B. Hartz and G. L. Nicolson, surviving Receivers in this cause, with regret, respectfully suggest the death of their co-receiver, Edgar W. Young, on June 26, 1941, and pray the Court to direct that a docket entry of the fact of his death on that date be noted in the case.

Respectfully submitted,

  
Attorney for the Surviving Receivers.

Upon the foregoing report it is ordered by the Circuit Court for Washington County in the above case, sitting as a Court of Equity, that the Clerk note ~~the report of~~ the death of Edgar W. Young, co-receiver, on June 26, 1941.

July 10, 1941

Jos. D. Wish

No. 41912 Equity  
4198

*Audit Report  
and Exhibit #10*

To the Baltimore and Ohio Railroad  
Company, Baltimore, in part payment  
of balance due of Baltimore and Ohio  
Railroad, Baltimore, of \$100,000.00  
from the date of January 1, 1938, in the  
level interest of \$100,000.00.

of their properties,  
to claims properly proven in the other  
cases; and to follow in from classification  
of 1935 and 1936, including interest on  
interest claims and judgments that may be  
received for further classification of  
claims.

1944  
20, 20, 20  
D. J. O'Connell

*Filed August 8, 1944.*

GEORGE S. BROWN, et al : NOS. 4191 and 4198 EQUITY  
 vs. : CONSOLIDATED CASES  
 CHESAPEAKE AND OHIO CANAL : IN THE CIRCUIT COURT FOR  
 COMPANY, et al : WASHINGTON COUNTY, MARYLAND

TO THE HONORABLE, THE JUDGES OF SAID COURT:

This, the Auditor's Tenth Report in the above entitled case, respectfully shows:

That he has examined the further proceedings in the said cause and from them has stated the within account.

That the said Receivers have further reported obligations as follows:

To Tongue, Brooks and Zimmerman, Inc., for premium on renewal for one year from May 2, 1941, of Receivers' Bond No. 129,155, issued by Maryland Casualty Company, and filed in the ancillary proceeding, Equity No. 12,240 in the District Court of the United States for the District of Columbia, in the principal amount of \$5,000.00 at 1/2 of 1%	\$ 25.00
To Leonard, Griffin and Anderson, Inc., for premium on renewal for one year from May 2, 1941, of Receivers' Bond No. 163,000 issued by Maryland Casualty Company, and filed in the Circuit Court for Washington County, in Equity Nos. 4191 and 4198, in the principal amount of \$30,000.00 at 4/10 of 1%	120.00

That he had presented before him the claim of James W. Reed, deceased, in the amount of \$419.23, the said claim being made up in the principal amount of \$106.00 and interest in the amount of \$313.23. Upon examination of the same it was found

that this claim was filed under the Act of 1900, Chapter 270 of the Laws of Maryland, and upon proof taken it was shown that the said James W. Reed died leaving as his widow and sole heir, Jennie L. Reed, who in turn died leaving a Last Will and Testament which was duly admitted to probate in the Orphans' Court for Montgomery County, Maryland, on May 7, 1912, and that under the terms thereof James W. Hillard, Thomas Hillard, Mrs. Cora May Hope, and Mrs. Claudia Ward are residuary legatees who would be entitled to the distribution of the above claim. And that the said residuary legatees have nominated and appointed James W. Hillard as their agent to receive the payment thereof in their behalf, and it now being agreeable to all parties to have the said claim paid, he has distributed the said sum of \$419.23 to the said James W. Hillard, Attorney in fact for James W. Hillard, Thomas Hillard, Mrs. Cora May Hope, and Mrs. Claudia Ward, sole residuary legatees of Jennie L. Reed, deceased, widow and sole heir of James W. Reed, deceased, claimant.

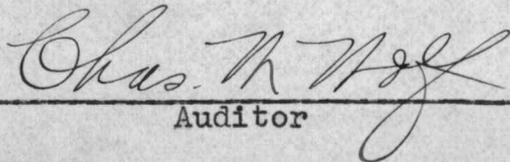
That he had presented before him the claim of David Pennell, in the amount of \$344.73, the said claim being made up in the principal amount of \$87.28, interest in the amount of \$249.25, and Court costs in the amount of \$8.20. Upon examination of the same it was found that this claim was filed under the Act of 1900, Chapter 270 of the Laws of Maryland, and upon proof taken it was shown that the said David Pennell had died and that Lon Pennell had been granted Letters of Administration on the estate of the said David Pennell, and it now being agreeable to all parties to have the said claim paid, he has distributed the said sum of \$344.73 to Lon Pennell, Administrator of the estate of David Pennell, deceased.

That he has made a further distribution to the Baltimore & Ohio Railroad Company, Assignee, in the amount of \$60,000.00 in further part payment of balance due on principal, with legal interest thereon, of loan from the State of Maryland in the amount of \$2,000,000.00 secured by mortgage, dated April 23, 1835, by virtue of Chapter 241 of the Acts of 1834, which is recorded among the Land Records of Washington County, Maryland, in Liber PP, folio 738; and thereafter confirmed by mortgage dated January 8, 1846, by virtue of Chapter 281 of the Acts of 1844, which is recorded among the aforesaid Land Records in Liber IN No. 3, folio 137, which said mortgages were sold and transferred by the Board of Public Works of the State of Maryland, by deed dated January 4, 1905, to Fairfax S. Landstreet and assigned by him, by deed dated July 29, 1907, to Continental Trust Company, Trustee, now Maryland Trust Company, Successor Trustee, and which have now been transferred to the Baltimore and Ohio Railroad Company.

There now remains in the hands of the Receivers at this time a balance of \$58,327.29 for further distribution to labor claims and judgments, including interest, in the aggregate amount of \$641.43 that may possibly be filed and proven under the Acts of 1896 and 1900, and for further distribution to costs, commissions, fees and claims properly proven in said case.

All of which will more fully appear from the within and annexed account, which is herewith

Respectfully submitted,

  
Auditor

Dated - August 1941.

THE REAL ESTATE OF THE CHESAPEAKE AND OHIO CANAL COMPANY, ET AL,  
 IN ACCOUNT WITH R. S. B. HARTZ AND G. L. NICOLSON, SURVIVING  
 RECEIVERS, IN EQUITY CAUSES NOS. 4191 and 4198

August 8th, 1941

DR.

CR.

By This sum, being the total amount  
 of cash remaining in the hands of  
 the Receivers as per Auditor's Re-  
 port and Account No. 9,

\$ 119,236.25

To Tongue, Brooks and Zimmerman, Inc.,  
 for premium on renewal for one year  
 from May 2, 1941, of Receivers' Bond  
 No. 129,155, issued by Maryland  
 Casualty Company, and filed in the  
 ancillary proceeding, Equity No.  
 12,240 in the District Court of the  
 United States for the District of  
 Columbia, in the principal amount of  
 \$5,000.00 at 1/2 of 1%

\$ 25.00

To Leonard, Griffin and Anderson, Inc.,  
 for premium on renewal for one year  
 from May 2, 1941, of Receivers' Bond  
 No. 163,000 issued by Maryland Cas-  
 ualty Company, and filed in the  
 Circuit Court for Washington County,  
 in Equity Nos. 4191 and 4198, in the  
 principal amount of \$30,000.00 at  
 4/10 of 1%

120.00

Balance for Distribution

119,091.25  
\$ 119,236.25

\$ 119,236.25

By Balance for Distribution

\$ 119,091.25

To James W. Hillard, Attorney-in-  
 fact for James W. Hillard, Thomas  
 Hillard, Mrs. Cora May Hope and  
 Mrs. Claudia Ward, sole residuary  
 legatees of Jennie L. Reed, de-  
 ceased, widow and sole heir of  
 James W. Reed, deceased, claimant,  
 in full payment of claim

of..... 106.00

and interest in amount of 313.23 419.23

To Lon Pennell, Administrator of  
 David Pennell, deceased, claim-  
 ant, in full payment of claim

of..... 87.28

and interest in amount of.. 249.25

and Court costs of..... 8.20 344.73

To The Baltimore and Ohio Railroad Company, Assignee, in part payment of balance due on principal, with legal interest thereon, of loan from the State of Maryland in the amount of \$2,000,000.00 secured by mortgage, dated April 23, 1835, by virtue of Chapter 241 of the Acts of 1834 which is recorded among the Land Records of Washington County, Maryland, in Liber P.P. Folio 738; and thereafter confirmed by mortgage dated January 8, 1846, by virtue of Chapter 281 of the Acts of 1844, which is recorded among the aforesaid Land Records in Liber IN No. 3, Folio 137, which said mortgages were sold and transferred by the Board of Public Works of the State of Maryland, by Deed dated January 4, 1905, to Fairfax S. Landstreet and assigned by him, by Deed dated July 29, 1907, to Continental Trust Company, Trustee, now Maryland Trust Company, Successor Trustee, and which have now been transferred to The Baltimore and Ohio Railroad Company,

\$60,000.00

To Balance retained in the hands of these Receivers for further distribution to labor claims and judgments that may be properly filed and proven under the Acts of 1896 and 1900, including interest thereon, and further distribution to costs, commissions, counsel and auditor's fees and for further distribution to claims properly proven in the order of their priorities,

58,327.29  
\$119,091.25 \$119,091.25

Nos. 4191 and 4198 Equity.

Ratification of Auditor's  
Report and Account No. 10.

In the presence of the following persons:

No. 4191 and 4198 Equity

COMMITTEE OF EQUITY  
BUILDING NO. 1

Filed August 25, 1941.

No. 4198 Equity

COMMITTEE OF EQUITY  
BUILDING NO. 1

In the presence of the following persons:

No. 4191 and 4198 Equity

Clear

GEORGE S. BROWN, ET AL.

4191 and  
No.s....4198.....EQUITY

VS.

CHESAPEAKE AND OHIO CANAL  
COMPANY, ET AL.

IN THE CIRCUIT COURT FOR  
WASHINGTON COUNTY

SITTING AS A  
COURT OF EQUITY

Auditor's Report and Account No. 10..... filed in this cause  
..... August 8th, ... 1941, will be ready for final ratification after the same  
shall have lain fourteen days in Court agreeable to Rule No. 21.

Test:

  
..... Clerk.

GEORGE S. BROWN, ET AL.

VS.

CHESAPEAKE AND OHIO CANAL

COMPANY, ET AL.

4191 and  
Nos. 4198 Equity

In the Circuit Court for Washington County,

SITTING AS A

COURT OF EQUITY

Auditor's Report and Account No. 10, filed August 8th, 1941

Notice thereof set up in Clerk's Office same day. No objection or exception thereto filed to this date,  
August 25th, 1941

TEST:

*Edward Oswald* Clerk.

GEORGE S. BROWN, ET AL.

VS.

CHESAPEAKE AND OHIO CANAL

COMPANY, ET AL.

4191 and  
Nos. 4198 Equity

In the Circuit Court for Washington County,

SITTING AS A

COURT OF EQUITY

ORDERED, By the Circuit Court for Washington County, sitting as a Court of Equity, this 25<sup>th</sup> day of August, 1941, that the Auditor's Report and Account No. 10, in the above entitled cause, be and the same is hereby finally ratified and confirmed, no cause to the contrary thereof having been shown, and no exception thereto having been filed, although notice appears to have been given as required by Rule 21 of this Court, and the trustees <sup>s are</sup> hereby directed to pay out the fund accordingly.

*Joseph P. Misha*

NOS. 4191 and 4198 EQUITY

GEORGE S. BROWN, et al

vs.

CHESAPEAKE AND OHIO  
CANAL COMPANY, et al

Petition for authority to  
reduce penalty of Bond and  
Order of Court thereon.

*Filed Sept. 5, 1941*

LAW OFFICES

LANE, BUSHONG & BYRON

HAGERSTOWN TRUST BUILDING

HAGERSTOWN, MD.

GEORGE S. BROWN, et al : NOS. 4191 and 4198 EQUITY  
vs. : CONSOLIDATED CASES  
CHESAPEAKE AND OHIO : IN THE CIRCUIT COURT FOR  
CANAL COMPANY, et al : WASHINGTON COUNTY

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The petition of R. S. B. Hartz and G. L. Nicolson, Surviving Receivers in the above entitled cause, respectfully shows:

That upon their appointment as Receivers in this cause, in compliance with the order of this Court they qualified by filing on May 4, 1938, a Bond in the penalty of \$30,000.00 underwritten by Maryland Casualty Company by its policy No. 163,000 and conditioned for the faithful performance of the trust reposed in them by said decree, or to be reposed in them by any further decree or order in the premises;

That on September 8, 1938 this Court ordered that these Receivers file in this Court four additional Bonds, each in the penalty of \$517,500.00 and that your Receivers complied with said order by filing said Bonds on September 9th, 1938, and said Bonds being underwritten respectively by Maryland Casualty Company, Fidelity & Deposit Company of Maryland, New Amsterdam Casualty Company and United States Fidelity & Guaranty Company, so that the aggregate amount of the Bonds filed thereafter in this Court by said Receivers was \$2,100,000.00;

That all of the property of the Chesapeake and Ohio Canal Company has been sold by these Receivers, and they have collected the purchase price therefor in the amount of \$2,100,000.00;

That of all the funds coming into the hands of your Receivers they distributed and disbursed the same as shown in Auditor's Accounts Nos. 1, 2, 3, and 3-A, filed in this cause

and ratified by this Court, and that as shown by said Auditor's Account No. 3-A ratified by this Court on February 6, 1939, there remained thereafter a balance of \$150,994.10 retained in the hands of these Receivers for further distribution to labor claims, and judgments, including interest, that might possibly be filed and proven under the Acts of 1896 and 1900, and further distribution to costs, commissions and fees, and further distribution to claims properly proven in order of their priorities;

That on petition of these Receivers, this Court on June 21, 1939 passed an Order reducing the penalty of the five Bonds, which the Receivers had theretofore filed in this cause, to an aggregate of \$160,000, and decreed that the penalty of each of the said four Bonds filed by said Receivers in this cause on September 9, 1938 shall be reduced from the amount of \$517,500.00 to the amount of \$32,500.00;

That subsequently of the funds retained in the hands of these Receivers, they distributed and disbursed the same as shown in Auditor's Accounts Nos. 4, 5, 6, 7, 8, 9, and 10 filed in this cause and ratified by this Court, and that as shown by said Auditor's Account No. 10 there is now a balance of \$58,327.29 retained in the hands of these Receivers for further distribution to labor claims, and judgments, including interest, in the aggregate amount of \$641.43, that may possibly be filed and proven under the Acts of 1896 and 1900, and for further distribution to costs, commissions and fees, and further distribution to claims properly proven in order of their priorities;

That the aggregate penalty of the five Bonds which the Receivers have at this date filed in this cause amounts to \$160,000; and that the aggregate annual premium required to be paid by your Receivers for said Bonds amounts to \$640.00;

That to continue said Bonds in the aggregate amount of

\$160,000 would appear an unnecessary burden and expense upon the funds remaining in the hands of your Receivers;

TO THE END, THEREFORE, your Receivers pray your Honorable Court to pass an Order reducing the amount of the penalty of said Bonds to an aggregate amount of \$60,000.00 conditioned for the continued faithful performance of the trust reposed in them by the decree or to be hereafter reposed in them by any further decree or order in the premises.

And as in duty, etc.

  
Solicitor for Receivers

GEORGE S. BROWN, et al	:	NOS. 4191 and 4198 EQUITY
vs.	:	CONSOLIDATED CASES
CHESAPEAKE AND OHIO	:	IN THE CIRCUIT COURT FOR
CANAL COMPANY, et al	:	WASHINGTON COUNTY

ORDER OF COURT

WHEREAS at the time of the appointment of R. S. B. Hartz and G. L. Nicolson, Surviving Receivers in this cause, they were required by the order of this Court, passed on April 29th, 1938, to file their Bond in the penalty of THIRTY THOUSAND (\$30,000.00) DOLLARS conditioned for the faithful performance of the trust reposed in them, and

WHEREAS, thereafter, on September 8th, 1938, by the further order of this Court, said Receivers were required to file four additional Bonds, each in the penalty of FIVE HUNDRED SEVENTEEN THOUSAND FIVE HUNDRED (\$517,500.00) DOLLARS, each with a different corporate surety or sureties, and each conditioned that said Receivers do and shall well and faithfully perform the trust reposed in them by the decree of this Court filed on April 29th, 1938, appointing them Receivers in this cause or that should be reposed in them by any future decree or order in the premises, and should account for the proceeds of the sale of the real estate in these proceedings, and

WHEREAS, said Receivers have reported the receipt of the proceeds of said sale, and have further reported the distribution and disbursement of most of said funds, retaining in their hands a balance of \$58,327.29, and

WHEREAS, on June 21, 1939, by further order of this Court the penalty of the five Bonds which had heretofore been filed by said Receivers in this Cause was reduced to an aggregate of \$160,000.00, and this Court decreed that the penalty of each of the said four Bonds filed by said Receivers in this Cause on



NOS. 4191 and 4198 EQUITY  
CONSOLIDATED CASES

GEORGE S. BROWN, et al

vs.

CHESAPEAKE AND OHIO CANAL  
COMPANY, et al

Report, Petition and Affida-  
vit of Surviving Receivers  
and Order of Court thereon  
with respect to the corrected  
descriptions of Exhibit "A".

LAW OFFICES

**LANE, BUSHONG & BYRON**

HAGERSTOWN TRUST BUILDING

HAGERSTOWN, MD.

*Filed Sept. 20, 1941*

GEORGE S. BROWN, et al : NOS. 4191 and 4198 EQUITY  
vs : CONSOLIDATED CASES  
CHESAPEAKE AND OHIO CANAL : IN THE CIRCUIT COURT FOR  
COMPANY, et al : WASHINGTON COUNTY, MARYLAND

TO THE HONORABLE, THE JUDGES OF SAID COURT:

This, the further report and petition of R. S. B. Hartz and G. L. Nicolson, surviving Receivers in this cause, respectfully shows:

1- That on August 13, 1938 the Receivers in this cause reported the sale of all of the property, estate, rights and franchises of the Chesapeake and Ohio Canal Company to the United States of America, save and except certain parcels of land and easements in land which were specifically described in Exhibit "A" attached to the Agreement of Sale dated August 6, 1938, and filed with said Report of Sale, which said certain excepted parcels and easements were reserved to said Receivers for other disposition by paragraph (4) of said Contract of Sale, which reads as follows:

"The portions of property of the Chesapeake and Ohio Canal Company described in Exhibit "A", attached hereto and hereby made a part hereof, are reserved to said Receivers for other disposition and are excluded from the operation of this Contract of Sale except as specifically provided therein."

2- That on the same date the Receivers in this cause reported to this Court the sale of said certain parcels and easements specifically described in said Exhibit "A" to The Baltimore and Ohio Railroad Company.

3- That on September 10, 1938 both of said sales were finally ratified and confirmed.

4- That on October 18, 1938 The Real Estate and Improvement Company of Baltimore City was substituted in the place and stead of The Baltimore and Ohio Railroad Company as purchaser of the said certain parcels and easements set forth and described in said Exhibit "A".

5- That thereafter The Real Estate and Improvement Company of Baltimore City notified your Receivers that, as Substituted Purchaser, it desires to relinquish its right to obtain a conveyance of twelve of said parcels described in said Exhibit "A", namely:

Parcel No. W. M. 1 - Washington County, Parcel No. W. M. 3 - Washington County, Parcel No. W. M. 4 - Washington County, Parcel No. W. M. 5 - Washington County, Parcel No. W. M. 6 - Washington County, Parcel No. W. M. 7 - Washington County, Parcel No. W. M. 8 - Allegany County, Parcel No. W. M. 9 - Allegany County, Parcel No. W. M. 10 - Allegany County, Parcel No. 11 - Allegany County, Parcel No. W. M. 12 - Allegany County, and Parcel No. W. M. 13 - Allegany County.

6- That paragraph (5) of said Contract of Sale with the United States of America required "that all of the lands being reserved from sale in accordance with Exhibit "A" of paragraph (4) of this Contract shall be surveyed and the corner posts and boundary lines thereof definitely established by the Receivers, or their agents, within six (6) months of the date of approval of the final Contract for the sale of the said Canal property by the Courts having jurisdiction of such property."

7- That in accordance with the requirement of said paragraph (5) of said Contract of Sale, your Receivers have caused to be surveyed all of the parcels described in said Exhibit "A" except the parcels to which the right to conveyance has been relinquished by The Real Estate and Improvement Company of Baltimore City, Substituted Purchaser, as above set forth, and with respect to the parcels surveyed have caused the corner posts and boundary lines thereof to be definitely established.

8- That in making the survey of said parcels your Receivers have found that the descriptions thereof in Exhibit "A", originally filed with said Contract of Sale, are in error and do not set out the true and correct descriptions of the parcels or easements sought to be described therein.

9- That as a result of said survey your Receivers have caused to be prepared a revised Exhibit "A" which is attached hereto as a part

hereof, marked Exhibit "No. 1", in which is set forth the true and correct descriptions of each of said parcels and easements and to which is appended the affidavit of the surveyor making said surveys, certifying that the descriptions of the several parcels of land and easements included therein are the true and correct descriptions of the same identical parcels or easements intended to be described in the original Exhibit "A" appended to and made part of said Contract of Sale of August 6, 1938. That your Receivers have caused to be prepared seven maps, designated as Maps A, B, C, D, F, R and S, which are mentioned in said revised Exhibit "A" and which specifically set forth the correct locations of the boundaries of the said parcels of land and easements described therein, and which are attached to said revised Exhibit "A" as a part thereof and filed herewith.

10- That your Receivers are now prepared to deliver to The Real Estate and Improvement Company of Baltimore City, as Substituted Purchaser, a deed conveying to it the said parcels of land and easements reserved in said Exhibit "A", excepting however the twelve certain parcels enumerated in paragraph 5 herein to which the right to conveyance has been relinquished by the said The Real Estate and Improvement Company of Baltimore City, and your Receivers have been requested by the said The Real Estate and Improvement Company of Baltimore City to execute and deliver to it a deed of conveyance of said parcels and easements containing the corrected descriptions as set forth in the revised Exhibit "A", hereto attached and marked Exhibit "No. 1", to the end that said deed of conveyance shall contain a true and accurate description of the parcels and easements intended to be described in the original Exhibit "A" attached to the said Contracts of Sale above referred to, as is set forth by the request and consent of said Substituted Purchaser hereto attached.

11- Your Receivers, therefore, assert that the execution and delivery by them of a deed or deeds to The Real Estate and Improvement Company of Baltimore City, as Substituted Purchaser,

containing the descriptions of the respective parcels and easements as set out in the revised Exhibit "A" attached hereto, will convey to the said The Real Estate and Improvement Company of Baltimore City the identical parcels and easements intended to be reserved in the original Exhibit "A" attached to the Contracts of Sale of August 6, 1938, and that the interests and rights of the United States of America will be in no wise adversely affected.

TO THE END, THEREFORE, your Receivers pray your Honorable Court to pass an order directing them to execute and deliver to The Real Estate and Improvement Company of Baltimore City, Substituted Purchaser, a deed or deeds of conveyance conveying to it the respective parcels and easements set forth in the attached revised Exhibit "A" in accordance with the descriptions therein contained.

AND AS IN DUTY BOUND, ETC.,

Respectfully submitted,

R. S. B. Hartz  
G. L. Nicolson  
Surviving Receivers.

STATE OF MARYLAND, BALTIMORE CITY, to wit:

I HEREBY CERTIFY, that on this 19<sup>th</sup> day of September, A. D. 1941, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore City, personally appeared R. S. B. Hartz and G. L. Nicolson, Surviving Receivers, who made oath in due form of law that the matters and facts set forth in the foregoing Petition are true to the best of their knowledge, information and belief.

WITNESS my hand and Official Notarial Seal.

Andrew Schussner  
Notary Public.  
My Commission Expires May 3, 1943.

GEORGE S. BROWN, et al : NOS. 4191 and 4198 EQUITY  
vs. : CONSOLIDATED CASES  
CHESAPEAKE AND OHIO CANAL : IN THE CIRCUIT COURT FOR  
COMPANY, et al : WASHINGTON COUNTY, MARYLAND

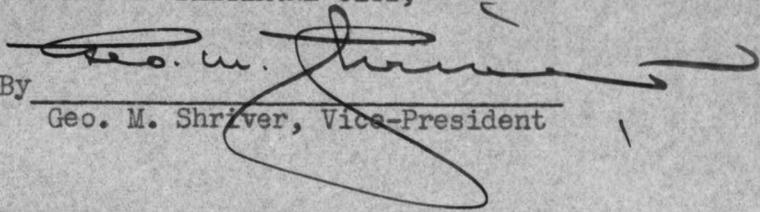
TO THE HONORABLE, THE JUDGES OF SAID COURT:

The Real Estate and Improvement Company of Baltimore City, Substituted Purchaser, hereby consents to the use of the descriptions contained in the revised Exhibit "A" hereto attached and it further requests your Honorable Court to pass an order directing the surviving Receivers to execute and deliver deeds of conveyance to it of the parcels of land and easements as correctly described therein.

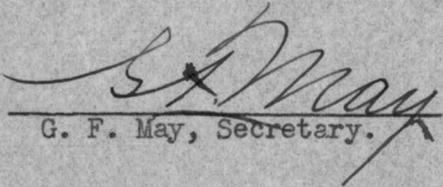
Respectfully submitted,

THE REAL ESTATE AND IMPROVEMENT  
COMPANY OF BALTIMORE CITY,

By

  
Geo. M. Shriver, Vice-President

ATTEST:

  
G. F. May, Secretary.

GEORGE S. BROWN, et al : NOS. 4191 and 4198 EQUITY  
vs. : CONSOLIDATED CASES  
CHESAPEAKE AND OHIO CANAL : IN THE CIRCUIT COURT FOR  
COMPANY, et al : WASHINGTON COUNTY, MARYLAND

ORDER OF COURT:

The foregoing Report, Petition and Affidavit of R. S. B. Hartz and G. L. Nicolson, surviving Receivers in this cause, having been read and considered, it is, thereupon, this 20<sup>th</sup> day of September, 1941, ORDERED, ADJUDGED AND DECREED by the Circuit Court for Washington County, Maryland, sitting as a Court of Equity:

(1) That in executing the order of this Court passed on October 18, 1938, authorizing and directing the Receivers in this cause to convey to The Real Estate and Improvement Company of Baltimore City, all of the property, rights and franchises set forth as reserved portions in Exhibit "A", which was attached as a part thereof to the Agreement of Sale between said Receivers and the United States of America heretofore reported to and ratified by this Court, R. S. B. Hartz and G. L. Nicolson, surviving Receivers in this cause, are authorized and directed to use the corrected descriptions set forth in the revised Exhibit "A" attached to said petition and filed therewith, unless cause to the contrary be shown to the Court on or before the 11<sup>th</sup> day of October next; provided a copy of the foregoing petition, revised Exhibit "A" and the accompanying maps, and a copy of this order be served upon the Secretary of the Interior of the United States of America by registered mail, on or before the 25<sup>th</sup> day of September, 1941.

(2) That so much of the orders of this Court passed on the 22nd day of September, 1938 and on October 18, 1938, directing that upon the payment of the purchase price of \$100,000.00 by The Baltimore and Ohio Railroad Company to the said Receivers, said Receivers are

authorized and directed to convey to The Real Estate and Improvement Company of Baltimore City in the place and stead of The Baltimore and Ohio Railroad Company all of the property, rights and franchises set forth as reserved portions in Exhibit "A", which was attached as a part thereof to the Agreement of Sale between said Receivers and the United States of America heretofore reported to and ratified by this Court, be and the same are hereby amended to the extent that said surviving Receivers are authorized and directed to make said conveyance in accordance with the terms of this order.

jos. D. wish

*original*

R. S. B. HARTZ AND G. L. NICOLSON  
Surviving Receivers of  
CHESAPEAKE AND OHIO CANAL COMPANY

---

EXHIBIT "A"

Containing the descriptions of the several parcels and easements reserved by the Receivers for other disposition in a certain Agreement of Sale, between the United States of America and the Receivers (Contract No. I-lp-14175) dated August 6, 1938, which descriptions set out by metes and bounds the boundaries of the said parcels and easements as the same have been surveyed and established by the Engineers of the Receivers in accordance with the provisions of Section (5) of the said Agreement. The said reserved parcels and easements, as described in Exhibit "A", were subsequently sold by the Receivers to The Baltimore and Ohio Railroad Company by a certain Agreement of Sale, also dated August 6, 1938. Exhibit "A" was incorporated in and made part of both of the aforesaid Agreements of Sale, which Agreements were thereafter confirmed by the Circuit Court for Washington County, Maryland, by Order passed September 10, 1938 in Consolidated Canal Cases, Equity, Nos. 4191 and 4198, and by the District Court of the United States for the District of Columbia by Order passed September 13, 1938, Equity, No. 12240.

February 4, 1939.

---

Revised and Corrected  
September 15, 1941.

EXHIBIT "A"

PARCEL #1 - DISTRICT OF COLUMBIA  
LAND ADJACENT TO GEORGETOWN UNIVERSITY  
(Map "A")

Being lots 121 and 129 and parts of lots 120, 128, 122 and 130 of the Baker, Deakin and Threlkeld Addition to Georgetown, more particularly described as: Beginning at an iron pin in the southerly side of Second Street measured N. 88° 23' E. 35.0 feet from the northwest corner of lot 128, said iron pin also being S. 88° 23' W. 265.0 feet measured on said southerly side of Second Street from the southwest corner of Second and College Streets; thence, parallel to and 35.0 feet measured at right angles from the westerly line of lot 128, S. 1° 37' E. 150.0 feet; thence continuing on same bearing, parallel to and 35.0 feet measured at right angles from the westerly line of lot 120, S. 1° 37' E. 150.0 feet to an iron pin in the northerly side of First Street, said iron pin being S. 88° 23' W. 265.0 feet measured on said northerly side of First Street from the northwest corner of First and College Streets; thence along said northerly side of First Street S. 88° 23' W. 215.0 feet to an iron pin measured S. 88° 23' W. 60.0 feet from the southeast corner of lot 122; thence parallel to and 60.0 feet measured at right angles from the easterly line of lot 122, N. 1° 37' W. 150.0 feet; thence continuing on same bearing, parallel to and 60.0 feet measured at right angles from the easterly line of lot 130, N. 1° 37' W. 150.0 feet to an iron pin in the southerly side of Second Street; thence along said southerly side of Second Street N. 88° 23' E. 215.0 feet to the point of beginning; in fee simple, containing 1.481 Acres.

PARCEL #2 - DISTRICT OF COLUMBIA  
LAND ADJACENT TO GEORGETOWN UNIVERSITY  
(Map "A")

Being lots 109, 110 and 111 and parts of lots 96, 97, 98 and 112 of the Baker, Deakin and Threlkeld Addition to Georgetown, more particularly described as: Beginning at an iron pin in the southerly side of First Street at the northeast corner of lot 109, said iron pin being S. 88° 23' W. 240.0 feet measured on said southerly side of First Street from the southwest corner of First and College Streets; thence along the easterly line of lot 109, S. 1° 37' E. 122.0 feet; thence, continuing on same bearing and along the easterly line of lot 96, S. 1° 37' E. 97.0 feet to an iron pin in the northerly right of way line of the Capital Traction Co., said point being S. 88° 23' W. 240.0 feet measured along said right of way line from the westerly side of College Street; thence with said right of way line, which is parallel to and 25.0 feet measured at right angles from the northerly side of Prospect Street, S. 88° 23' W. 150.0 feet to an iron pin measured S. 88° 23' W. 30.0 feet from the easterly line of lot 98; thence parallel to and 30.0 feet measured at right angles from said easterly line of lot 98, N. 1° 37' W. 97.0 feet to a point in the dividing line between lot 98 and lot 111; thence along said dividing line between lot 98 and lot 111 and also along the dividing line between lot 99 and lot 112, S. 88° 23' W. 60.0 feet to an old stone measured S. 88° 23' W. 30.0 feet from the southeast corner of lot 112; thence parallel to and 30.0 feet measured at right angles from the easterly line of lot 112, N. 1° 37' W. 122.0 feet to an iron pin in the southerly side of First Street; thence along said southerly side of First Street N. 88° 23' E. 210.0 feet to the point of beginning; in fee simple, containing 0.905 of an Acre.

PARCEL "B" - DISTRICT OF COLUMBIA  
FOR RIGHT OF WAY FOR WASHINGTON AND WESTERN MARYLAND RAILROAD COMPANY  
(Map "A")

From an original rail monument at station 47 plus 85.0 T.S. in the center line of the Washington & Western Maryland R.R., measure the following two courses to an iron pin, the point of beginning: (1) with the center line tangent extended S.  $25^{\circ} 04' 15''$  E. 97.3 feet and (2) S.  $64^{\circ} 55' 45''$  W. 18.59 feet, said point of beginning being in the dividing line between the land of The Real Estate and Improvement Co. of Baltimore City and the lands, now or formerly, of the Chesapeake and Ohio Canal Co.; thence with said dividing line the following two courses: (1) S.  $34^{\circ} 25' 25''$  E. 115.30 feet and (2) S.  $37^{\circ} 21' 35''$  E. 255.07 feet to an iron pin; thence in a northwesterly direction concentric with and 20.0 feet measured radially from the six degree curve in the aforesaid center line of the Washington & Western Maryland R.R. by a curve to the right with a radius of 975.37 feet a distance of 372.53 feet, the chord of which curve bears N.  $36^{\circ} 26' 25''$  W. 370.26 feet, to the point of beginning; in fee simple, containing 0.084 of an Acre.

PARCEL "B-1" - DISTRICT OF COLUMBIA  
FOR RIGHT OF WAY FOR WASHINGTON AND WESTERN MARYLAND RAILROAD COMPANY  
(Map "A")

From a stone marked "National Park Service" in the southwestern boundary line of lands, now or formerly, of the Chesapeake and Ohio Canal Co., measure along said boundary line S.  $45^{\circ} 47' 45''$  E. 126.2 feet to an iron pin, the point of beginning; thence N.  $9^{\circ} 52' 15''$  W. 58.73 feet to an iron pin; thence parallel to and 20.0 feet measured at right angles from the center line of the Washington & Western Maryland R.R. N.  $6^{\circ} 32' 15''$  W. 100.97 feet; thence N.  $9^{\circ} 52' 15''$  W. 201.88 feet to a hole drilled in the paving of the Canal Road; thence N.  $21^{\circ} 04' 45''$  W. 80.64 feet to an iron pin in the dividing line between the lands, now or formerly, of the Chesapeake and Ohio Canal Co. and the lands of The Real Estate and Improvement Co. of Baltimore City; thence along said dividing line S.  $45^{\circ} 25' 35''$  E. 50.28 feet to station 58 plus 19.8 in the aforesaid center line of the Washington & Western Maryland R.R.; thence continuing along said dividing line and on same bearing S.  $45^{\circ} 25' 35''$  E. 45.47 feet to an iron pin; thence S.  $9^{\circ} 52' 15''$  E. 204.24 feet; thence parallel to and 20.0 feet measured at right angles from aforesaid center line of Washington & Western Maryland R.R. S.  $6^{\circ} 32' 15''$  E. 100.97 feet to an iron pin; thence S.  $9^{\circ} 52' 15''$  E. 112.97 feet to an iron pin in the first mentioned southwestern boundary line of lands, now or formerly, of the Chesapeake & Ohio Canal Co.; thence along said boundary line N.  $45^{\circ} 47' 45''$  W. 68.18 feet to the point of beginning; in fee simple, containing 0.394 of an Acre.

PARCEL "C" - DISTRICT OF COLUMBIA  
FOR RIGHT OF WAY FOR WASHINGTON AND WESTERN MARYLAND RAILROAD COMPANY  
(Map "A")

From stone #29 in the dividing line between the lands, now or formerly, of the Chesapeake & Ohio Canal Co. and the lands of The Real Estate and Improvement Co. of Baltimore City, measure along said dividing line S. 43° 23' 05" E. 319.85 feet to an iron pin, the point of beginning, said point of beginning also being N. 43° 23' 05" W. 86.74 feet measured along said dividing line from station 73 plus 79.3 in the center line of the Washington & Western Maryland R. R.; thence in a southeasterly direction concentric with and parallel to aforesaid center line and 15.0 feet measured radially therefrom or at right angles thereto, the following five courses: (1) by a curve to the right with a radius of 3030.7 feet a distance of 1459.3 feet, the chord of which curve bears S. 40° 21' 25" E. 1445.28 feet to an iron pin, (2) S. 26° 33' 45" E. 2320.4 feet to an iron pin, (3) by a curve to the left with a radius of 3804.8 feet a distance of 1185.3 feet, the chord of which curve bears S. 35° 29' 15" E. 1180.6 feet to an iron pin, (4) S. 44° 24' 45" E. 817.4 feet to an iron pin and (5) S. 44° 43' 30" E. 68.7 feet to an iron pin in the dividing line between the lands, now or formerly, of the Chesapeake & Ohio Canal Co. and the lands of the Washington & Western Maryland R.R.; thence along said dividing line and along the dividing line between the lands of said Canal Co. and the lands of The Real Estate and Improvement Co. of Baltimore City N. 50° 30' 20" W. 144.85 feet to station 129 plus 98.67 in the aforesaid center line of the Washington & Western Maryland R.R.; thence continuing along last mentioned dividing line the following six courses: (1) N. 50° 30' 20" W. 67.94 feet, (2) N. 43° 15' 25" W. 960.4 feet, (3) N. 36° 45' 45" W. 660.2 feet, (4) N. 28° 25' 30" W. 1127.9 feet to a stone, (5) N. 25° 40' 10" W. 1228.9 feet and (6) N. 27° 56' 25" W. 330.7 feet to an iron pin; thence N. 54° 15' 30" E. 9.16 feet to an iron pin; thence in a northwesterly direction concentric with and 25.0 feet measured radially from the aforesaid center line of the Washington & Western Maryland R.R. by a curve to the left with a radius of 2990.7 feet a distance of 1040.0 feet, the chord of which curve bears N. 38° 50' 20" W. 1034.7 feet to an iron pin in the first mentioned dividing line; thence along said dividing line N. 43° 23' 05" W. 283.88 feet to the point of beginning; in fee simple, containing 4.584 Acres.

PARCEL "D" - DISTRICT OF COLUMBIA  
FOR RIGHT OF WAY FOR WASHINGTON AND WESTERN MARYLAND RAILROAD COMPANY  
(Map "A")

Beginning at the point where the dividing line between the lands, now or formerly, of the Chesapeake & Ohio Canal Co. and the lands of the Washington & Western Maryland R.R. intersects the center line of said Washington & Western Maryland R.R. at station 142 plus 34.02; thence along said dividing line N. 61° 41' 25" W. 135.5 feet to an iron pin; thence parallel to and concentric with said center line and 15.0 feet measured at right angles thereto or radially therefrom, the following nine courses: (1) S. 68° 02' 45" E. 1470.7 feet to an iron pin, (2) by a curve to the right with a radius of 2879.9 feet a distance of 173.0 feet, the chord of which curve bears S. 66° 19' 30" E. 173.0 feet, to an iron pin, (3) S. 64° 36' 15" E. 514.7 feet to an iron pin, (4) by a curve to the left with a radius of 3259.2 feet a distance of 139.4 feet, the chord of which curve bears S. 65° 49' 45" E. 139.4 feet, to an iron pin, (5) by a curve to the left with a radius of 804.0 feet a distance of 537.3 feet, the chord of which curve bears S. 86° 12' E. 527.4 feet, to an iron pin, (6) by a curve to the left with a radius of 3259.2 feet a distance of 139.4 feet, the chord of which curve bears N. 73° 25' 45" E. 139.4 feet, to an iron pin, (7) N. 72° 12' 15" E. 123.0 feet to an iron pin, (8) by a curve to the right with a radius of 5744.7 feet a distance of 160.4 feet, the chord of which curve bears N. 73° 00' 15" E. 160.4 feet, to an iron pin and (9) by a curve to the right with a radius of 1447.7 feet a distance of 392.5 feet, the chord of which bears N. 81° 34' 10" E. 391.25 feet, to an iron pin in the dividing line between the lands, now or formerly, of the Chesapeake & Ohio Canal Co. and the lands of The Real Estate and Improvement Co. of Baltimore City; thence with said dividing line S. 31° 53' W. 17.84 feet to station 177 plus 44.4 in the aforesaid center line of the Washington & Western Maryland R.R.; thence continuing along said dividing line and on same bearing S. 31° 53' W. 29.89 feet to an iron pin; thence in a westerly direction concentric with and parallel to said center line and 25.0 feet measured radially therefrom and at right angles thereto, the following nine courses: (1) by a curve to the left with a radius of 1407.7 feet a distance of 355.9 feet, the chord of which curve bears S. 81° 02' 50" W. 355.0 feet, to a cross cut on concrete step, (2) by a curve to the left with a radius of 5704.7 feet a distance of 159.3 feet, the chord of which curve bears S. 73° 00' 15" W. 159.3 feet, to a railroad spike driven into a tree, (3) S. 72° 12' 15" W. 123.0 feet to an iron pin, (4) by a curve to the right with a radius of 3299.2 feet a distance of 141.1 feet, the chord of which curve bears S. 73° 25' 45" W. 141.1 feet, to an iron pin, (5) by a curve to the right with a radius of 844.0 feet a distance of 564.1 feet, the chord of which curve bears N. 86° 12' W. 553.6 feet, to a railroad spike driven into a tree, (6) by a curve to the right with a radius of 3299.2 feet a distance of 141.1 feet, the chord of which curve bears N. 65° 49' 45" W. 141.1 feet, to an iron pin, (7) N. 64° 36' 15" W. 514.7 feet to an iron pin, (8) by a curve to the left with a radius of 2839.9 feet a distance of 170.6 feet, the chord of which curve bears N. 66° 19' 30" W. 170.6 feet, to an iron pin and (9) N. 68° 02' 45" W. 446.5 feet to an iron pin in the dividing line between the lands, now or formerly, of the Chesapeake & Ohio Canal Co. and the first mentioned lands of the Washington & Western Maryland R.R.; thence along said dividing line the following four courses: (1) N. 9° 34' 35" E. 11.94 feet to an iron pin, (2) N. 68° 40' 25" W. 615.1 feet, (3) N. 63° 55' 25" W. 260.0 feet and (4) N. 61° 41' 25" W. 12.6 feet to the point of beginning; in fee simple, containing 3.033 Acres.

PARCEL "E" - DISTRICT OF COLUMBIA  
FOR RIGHT OF WAY FOR WASHINGTON AND WESTERN MARYLAND RAILROAD COMPANY  
(Map "A")

Beginning at the point where the east face of the old Aqueduct Bridge intersects the center line of the Washington and Western Maryland R.R., at station 200 plus 74.1; thence along said east face of bridge S. 3° 08' 15" W. 27.6 feet to an iron pin driven at the northeast corner of the north pier of said bridge; thence along the northerly face of said pier N. 86° 38' 45" W. 49.4 feet to an iron pin driven at the northwest corner of said pier; thence with the west face of the aforesaid bridge N. 3° 08' 15" E. 12.9 feet to an iron pin; thence in a westerly direction concentric with and parallel to the aforesaid center line of the Washington and Western Maryland R.R. and 15.0 feet measured radially therefrom or at right angles thereto the following two courses: (1) by a curve to the right with a radius of 652.3 feet a distance of 116.5 feet, the chord of which curve bears N. 79° 13' 10" W. 116.3 feet, to an iron pin and (2) N. 74° 06' 15" W. 369.5 feet to an iron pin; thence S. 15° 53' 45" W. 10.0 feet to an iron pin; thence in a westerly direction concentric with and parallel to said center line and 25.0 feet measured radially therefrom or at right angles thereto the following three courses: (1) by a curve to the left with a radius of 1885.1 feet a distance of 440.9 feet the chord of which curve bears N. 80° 48' 15" W. 439.9 feet, to an iron pin, (2) N. 87° 30' 15" W. 276.8 feet to an iron pin and (3) by a curve to the right with a radius of 2571.6 feet a distance of 366.7 feet, the chord of which curve bears N. 83° 25' 10" W. 366.4 feet to a cross cut in a retaining wall and in the dividing line between the lands, now or formerly, of the Chesapeake & Ohio Canal Co., and the lands of The Real Estate and Improvement Co. of Baltimore City; thence along said dividing line N. 3° 34' W. 25.8 feet to station 184 plus 49.2 in the aforesaid center line; thence continuing along said dividing line and same bearing N. 3° 34' W. 15.5 feet to an iron pin; thence in an easterly direction concentric with and parallel to the aforesaid center line and 15.0 feet measured radially therefrom or at right angles thereto the following five courses: (1) by a curve to the left with a radius of 2531.6 feet a distance of 371.2 feet, the chord of which curve bears S. 83° 18' 15" E. 370.8 feet to an iron pin, (2) S. 87° 30' 15" E. 276.8 feet to an iron pin, (3) by a curve to the right with a radius of 1925.1 feet a distance of 450.2 feet, the chord of which curve bears S. 80° 48' 15" E. 449.2 feet to an iron pin, (4) S. 74° 06' 15" E. 369.5 feet to an iron pin and (5) by a curve to the left with a radius of 622.3 feet a distance of 109.8 feet, the chord of which curve bears S. 79° 09' 30" E. 109.6 feet to an iron pin and the west face of the north abutment of the aforesaid old Aqueduct Bridge; thence along said face of abutment S. 3° 08' 15" W. 3.0 feet to an iron pin driven at the southwest corner of said abutment; thence along south face of said abutment S. 86° 38' 45" E. 49.4 feet to a cross cut in the curb at the southeast corner of said abutment; thence along the east face of said bridge, S. 3° 08' 15" W. 12.4 feet to the point of beginning; in fee simple, containing 1.380 Acres. Provided, however, that said parcel of land shall be subject to air rights for the construction of an elevated highway over and across said parcel of land, and also subject to the right of the United States to anchor any structures constructed or erected for highway purposes upon or over said parcel of land, but which anchorage rights for erection and construction purposes shall not interfere with any railroad operations which may be conducted on said parcel described above.

PARCEL "G" - DISTRICT OF COLUMBIA

(Map "A")

Being all of lots 76, 77, 78 and parts of lots 79, 80, 70, 71, 72, 73, 74 and 75 of Square 1171 (formerly Square 1) and all of lots 87, 88, 89, 90 and parts of lots 91, 93 and 94 of Square 1172 (formerly Square 2) as recorded in Record of Squares of Georgetown in the office of the Surveyor of the District of Columbia, together with the bed of Virginia Avenue (not dedicated to public use), more particularly described as:-

Beginning at a lead plug in the paving at the point where the dividing line between the lands now, or formerly, of the Chesapeake and Ohio Canal Company and the lands of The Real Estate and Improvement Co. of Baltimore City intersects the easterly side of Thirtieth Street, said point being S.  $0^{\circ} 51' 30''$  E. 60.0 feet measured on said easterly side of Thirtieth Street from the southeast corner of Thirtieth and K Streets; thence with said dividing line the following two courses: (1) S.  $89^{\circ} 29' 30''$  E. parallel to and 60.0 feet southerly from the southerly side of K Street, a distance of 234.0 feet to a lead plug in the brick floor of Oil House and (2) N.  $14^{\circ} 09' 30''$  E. 9.16 feet to an iron pin planted where the southerly side of K Street (150 feet wide, more or less) east of Rock Creek if extended westerly across Rock Creek would intersect said dividing line; thence along said southerly side of K Street extended N.  $89^{\circ} 56' 30''$  E. 22.66 feet to an iron pin in the easterly line of lot 75; thence along said easterly line of lot 75 S.  $1^{\circ} 21' 30''$  W. 34.85 feet to a railroad spike driven in the bulkhead on the westerly shore line of Rock Creek; thence along said bulkhead S.  $28^{\circ} 18'$  W. 249.50 feet to a point, said point being referenced by two iron pins each 15.0 feet distant therefrom; thence along said westerly shore line of Rock Creek S.  $16^{\circ} 00'$  W. 79.43 feet to a point, said point also being referenced by two iron pins each 15.0 feet distant therefrom; thence along a line parallel to and 113.0 feet measured at right angles from the easterly side of Thirtieth Street S.  $0^{\circ} 51' 30''$  E. 125.0 feet to an iron pin in the southerly line of lot 94; thence along said southerly line of lot 94, N.  $74^{\circ} 52' 30''$  W. 117.54 feet to an iron pin in said easterly line of Thirtieth Street; thence along said easterly side of Thirtieth Street N.  $0^{\circ} 51' 30''$  W. 418.42 feet to the point of beginning; in fee simple, containing 1.660 Acres.

The above-described lands, comprising Parcel "G", shall be subject to a restrictive covenant, running with lands adjacent thereto and covered by this contract, that the height of buildings or structures on the said lands (Parcel "G") shall not exceed twenty feet, or one story in height; provided, however, that this restrictive covenant shall not be enforceable against existing buildings or structures on the said lands (Parcel "G") for a period of two years from the date of vesting of title to said canal property in the United States of America.

DISTRICT OF COLUMBIA

(Map "A")

Easement covering portion of "Mole" and adjacent property South and East of Parcel "G".

The following described property, to wit:- Beginning at an iron pin on the southerly line of lot 94, Square 1172 (formerly Square 2), as recorded in Record of Squares of Georgetown in the office of the Surveyor of the District of Columbia, said pin being also at the intersection of a line parallel to and distant 113.00 feet easterly from the easterly line of Thirtieth Street, N.W., and said southerly line of said lot 94, Square 1172 (formerly Square 2); thence with said parallel line S.  $0^{\circ} 51' 30''$  E. a distance of 100 feet to the P.C. of a curve to the right, having a radius of 150 feet; thence in a southwesterly direction with said curve to the right a distance of 107 feet more or less to the Potomac River; thence northwesterly with the said Potomac River 100 feet more or less, to the easterly line of Thirtieth Street produced southerly to its intersection with said Potomac River; thence with the easterly line of said Thirtieth Street produced and with the easterly line of Thirtieth Street N.  $0^{\circ} 51' 30''$  W. 163 feet, more or less to an iron pin at the southwesterly corner of lot 94, Square 1172 (formerly Square 2); thence with the southerly line of said lot 94 S.  $74^{\circ} 52' 30''$  E. 117.54 feet to the point of beginning; shall be subject, as a right appurtenant to Parcel "G", without limitation of time, to use for team track purposes, but such use shall automatically cease and terminate if such use is abandoned or discontinued for any two consecutive years.

PARCEL #1 - AT POINT OF ROCKS TUNNEL, FREDERICK COUNTY, MD.  
FOR RIGHT OF WAY FOR THE BALTIMORE AND OHIO RAILROAD COMPANY  
(Map "B")

Beginning at a point in the southerly right of way line of the Baltimore and Ohio Railroad, said point being a corner to the lands of said railroad, the lands, now or formerly, of the Chesapeake and Ohio Canal Company and the lands of G. W. Lilly, said point also being S. 77° 28' W. 118.62 feet from an iron pin at Station 3085 plus 94.7 in the center line between the two main tracks of the Baltimore and Ohio Railroad; thence with said dividing line S. 34° 13' W. 16.18 feet to a point, said point being 17.0 feet, measured at right angles from station 3087 plus 17.57 in the center line between future third and fourth tracks; thence in a westerly direction, parallel to or concentric with said center line between third and fourth tracks and at all times 17.0 feet measured normal therefrom, the following four courses: (1) N. 87° 17' W. 70.63 feet, (2) by a curve to the right with a radius of 898.95 feet a distance of 1092.39 feet, the chord of which curve bears N. 52° 28' 15" W. 1026.41 feet, (3) N. 17° 39' 30" W. 696.8 feet, (4) by a curve to the left with a radius of 11442.2 feet a distance of 429.36 feet, the chord of which curve bears N. 18° 44' W. 429.34 feet to a point S. 70° 11' 30" W. 17.0 feet from station 3109 plus 86.2 in said center line between the future third and fourth tracks, said point also being S. 70° 11' 30" W. 45.0 feet from station 3109 plus 18.03 in the center line between the two main tracks of the Baltimore and Ohio Railroad; thence in a northwesterly direction, parallel to or concentric with said center line between the two main tracks and at all times 45.0 feet measured normal therefrom, the following six courses: (1) N. 19° 48' 30" W. 708.27 feet to a point S. 70° 11' 30" W. 45.0 feet from an iron pin at station 3116 plus 26.3 in said center line, (2) N. 19° 56' 02" W. 99.61 feet, (3) by a curve to the left with a radius of 5684.65 feet a distance of 468.79 feet, the chord of which curve bears N. 22° 40' 15" W. 468.66 feet, (4) by a curve to the left with a radius of 2819.93 feet a distance of 248.55 feet, the chord of which curve bears N. 27° 33' 30" W. 248.47 feet, (5) by a curve to the left with a radius of 11414.2 feet a distance of 132.81 feet, the chord of which curve bears N. 30° 25' W. 132.81 feet to a point S. 59° 15' W. 45.0 feet from an iron pin at station 3125 plus 84.7 in said center line, (6) N. 30° 45' W. 346.17 feet to a point in the southerly right of way line of the Baltimore and Ohio Railroad, said point being 45.0 feet measured at right angles from station 3129 plus 30.87 in said center line, said point also being N. 38° 09' 25" W. 349.08 feet from an iron pin at station 3125 plus 84.7 in said center line; thence in a southeasterly direction along said southerly right of way line, the following seven courses: (1) S. 34° 25' E. 315.93 feet, (2) S. 27° 10' E. 400.9 feet, (3) by a curve to the right with a radius of 4878.15 feet a distance of 526.0 feet, the chord of which curve bears S. 22° 53' 50" E. 525.74 feet, (4) S. 19° 48' 30" E. 1782.20 feet, (5) by a curve to the left with a radius of 3651.8 feet a distance of 161.46 feet, the chord of which curve bears S. 21° 04' 30" E. 161.45 feet, (6) by a curve to the left with a radius of 938.13 feet a distance of 1021.84 feet, the chord of which curve bears S. 53° 32' 45" E. 972.07 feet, (7) by a curve to the left with a radius of 3651.8 feet a distance of 46.99 feet, the chord of which curve

PARCEL #1 - AT POINT OF ROCKS TUNNEL, FREDERICK COUNTY, MD. (Cont'd)  
FOR RIGHT OF WAY FOR THE BALTIMORE AND OHIO RAILROAD COMPANY  
(Map "B")

bears S. 85° 07' 10" E. 46.99 feet to the point of beginning; in fee simple, containing 2.264 Acres; together with the necessary slopes for fills, provided that such slopes shall not extend beyond a point midway between the bottom of the canal bed slope and the top of the same slope where it joins the tow path grade, and shall not encroach upon any canal company locks, aqueducts, or spillway structures, and provided further that such slope limit lines shall be subject to the final approval of the Secretary of the Interior, or his successors.

PARCEL #2 - AT CATOCTIN TUNNEL, FREDERICK COUNTY, MARYLAND  
FOR RIGHT OF WAY FOR THE BALTIMORE AND OHIO RAILROAD COMPANY  
(Map "B")

Beginning at a point in the southerly right of way line of the Baltimore and Ohio Railroad, said point being 45.0 feet measured at right angles from station 3146 plus 88.1 in the center line between the two main tracks of the Baltimore and Ohio Railroad, said point also being N. 52° 20' 40" W. 336.77 feet from an iron pin at station 3143 plus 54.4 in said center line; thence in a northwesterly direction, parallel to or concentric with said center line and at all times 45.0 feet measured normal therefrom, the following nine courses: (1) N. 44° 40' W. 326.1 feet to a point S. 45° 20' W. 45.0 feet from an iron pin at station 3150 plus 14.2 in said center line, (2) by a curve to the right with a radius of 5138.32 feet a distance of 181.60 feet, the chord of which curve bears N. 43° 39' 15" W. 181.59 feet, (3) by a curve to the right with a radius of 1318.57 feet a distance of 397.75 feet, the chord of which curve bears N. 34° 00' W. 396.24 feet, (4) by a curve to the right with a radius of 5138.32 feet a distance of 181.60 feet, the chord of which curve bears N. 24° 20' 45" W. 181.59 feet, (5) N. 23° 20' W. 136.5 feet, (6) by a curve to the left with a radius of 9124.02 feet a distance of 82.94 feet, the chord of which curve bears N. 23° 35' 37" W. 82.94 feet, (7) by a curve to the left with a radius of 2247.01 feet a distance of 455.91 feet, the chord of which curve bears N. 29° 40' W. 455.12 feet, (8) by a curve to the left with a radius of 9124.02 feet a distance of 82.94 feet, the chord of which curve bears N. 35° 44' 22" W. 82.94 feet to a point S. 54° 00' W. 45.0 feet from an iron pin at station 3165 plus 26.5 in said center line, (9) N. 36° 00' W. 322.0 feet to a point S. 54° 00' W. 45.0 feet from an iron pin at station 3168 plus 48.5 in said center line, said point also being S. 54° 00' W. 17.0 feet from station 3168 plus 48.5 in the center line of future third and fourth tracks; thence continuing in a northwesterly direction, parallel to or concentric with said center line between said third and fourth tracks and at all times 17.0 feet measured normal therefrom, the following four courses: (1) continuing last mentioned bearing, N. 36° 00' W. 246.65 feet, (2) by a curve to the right with a radius of 972.37 feet a distance of 817.58 feet, the chord of which curve bears N. 11° 54' 45" W. 793.71 feet, (3) N. 12° 10' 30" E. 574.03 feet, (4) by a curve to the left with a radius of 11442.2 feet a distance of 499.26 feet, the chord of which curve bears N. 10° 55' 30" E. 499.22 feet to a point N. 80° 19' 30" W. 17.0 feet from station 3189 plus 72.1 in aforesaid center line between future third and fourth tracks, said point also being N. 80° 19' 30" W. 45.0 feet from station 3189 plus 25.04 in the aforesaid center line between the two main tracks of the Baltimore and Ohio Railroad; thence in a northerly direction, parallel to or concentric with said center line between the two main tracks and at all times 45.0 feet measured normal therefrom, the following two courses: (1) N. 9° 40' 30" E. 1125.76 feet to a point N. 80° 19' 30" W. 45.0 feet from an iron pin at station 3200 plus 50.8 in said center line, (2) by a curve to the left with a radius of 2819.93 feet a distance of 748.17 feet, the chord of which curve bears N. 2° 04' 17" E. 746.25 feet to a point in the aforementioned right of way line of the Baltimore and Ohio Railroad, said point being S. 84° 28' 05" W. 45.0 feet from station 3208 plus 10.9 in said center line; thence in a southerly direction along said southerly right of way line, the following 17 courses: (1) S. 11° 44' E. 75.47 feet, (2) by a curve to the right with a radius of 2864.93 feet a distance of 763.8 feet, the chord of which curve bears S. 2° 02' 16" W. 761.50 feet, (3) S. 9° 40' 30" W. 1245.10 feet, (4) S. 13° 28' 30" W. 694.24 feet,

PARCEL #2 - AT CATOCTIN TUNNEL, FREDERICK COUNTY, MD. (Cont'd.)  
FOR RIGHT OF WAY FOR THE BALTIMORE AND OHIO RAILROAD COMPANY  
(Map "B")

(5) S. 80° 19' 30" E. 36.0 feet, (6) S. 9° 40' 30" W. 82.8 feet, (7) by a curve to the left with a radius of 4322.8 feet a distance of 143.05 feet, the chord of which curve bears S. 8° 43' 40" W. 143.03 feet, (8) by a curve to the left with a radius of 1099.7 feet a distance of 337.81 feet, the chord of which curve bears S. 1° 01' 20" E. 336.49 feet, (9) S. 80° 10' 40" W. 42.77 feet, (10) by a curve to the left with a radius of 955.37 feet a distance of 326.30 feet, the chord of which curve bears S. 21° 23' 15" E. 324.73 feet, (11) S. 31° 10' 20" E. 139.76 feet, (12) by a curve to the left with a radius of 1146.28 feet a distance of 133.05 feet, the chord of which curve bears S. 34° 29' 50" E. 132.97 feet, (13) S. 37° 49' 20" E. 363.74 feet, (14) by a curve to the right with a radius of 2260.0 feet a distance of 571.5 feet, the chord of which curve bears S. 30° 34' 40" E. 569.98 feet, (15) S. 23° 20' E. 374.1 feet, (16) by a curve to the left with a radius of 1146.3 feet a distance of 405.41 feet, the chord of which curve bears S. 33° 28' E. 403.30 feet, (17) S. 43° 35' 50" E. 504.1 feet to the point of beginning; in fee simple, containing 2.779 Acres; together with the necessary slopes for fills, provided that such slopes shall not extend beyond a point midway between the bottom of the canal bed slope and the top of the same slope where it joins the tow path grade, and shall not encroach upon any canal company locks, aqueducts, or spillway structures, and provided further that such slope limit lines shall be subject to the final approval of the Secretary of the Interior, or his successors.

PARCEL #3 - AT CATOCTIN CREEK, FREDERICK COUNTY, MD.  
FOR RIGHT OF WAY FOR THE BALTIMORE AND OHIO RAILROAD COMPANY  
(Map "B")

Beginning at a point in the southerly right of way line of the Baltimore and Ohio Railroad, said point being 45.0 feet measured radially S. 29° 20' 17" W. from station 3238 plus 61.1 in the center line between the two main tracks of the Baltimore and Ohio Railroad, said point also being S. 54° 53' 25" E. 311.15 feet from an iron pin at station 3241 plus 71.1 in said center line; thence in a north-westerly direction, parallel to or concentric with said center line and at all times 45.0 feet measured normal therefrom, the following five courses: (1) by a curve to the left with a radius of 3463.02 feet a distance of 306.01 feet, the chord of which curve bears N. 63° 11' 37" W. 305.91 feet to a point S. 24° 16' 30" W. 45.0 feet from an iron pin at station 3241 plus 71.1 in said center line, (2) by a curve to the left with a radius of 5684.65 feet a distance of 585.37 feet, the chord of which curve bears N. 68° 40' 30" W. 585.11 feet to a point S. 18° 22' 30" W. 45.0 feet from an iron pin at station 3247 plus 61.1 in said center line, (3) N. 71° 37' 30" W. 563.4 feet to a point S. 18° 22' 30" W. 45.0 feet from an iron pin at station 3253 plus 24.5 in said center line, (4) by a curve to the left with a radius of 7594.49 feet a distance of 159.09 feet, the chord of which curve bears N. 72° 13' 30" W. 159.06 feet, (5) by a curve to the left with a radius of 1865.08 feet a distance of 560.15 feet, the chord of which curve bears N. 81° 25' 45" W. 558.05 feet to a point in the aforesaid southerly right of way line of the Baltimore and Ohio Railroad, said point being 45.0 feet measured radially S. 0° 01' 59" E. from station 3260 plus 58.1 in said center line between the two main tracks of the Baltimore and Ohio Railroad; thence in a southeasterly direction along said southerly right of way line, the following nine courses: (1) N. 83° 58' E. 163.75 feet, (2) S. 76° 17' E. 220.0 feet, (3) S. 89° 47' E. 104.0 feet, (4) S. 74° 17' E. 120.0 feet, (5) S. 71° 17' E. 407.0 feet, (6) S. 70° 47' E. 260.0 feet, (7) S. 71° 02' E. 368.0 feet, (8) S. 64° 02' E. 365.0 feet, (9) S. 57° 17' E. 179.3 feet to the point of beginning; and also, beginning at a point in the aforesaid southerly right of way line of the Baltimore and Ohio Railroad, said point being 45.0 feet measured radially S. 12° 02' 09" E. from station 3264 plus 58.15 in said center line between the two main tracks of said railroad, said point also being N. 88° 41' 10" E. 209.32 feet from an iron pin at station 3266 plus 63.9 in said center line; thence in a westerly direction parallel to or concentric with said center line and at all times 45.0 feet measured normal therefrom, the following five courses: (1) by a curve to the left with a radius of 1865.08 feet a distance of 44.68 feet, the chord of which curve bears S. 77° 16' 41" W. 44.67 feet, (2) by a curve to the left with a radius of 7594.49 feet a distance of 159.09 feet, the chord of which curve bears S. 75° 59' 30" W. 159.06 feet to a point S. 14° 36' 30" E. 45.0 feet from an iron pin at station 3266 plus 63.9 in said center line, (3) S. 75° 23' 30" W. 1410.6 feet to a point S. 14° 36' 30" E. 45.0 feet from an iron pin at station 3280 plus 74.5 in said center line, (4) by a curve to the left with a radius of 11414.2 feet a distance of 551.16 feet, the chord of which curve bears S. 74° 00' 30" W. 551.11 feet to a point S. 17° 22' 30" E. 45.0 feet from an iron pin at station 3286 plus 27.9 in said center line, (5) S. 72° 37' 30" W. 745.25 feet to a point in the aforesaid southerly right of way line of the Baltimore and Ohio Railroad, said point being 45.0 feet measured at right angles from station 3293 plus 73.15 in the aforesaid center line between the two main tracks of said railroad, said point also being S. 61° 34' 16" W. 234.70 feet from an iron pin at station 3291 plus 42.8 in said center line; thence in a northeasterly direction along said southerly right of way line, the following six courses: (1) N. 71° 28' E. 259.76 feet, (2) N. 70°

PARCEL #3 - AT CATOCTIN CREEK, FREDERICK COUNTY, MD. (Cont'd)  
FOR RIGHT OF WAY FOR THE BALTIMORE AND OHIO RAILROAD COMPANY  
(Map "B")

58' E. 547.0 feet, (3) N. 73° 13' E. 420.0 feet, (4) N. 76° 13' E. 898.0 feet, (5) N. 75° 58' E. 724.0 feet, (6) N. 83° 58' E. 64.25 feet to the point of beginning; in fee simple, containing in the aggregate a total of 2.014 Acres; together with the necessary slopes for fills, provided that such slopes shall not extend beyond a point midway between the bottom of the canal bed slope and the top of the same slope where it joins the tow path grade, and shall not encroach upon any canal company locks, aqueducts, or spillway structures, and provided further that such slope limit lines shall be subject to the final approval of the Secretary of the Interior, or his successors.

LANDS AT BRUNSWICK, FREDERICK COUNTY, MD.

(Map "C")

Being lots 90, 91 and a portion of lot 89 on the original plat of Berlin, Md. (now Brunswick) and beginning at the point where the dividing line between lots 89 and 88 intersects the east side of 3rd Street (now Maple Avenue); thence with said dividing line S.  $73^{\circ} 12'$  E. 165.0 feet; thence with the dividing line between lots 91 and 88 N.  $16^{\circ} 48'$  E. 38.7 feet; thence with the dividing line between the lands of The Baltimore and Ohio Railroad Company and lots 91 and 90 S.  $73^{\circ} 12'$  E. 75.0 feet; thence continuing with the dividing line between the lands of The Baltimore and Ohio Railroad Company and lot 90 S.  $4^{\circ} 25' 44''$  W. 113.31 feet to an iron pin; thence with other lands of the Chesapeake and Ohio Canal Company N.  $66^{\circ} 18'$  W. 266.2 feet to an iron pin in the east side of said Maple Avenue; thence with the west line of lot 89 along the east side of said Maple Avenue N.  $16^{\circ} 48'$  E. 40.0 feet to the point of beginning; in fee simple, containing 0.397 of an Acre.

Being lot 37 on the original plat of Berlin, Md. (now Brunswick) and beginning at the point where the dividing line between lots 37 and 38 intersects the west side of 2nd Street (now Maryland Avenue); thence with said west side of Maryland Avenue S.  $16^{\circ} 48'$  W. 66.0 feet to an iron pin; thence with the south line of lot 37 along other lands of the Chesapeake & Ohio Canal Company N.  $73^{\circ} 12'$  W. 163.0 feet to a cross cut in concrete paving; thence with the dividing line between lots 37 and 32 N.  $16^{\circ} 48'$  E. 66.0 feet; thence with the dividing line between lots 37 and 38 S.  $73^{\circ} 12'$  E. 163.0 feet to the point of beginning; in fee simple, containing 0.247 of an Acre.

Being lot 38 on the original plat of Berlin, Md. (now Brunswick) and beginning at the point where the dividing line between lots 38 and 37 intersects the west side of 2nd Street (now Maryland Avenue); thence with said dividing line N.  $73^{\circ} 12'$  W. 163.0 feet; thence with the dividing line between lots 38 and 31 N.  $16^{\circ} 48'$  E. 66.0 feet; thence with the dividing line between lots 38 and 39 S.  $73^{\circ} 12'$  E. 163.0 feet to the west side of said Maryland Avenue; thence with said west side of Maryland Avenue S.  $16^{\circ} 48'$  W. 66.0 feet to the point of beginning; in fee simple, containing 0.247 of an Acre.

EASEMENTS AT BRUNSWICK, FREDERICK COUNTY, MD.

Easements for The Baltimore and Ohio Railroad Company, its successors and assigns: (1) to operate and maintain, with free access thereto, its existing pipe line at Brunswick, Md., through the culvert and under and across the lands now or formerly of the Chesapeake and Ohio Canal Co. from the southerly property line of said Railroad Co. to other lands of the Railroad Co. upon which is located its pump house; (2) to construct, operate and maintain, with free access thereto, under and across the lands now or formerly of the Chesapeake and Ohio Canal Co., a second pipe line to be located about 175 feet westerly from its present pipe line and approximately parallel thereto; (3) to operate and maintain over and across the lands now or formerly of the said Chesapeake and Ohio Canal Co. its existing overhead electric power line necessary for the operation of its aforesaid pump house; (4) for ingress and egress to its pump house over the lands now or formerly of the said Chesapeake and Ohio Canal Company.

PARCEL #4 - WEVERTON TO SANDY HOOK, WASHINGTON COUNTY, MD.  
FOR RIGHT OF WAY FOR THE BALTIMORE AND OHIO RAILROAD COMPANY  
(Map "D")

Beginning at a point in the southerly right of way line of The Baltimore and Ohio Railroad Company, said point being 45.0 feet measured at right angles from station 3611 plus 41.6 in the center line between the two main tracks of the Baltimore and Ohio Railroad, said point also being N. 67° 47' 24" E. 112.78 feet from an iron pin at station 3612 plus 45.0 in said center line; thence in a southwesterly direction, parallel to or concentric with said center line and at all times 45.0 feet measured normal therefrom, the following nineteen courses: (1) S. 44° 16' 30" W. 103.41 feet to a point S. 45° 43' 30" E. 45.0 feet from the aforesaid iron pin at station 3612 plus 45.0 in said center line, (2) by a curve to the right with a radius of 5774.65 feet a distance of 283.88 feet, the chord of which curve bears S. 45° 41' W. 283.85 feet to a point S. 42° 54' 30" E. 45.0 feet from station 3615 plus 26.7 in said center line, (3) by a curve to the right with a radius of 11504.2 feet a distance of 1521.51 feet, the chord of which curve bears S. 50° 52' 50" W. 1520.40 feet to a point S. 35° 19' 50" E. 45.0 feet from station 3630 plus 42.3 in said center line, (4) by a curve to the right with a radius of 4485.36 feet a distance of 170.53 feet, the chord of which curve bears S. 55° 45' 31" W. 170.52 feet, (5) by a curve to the right with a radius of 1607.88 feet a distance of 604.74 feet, the chord of which curve bears S. 67° 37' 21" W. 601.18 feet, (6) by a curve to the right with a radius of 6295.51 feet a distance of 164.21 feet, the chord of which curve bears S. 79° 08' 40" W. 164.20 feet to a point S. 10° 06' 30" E. 45.0 feet from an iron pin at station 3639 plus 61.7 in said center line, (7) S. 79° 53' 30" W. 330.0 feet to a point S. 10° 06' 30" E. 45.0 feet from an iron pin at station 3642 plus 91.7 in said center line, (8) by a curve to the right with a radius of 3571.1 feet a distance of 131.67 feet, the chord of which curve bears S. 80° 56' 52" W. 131.66 feet, (9) by a curve to the right with a radius of 926.94 feet a distance of 539.14 feet, the chord of which curve bears N. 81° 20' W. 531.57 feet, (10) by a curve to the right with a radius of 3571.1 feet a distance of 131.67 feet, the chord of which curve bears N. 63° 36' 52" W. 131.66 feet to a point S. 27° 26' 30" W. 45.0 feet from station 3650 plus 64.4 in said center line, (11) N. 62° 33' 30" W. 191.5 feet to a point S. 27° 26' 30" W. 45.0 feet from an iron pin at station 3652 plus 59.5 in said center line, (12) by a curve to the left with a radius of 2326.04 feet a distance of 316.32 feet, the chord of which curve bears N. 66° 27' 15" W. 316.08 feet, (13) by a curve to the left with a radius of 7594.49 feet a distance of 376.66 feet, the chord of which curve bears N. 71° 46' 15" W. 376.66 feet to a point S. 16° 48' 30" W. 45.0 feet from an iron pin at station 3659 plus 60.8 in said center line, (14) N. 73° 11' 30" W. 569.3 feet to a point S. 16° 48' 30" W. 45.0 feet from an iron pin at station 3665 plus 30.1 in said center line, (15) by a curve to the left with a radius of 2103.79 feet a distance of 329.85 feet, the chord of which curve bears N. 77° 41' W. 329.51 feet, (16) by a curve to the left with a radius of 5684.65 feet a distance of 362.96 feet, the chord of which curve bears N. 84° 00' 15" W. 362.90 feet to a point S. 4° 10' W. 45.0 feet from an iron pin at station 3672 plus 32.8 in said center line, (17) N. 85° 50' W. 916.0 feet to a point S. 4° 10' W. 45.0 feet from an iron pin at station 3681 plus 48.8 in said center line, (18) by a curve to the left with a radius of 13706.0 feet a distance of 110.77 feet, the chord of which curve bears N. 86° 03' 54" W. 110.77 feet, (19) by a curve to the left with a radius of 3392.87 feet a distance of 132.88 feet, the chord of which curve bears N. 87° 24' 51" W. 132.87 feet to a point in the aforementioned southerly right of way line of the Baltimore and Ohio Railroad, said point being S. 1° 28' 05" W. 45.0 feet from station 3683 plus 94.1 in said center line, said

PARCEL #4 - WEVERTON TO SANDY HOOK, WASHINGTON COUNTY, MD. (Cont'd)  
FOR RIGHT OF WAY FOR THE BALTIMORE AND OHIO RAILROAD COMPANY  
(Map "D")

point also being N. 81° 08' 20" E. 78.31 feet from an iron pin in said southerly right of way line; thence in an easterly direction along said southerly right of way line, the following 23 courses: (1) N. 81° 08' 20" E. 74.61 feet, (2) S. 87° 24' 40" E. 572.40 feet, (3) S. 85° 50' E. 469.53 feet, (4) by a curve to the right with a radius of 5713.1 feet a distance of 496.08 feet, the chord of which curve bears S. 83° 20' 45" E. 495.91 feet, (5) by a curve to the right with a radius of 1893.6 feet a distance of 253.38 feet, the chord of which curve bears S. 77° 01' 30" E. 253.19 feet, (6) S. 73° 11' 30" E. 630.42 feet, (7) by a curve to the right with a radius of 5713.1 feet a distance of 337.36 feet, the chord of which curve bears S. 71° 30' E. 337.31 feet, (8) by a curve to the right with a radius of 2275.5 feet a distance of 299.19 feet, the chord of which curve bears S. 66° 02' 30" E. 298.97 feet, (9) S. 62° 16' 30" E. 145.55 feet, (10) S. 67° 59' 10" E. 27.8 feet, (11) S. 64° 19' 10" E. 210.0 feet, (12) S. 71° 46' 10" E. 143.8 feet, (13) S. 73° 42' 40" E. 71.2 feet, (14) S. 75° 39' 10" E. 66.0 feet, (15) N. 87° 20' 50" E. 288.0 feet, (16) N. 77° 20' 50" E. 206.0 feet, (17) N. 78° 50' 50" E. 278.0 feet, (18) N. 74° 20' 50" E. 258.0 feet, (19) N. 67° 10' 50" E. 188.8 feet, (20) N. 57° 40' 50" E. 547.0 feet, (21) N. 51° 40' 50" E. 577.0 feet, (22) N. 47° 55' 50" E. 1052.0 feet, (23) N. 53° 42' 10" E. 91.55 feet to the point of beginning; in fee simple, containing 3,649 Acres; together with the necessary slopes for fills, provided that such slopes shall not extend beyond a point midway between the bottom of the canal bed slope and the top of the same slope where it joins the tow path grade, and shall not encroach upon any canal company locks, aqueducts, or spillway structures, and provided further that such slope limit lines shall be subject to the final approval of the Secretary of the Interior, or his successors.

PARCEL #5 - SANDY HOOK TO HARPERS FERRY TUNNEL, WASHINGTON COUNTY, MD.  
FOR RIGHT OF WAY FOR THE BALTIMORE AND OHIO RAILROAD COMPANY  
(Map "D")

Beginning at a point in the southerly right of way line of the Baltimore and Ohio Railroad, said point being 45.0 feet measured radially S. 13° 58' 25" E. from station 3700 plus 50.6 in the center line between the two main tracks of the Baltimore and Ohio Railroad, said point also being S. 63° 46' 25" W. 196.80 feet from an iron pin at station 3698 plus 58.3 in said center line; thence in a westerly direction, parallel to or concentric with said center line and at all times 45.0 feet measured normal therefrom, the following four courses: (1) by a curve to the left with a radius of 5684.65 feet a distance of 244.88 feet, the chord of which curve bears S. 74° 47' 33" W. 244.87 feet to a point S. 16° 26' 30" E. 45.0 feet from an iron pin at station 3702 plus 97.4 in said center line, (2) S. 73° 33' 30" W. 539.70 feet to a point S. 16° 26' 30" E. 45.0 feet from an iron pin at station 3708 plus 37.1 in said center line, (3) by a curve to the right with a radius of 8639.42 feet a distance of 683.56 feet, the chord of which curve bears S. 75° 49' 30" W. 683.39 feet, to a point S. 11° 54' 30" E. 45.0 feet from station 3715 plus 17.1 in said center line, (4) by a curve to the right with a radius of 3864.83 feet a distance of 1054.04 feet, the chord of which curve bears S. 85° 54' 17" W. 1050.78 feet; thence N. 78° 05' 20" E. 55.50 feet to a point in the aforesaid southerly right of way line of the Baltimore and Ohio Railroad, said point being 30.0 feet measured at right angles from a point 59.0 feet on tangent extended Eastward from station 3725 plus 64.3 C.T. in the aforesaid center line between the two main tracks of said railroad; thence in an easterly direction along said southerly right of way line, the following five courses: (1) S. 89° 54' 40" E. 420.0 feet, (2) N. 80° 42' 20" E. 908.20 feet, (3) N. 70° 53' 20" E. 647.40 feet, (4) N. 78° 34' 20" E. 325.60 feet, (5) N. 81° 08' 20" E. 165.06 feet to the point of beginning; in fee simple, containing 1.381 Acres; together with the necessary slopes for fills, provided that such slopes shall not extend beyond a point midway between the bottom of the canal bed slope and the top of the same slope where it joins the tow path grade, and shall not encroach upon any canal company locks, aqueducts, or spillway structures, and provided further that such slope limit lines shall be subject to the final approval of the Secretary of the Interior, or his successors.

PARCEL NO. W.M. 26 - WASHINGTON COUNTY, MD.  
FOR RIGHT OF WAY FOR WESTERN MARYLAND RAILWAY COMPANY  
(Map "R")

Beginning for the same at the intersection of the southwesterly right of way line of the Western Maryland Railway Company with the division line between the property of Chesapeake & Ohio Canal Company and the property of Western Maryland Railway Company, said place of beginning being distant 30.00 feet measured radially from Valuation Station 5363 plus 07.53 in the center line of westbound track of the Western Maryland Railway, and running thence binding on the said southwesterly right of way line and by lines described in the deed dated October 10, 1890, from T. Belt Johnson to The Potomac Valley Railroad Company, and in the deed dated December 23, 1890, from Silas H. Williams, et.al., to The Potomac Valley Railroad Company, parallel with and distant 30.00 feet measured at right angles from the said center line with the two following courses and distances: Southeastwardly by a curve to the right with a radius of 1880.08 feet (the chord of which curve is S. 17° 13' 49" E. 886.103 feet) 894.51 feet; and thence S. 3° 36' E. 695.27 feet to intersect the division line between the property of Chesapeake and Ohio Canal Company and the property of Western Maryland Railway Company at a point distant 30.00 feet measured at right angles from Valuation Station 5347 plus 03.53 in the said center line; thence binding on the said last mentioned division line and on the S. 30° 30' W. 240.5 feet line described in the deed dated May 20, 1916 from Andrew J. Michael to The Western Maryland Railway Company, S. 30° 30' W. 88.86 feet to a rail monument; thence leaving the said southeasterly right of way line and running thru and across the property of Chesapeake and Ohio Canal Company, parallel with and distant 80.00 feet measured at right angles from the said center line with the three following courses and distances: Northwestwardly by a curve to the right with a radius of 4377.28 feet (the chord of which curve is N. 3° 51' W. 39.45 feet) 39.45 feet to a rail monument; thence N. 3° 36' W. 729.40 feet to a rail monument; and thence northwestwardly by a curve to the left with a radius of 1830.08 feet (the chord of which curve is N. 16° 59' W. 847.76 feet) 855.53 feet to a rail monument in the first mentioned division line; thence binding on the said first mentioned division line and on the 68.0 feet line described in the deed dated May 18, 1912, from Jesse O. Snyder, et.al., to The Western Maryland Railway Company and on the 12.5 feet line described in the deed dated November 30, 1906, from Tobias Belt Johnson to The Western Maryland Railroad Co., N. 42° 15' E. 52.31 feet to the place of beginning; in fee simple, containing 1.845 Acres of land, more or less.

PARCEL NO. W.M. 27 - WASHINGTON COUNTY, MD.  
FOR RIGHT OF WAY FOR WESTERN MARYLAND RAILWAY COMPANY  
(Map "S")

Beginning for the same at the intersection of the southwesterly right of way line of the Western Maryland Railway Company with the division line between the property of Chesapeake and Ohio Canal Company and the property of Western Maryland Railway Company, said place of beginning being distant 30.00 feet measured at right angles from Valuation Station 5383 plus 40.32 in the center line of west-bound track of the Western Maryland Railway, and running thence binding on the said southwesterly right of way line described in the deed dated October 22, 1890, from Fred F. McComas and Thomas E. Hilliard to the Potomac Valley Railroad Company, parallel with and distant 30.00 feet measured at right angles from the said center line S. 38° 25' E. 280.55 feet to intersect the division line between the property of Chesapeake and Ohio Canal Company and the property of Western Maryland Railway Company at a point distant 30.00 feet measured at right angles from Valuation Station 5380 plus 59.77 in the said center line; thence binding on the said last mentioned division line and by lines described in deeds to The Western Maryland Railroad Company, The Western Maryland Railway Company and Western Maryland Railway Company by Thomas E. Hilliard, and Fred M. Bloom, dated May 10, 1907, May 22, 1912, November 30, 1928, and May 19, 1931, respectively, with the following courses and distances: S. 11° 32' E. 11.60 feet; thence N. 58° 44' W. 124.74 feet, and thence S. 60° 16' W. 56.76 feet to a rail monument distant 134.66 feet measured at right angles from Valuation Station 5381 plus 74.97 in the said center line; thence leaving said last mentioned division line and running thru and across the property of Chesapeake and Ohio Canal Company, N. 22° 39' W. 164.36 feet to a rail monument in the first mentioned division line, distant 90.00 feet measured at right angles from Valuation Station 5383 plus 33.15 in the said center line; thence binding on the last mentioned division line and by lines described in deeds from The Young Men's Christian Association of Hagerstown, Maryland, Incorporated, to Western Maryland Railway Company, dated June 12, 1929, and deed from Thomas E. Hilliard to The Western Maryland Railway Company, dated January 27, 1917, N. 44° 46' E. 60.43 feet to the place of beginning; in fee simple, containing 0.391 of an Acre of land, more or less.

PARCEL NO. W. M. 2 - WASHINGTON COUNTY, MD.  
FOR RIGHT OF WAY FOR WESTERN MARYLAND RAILWAY COMPANY  
(Map "F")

Beginning at a point in the center line of the southernmost side track of the Western Maryland Railway at Valuation Station 5943 plus 24.0; thence with said center line, S. 77° 11' E. 814.5 feet to a point in said center line at Valuation Station 5935 plus 09.5; thence S. 12° 49' W. 24.0 feet to a point, said point being N. 10° 01' W. 4.30 feet from a rail monument in a corner of the southerly right of way line of the Western Maryland Railway; thence parallel to and 24.0 feet measured normal from said center line of side track, N. 77° 11' W. 814.5 feet to a point, said point being N. 25° 58' W. 3.85 feet from a rail monument in another corner of said southerly right of way line of the Western Maryland Railway; thence N. 12° 49' E. 24.0 feet to the point of beginning; in fee simple, containing 0.449 acres; the same being subject, however, to the right heretofore granted to the Western Maryland Railway Company to occupy and use the said lands, without limitation of time, as a right of way for its railroad; together with the necessary slopes for fills, provided that such slopes shall not extend beyond a point midway between the bottom of the canal bed slope and the top of the same slope where it joins the tow path grade, and shall not encroach upon any Canal Company locks, aqueducts or spillway structures, and provided further that such slope limit lines shall be subject to the final approval of the Secretary of the Interior, or his successors.

CERTIFICATE OF SURVEYOR

THIS IS TO CERTIFY that I, Harold Oscar Arnurius, a Professional Engineer and Land Surveyor, duly qualified and acting under a License from the State Board of Registration for Professional Engineers and Land Surveyors of the State of Maryland, authorizing me to practice Professional Engineering and Surveying, do take oath to the following statements:

(1)- That I, Harold Oscar Arnurius, was engaged by the Receivers of the Chesapeake and Ohio Canal Company

(a) To survey the parcels of land and easements in land included in a document known as Exhibit "A", appended to and made part of a Contract of Sale dated August 6, 1938 (known as No. I-lp-14175) entered into between the Receivers of the Chesapeake and Ohio Canal Company and the United States of America; and

(b) To establish suitably located permanent monuments within each of the aforesaid parcels of land and easements in land included in the aforementioned Exhibit "A"; and

(c) To correctly describe the corner posts and boundary lines of each of the aforesaid parcels of land and easements in land included in the aforementioned Exhibit "A" in reference to the said monuments; and

(d) To perform all the necessary work to complete the survey called for by paragraph (5) of the aforementioned Contract of Sale of August 6, 1938 (No. I-lp-14175).

(2)- That I, Harold Oscar Arnurius, in my capacity as Professional Engineer and Land Surveyor in charge of the performance of the work described in Paragraph (1) above, do certify that the entire survey called for by my employment with the Receivers of the Chesapeake and Ohio Canal Company, as described in Paragraph (1) above, was performed under my direct supervision, and that the corrected description of each of the several parcels of land and easements in land included in the preceding pages (numbered 1 to 21 inclusive) of this revised Exhibit "A", is the true and correct description of the corner posts and boundaries of the same identical parcel, or easement, intended to

be reserved in the original Exhibit "A", appended to and made part of the Contract of Sale of August 6, 1938 (No. I-1p-14175), as the same has been determined by the aforesaid survey, as is hereinbefore set out.

WITNESS my signature this 15th day of September, 1941.



*Harold Oscar Arnurius*

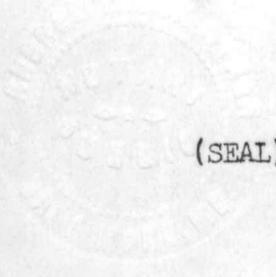
(Sgd) HAROLD OSCAR ARNURIUS

STATE OF MARYLAND,

CITY OF BALTIMORE, TO WIT:-

I hereby certify that on this 15th day of September, in the year One Thousand Nine Hundred and Forty-One, before me, the subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore, aforesaid, personally appeared Harold Oscar Arnurius, a Professional Engineer and Land Surveyor, duly licensed by the State of Maryland, and he made oath in due form of law that the statements subscribed to by him in the foregoing Certificate are true to the best of his knowledge, information and belief.

WITNESS my hand and Notarial Seal.



*Andrew P. Schuppner*

(Sgd) ANDREW P. SCHUPPNER

Notary Public

My commission expires May 3, 1943.

(SEAL)

NOS. 4191 and 4198 EQUITY  
CONSOLIDATED CASES

GEORGE S. BROWN, et al

vs.

CHESAPEAKE AND OHIO CANAL  
COMPANY, et al

Petition of The Real Estate  
and Improvement Company of  
Baltimore City, Substituted  
Purchaser, relinquishing  
twelve parcels of land.

*Filed Sept. 20, 1941*

LAW OFFICES

LANE, BUSHONG & BYRON

HAGERSTOWN TRUST BUILDING

HAGERSTOWN, MD.

GEORGE S. BROWN, et al                   :       NOS. 4191 and 4198 EQUITY  
  vs.                                   :       CONSOLIDATED CASES  
CHESAPEAKE AND OHIO CANAL             :       IN THE CIRCUIT COURT FOR  
COMPANY, et al                           :       WASHINGTON COUNTY, MARYLAND

TO THE HONORABLE, THE JUDGES OF SAID COURT:

This, the Petition of The Real Estate and Improvement Company of Baltimore City, Substituted Purchaser, respectfully represents:

1- That on August 13, 1938 the Receivers in this cause reported to this Court the sale of certain parcels of land and easements to The Baltimore and Ohio Railroad Company, as will more particularly appear by reference to the Agreement of Sale dated August 6, 1938, filed by said Receivers in this cause on August 13, 1938, and by further reference to the Exhibit "A" attached thereto which particularly describes each of said parcels and easements.

2- That on the same date there was reported by said Receivers the sale to the United States of America all of the property of the Chesapeake and Ohio Canal Company other than as set forth and described in said Exhibit "A".

3- That said sales so reported were finally ratified and confirmed on September 10, 1938.

4- That thereafter, on October 18, 1938, The Real Estate and Improvement Company of Baltimore City was substituted as purchaser of the parcels and easements set forth and described in said Exhibit "A" in the place and stead of The Baltimore and Ohio Railroad Company.

5- That in the said Agreement of Sale with the United States of America, under paragraph (4) thereof, it was stipulated that "the portions of property of the Chesapeake and Ohio Canal Company described in Exhibit "A", attached hereto and hereby made a part hereof, are

reserved to said Receivers for other disposition and are excluded from the operation of this Contract of Sale except as specifically provided therein."

6- That, with respect to the certain parcels described in said Exhibit "A", designated therein "Right of Way for Western Maryland Railway Company," and being further designated as: Parcel No. W. M. 1 - Washington County, Parcel No. W. M. 2 - Washington County, Parcel No. W. M. 3 - Washington County, Parcel No. W. M. 4 - Washington County, Parcel No. W. M. 5 - Washington County, Parcel No. W. M. 6 - Washington County, Parcel No. W. M. 7 - Washington County, Parcel No. W. M. 8 - Allegany County, Parcel No. W. M. 9 - Allegany County, Parcel No. W. M. 10 - Allegany County, Parcel No. 11 - Allegany County, Parcel No. W. M. 12 - Allegany County, Parcel No. W. M. 13 - Allegany County, Parcel No. 26 - Washington County, and Parcel No. W. M. 27 - Washington County, said parcels were all reserved for the purpose of eventual conveyance by The Real Estate and Improvement Company of Baltimore City as Substituted Purchaser to the Western Maryland Railway Company.

7- That since the report and ratification of said sales, the Western Maryland Railway Company has notified The Real Estate and Improvement Company of Baltimore City that it desires to obtain title only to Parcel No. W. M. 2 - Washington County, Parcel No. 26 - Washington County, and Parcel No. W. M. 27 - Washington County, and that it desires to relinquish any right that it may have to obtain title to the remaining parcels as set forth in paragraph 6 above.

8- That, with respect to the said parcels enumerated in paragraph 6 above, your petitioner The Real Estate and Improvement Company of Baltimore City, as Substituted Purchaser, therefore desires that the Receivers convey to it only the title to said Parcel No. W. M. 2 - Washington County, Parcel No. 26 - Washington County, and Parcel No. W. M. 27 - Washington County, and that it further desires to relinquish

any rights that it might have as Substituted Purchaser to have the remaining parcels enumerated in paragraph 6 above conveyed to it as Substituted Purchaser, and it expressly stipulates that by reason of its relinquishment of the right to obtain conveyances of said parcels there shall be no abatement or diminution of the purchase price set forth in the Agreement of Sale between the Receivers and The Baltimore and Ohio Railroad Company, hereinabove mentioned.

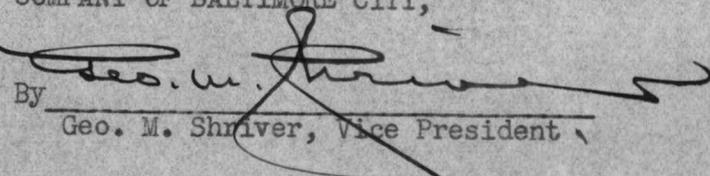
TO THE END, THEREFORE, your Petitioner prays your Honorable Court to pass an order directing the surviving Receivers in this cause to omit from their conveyance to your Petitioner said parcels, the right to obtain which by conveyance is hereby relinquished and which are specifically designated in said Exhibit "A" as Parcel No. W. M. 1 - Washington County; Parcel No. W. M. 3 - Washington County; Parcel No. W. M. 4 - Washington County; Parcel No. W. M. 5 - Washington County; Parcel No. W. M. 6 - Washington County; Parcel No. W. M. 7 - Washington County; Parcel No. W. M. 8 - Allegany County; Parcel No. W. M. 9 - Allegany County; Parcel No. W. M. 10 - Allegany County; Parcel No. 11 - Allegany County; Parcel No. W. M. 12 - Allegany County; and Parcel No. W. M. 13 - Allegany County.

AND AS IN DUTY BOUND, ETC.,

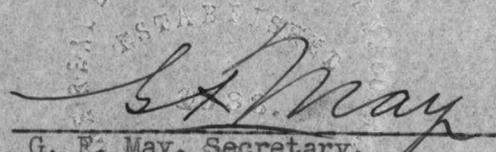
Respectfully submitted,

THE REAL ESTATE AND IMPROVEMENT  
COMPANY OF BALTIMORE CITY,

By

  
Geo. M. Shriver, Vice President

ATTEST:

  
G. F. May, Secretary.

STATE OF MARYLAND, BALTIMORE CITY, to-wit:

I HEREBY CERTIFY, that on this 19<sup>th</sup> day of September, A. D., 1941, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore City, personally appeared Geo. M. Shriver, the Vice President of The Real Estate and Improvement Company of Baltimore City, the Petitioner herein, and made oath in due form of law that the matters and facts set forth in the foregoing Petition are true, to the best of his knowledge, information and belief.

WITNESS my hand and Official Notarial Seal.



My Commission expires  
May 3 1943

Andrew F. Schuppert  
Notary Public.

NOS. 4191 and 4198 EQUITY  
CONSOLIDATED CASES

GEORGE S. BROWN, et al

vs.

CHESAPEAKE AND OHIO CANAL  
COMPANY, et al

Report and Affidavit of  
Surviving Receivers and  
Order of Court thereon,  
with respect to the exe-  
cution of Deeds to The  
Real Estate and Improvement  
Company of Baltimore City  
as substituted purchasers.

Filed *Oct. 15, 1941*

Law Offices  
LANE, BUSHONG & BYRON  
Hagerstown Trust Building  
Hagerstown, Md.

GEORGE S. BROWN, et al : NOS. 4191 and 4198 EQUITY  
vs. : CONSOLIDATED CASES  
CHESAPEAKE AND OHIO CANAL : IN THE CIRCUIT COURT FOR  
COMPANY, et al : WASHINGTON COUNTY, MARYLAND

TO THE HONORABLE, THE JUDGES OF SAID COURT:

This, the further report of R. S. B. Hartz and G. L. Nicolson, surviving Receivers in this cause, respectfully shows:

1- That in accordance with the direction contained in the order of this Court passed on the 20th day of September, 1941, the Receivers served upon the Secretary of the Interior of the United States of America on September 23, 1941, by registered mail, a copy of the further report and petition, the revised Exhibit "A" and the accompanying maps, and a copy of the order of this Court, as is evidenced by the Post Office Department "Return Receipt" on registered article No. 27,527, which is attached hereto as Exhibit "No. 1".

2- That in response to said service the Secretary of the Interior of the United States on October 7, 1941, acknowledged the receipt thereof; approved the descriptions of the parcels of land and easements in lands contained in the revised Exhibit "A"; and further approved the procedure to effect a conveyance of the parcels of said land, as is indicated by the letter of the First Assistant Secretary of the Department of the Interior dated October 7, 1941 and addressed to your Receivers, the original of which said letter is hereto attached as Exhibit "No. 2".

3- That by reason of the inclusion in said letter of the paragraph reading as follows:

"In approving the above-mentioned descriptions it should be understood that this Department is not modifying in any way its position to the effect that the slope

clause provision was incorporated in the original Exhibit "A" for the purpose of reserving unto the Secretary of the Interior the final right of approval of the maximum slope limits which may be finally established upon the ground, in order to preserve a water way sufficient for canal purposes."

your Receivers referred said letter to The Real Estate and Improvement Company of Baltimore City, as Substituted Purchaser of said property, by their letter of transmittal dated October 9, 1941, a copy of which is hereto attached as Exhibit "No. 3".

4- Your Receivers are now in receipt of a letter from The Real Estate and Improvement Company of Baltimore City, dated October 10, 1941, which is hereto attached as Exhibit "No. 4" and in which the said The Real Estate and Improvement Company of Baltimore City raises a question of the proper interpretation of the slope clause contained in the original contract of sale.

5- That the slope clause contained in the original Exhibit "A" attached to the contracts of sale filed herein read as follows:

".....; together with the necessary slopes for fills, the slope limits of which shall be described by metes and bounds as soon as surveys are completed, provided that such slopes shall not extend beyond a point midway between the bottom of the canal bed slope and the top of the same slope where it joins the tow path grade, and shall not encroach upon any canal company locks, aqueducts, or spillway structures, and provided further that such slope limit lines shall be subject to the final approval of the Secretary of the Interior, or his successors."

6- That the slope clause contained in the revised Exhibit "A" filed in this cause on September 20, 1941, reads as follows:

"Together with the necessary slopes for fills, provided that such slopes shall not extend beyond a point midway between the bottom of the canal bed slope and the top of the same slope where it joins the tow path grade, and shall not encroach upon any canal company locks, aqueducts, or spillway structures, and provided further that such slope limit lines shall be subject to the final approval of the Secretary of the Interior, or his successors."

7- That both the United States of America and The Real Estate and Improvement Company of Baltimore City are willing to have your Receivers execute a deed to The Real Estate and Improvement Company

of Baltimore City without determining said slope limits by metes and bounds, and they are further agreed that subject to the final approval of the Secretary of the Interior, or his successors, said slope limits shall be determined by metes and bounds by future agreement between the parties in interest.

8- That similarly your Receivers believe that the proper interpretation of the phrase "necessary slopes for fills" should likewise be left for future determination between the parties as their respective interests may appear.

TO THE END THEREFORE, your Receivers pray your Honorable Court to pass an order in accordance with the order of this Court passed on the 20th day of September, 1941, directing your Receivers to execute and deliver to The Real Estate and Improvement Company of Baltimore City, as Substituted Purchaser, a deed or deeds conveying the parcels of land and easements in land in accordance with the descriptions and in accordance with the language set forth in the revised Exhibit "A" filed on September 20, 1941, without further interpretation of said slope clause.

Respectfully submitted,

R. S. B. Hartz  
G. L. Nicolson  
Surviving Receivers.

STATE OF MARYLAND, BALTIMORE CITY, to-wit:

I HEREBY CERTIFY, that on this 13<sup>th</sup> day of October, A. D., 1941, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore City, personally appeared R. S. B. Hartz and G. L. Nicolson, surviving Receivers, who made oath in due form of law that the matters and facts set forth in the foregoing petition are true to the best of their knowledge, information and belief.

WITNESS my hand and Official Notarial Seal.

Fearless M. Williams  
Notary Public.

my commission expires May 6-1943

COPY

OFFICE OF RECEIVERS  
CHESAPEAKE & OHIO CANAL COMPANY  
ROOM 402, 2 N. CHARLES STREET  
BALTIMORE, MARYLAND

September 22, 1941

The Secretary of the Interior  
Department of the Interior of the United States  
Washington, D. C.

Dear Sir:

In compliance with the Order of the Circuit Court for Washington County, Maryland, passed in Nos. 4191 and 4198, Equity, Consolidated Cases, on the 20th day of September, 1941, we herewith enclose a certified copy of the further report, petition and affidavit of the surviving Receivers in said case, together with Exhibit "No. 1" and the Exhibit Maps filed therewith, and the Order of Court passed in connection therewith.

Very truly yours,

R. S. B. Hartz and G. L. Nicolson,  
Surviving Receivers, Chesapeake  
and Ohio Canal Company:

By R. S. B. Hartz  
Co-Receiver

COPY

EXHIBIT No 1

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SECRETARY

WASHINGTON

OCT - 7 1941

REGISTERED MAIL

Messrs. R. S. B. Hartz and G. L. Nicolson,  
Surviving Receivers of the Chesapeake & Ohio Canal Company,  
2 N. Charles Street,  
Baltimore, Maryland.

Gentlemen:

Further reference is made to the letter of September 12 as supplemented by the letter of September 22 from Col. R. S. B. Hartz, Co-Receiver of the Chesapeake & Ohio Canal Company, concerning the corrected descriptions, as determined by survey, of certain lands and easements in lands excepted from the conveyance of the Chesapeake & Ohio Canal Company's properties to the United States which were described in Exhibit "A" of the original contract of sale between the United States and the Canal Company.

The descriptions of the parcels of land and easements in lands contained in the revised Exhibit "A", which Exhibit has been filed in the receivership proceedings entitled George S. Brown et al. v. Chesapeake & Ohio Canal Company, et al., in the Circuit Court for Washington County, Maryland (Consolidated Cases, Equity, Nos. 4191 and 4198) in lieu of the original Exhibit "A" above referred to, are unobjectionable to this Department.

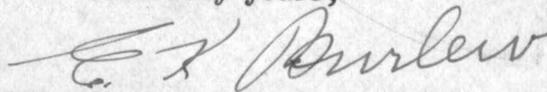
It is noted in the letters of September 12 and 22, that the Receivers of the Canal Company propose to convey to the United States whatever right, title and interest they may have in and to 12 parcels of land designated as Nos. W.M. 1, W.M. 3, W.M. 4, W.M. 5, W.M. 6, W.M. 7, W.M. 8, W.M. 9, W.M. 10, W.M. 11, W.M. 12, and W.M. 13, which parcels are not included in the revised Exhibit "A", subject to existing rights of the Western Maryland Railway Company to occupy and use said parcels without limitation of time as a right-of-way for its railroad. It is noted also that the Receivers propose to convey parcel B-1 located in the District of Columbia and included in the revised Exhibit "A", to the Real Estate and Improvement Company of Baltimore City, which Company will in turn grant an easement over parcel B-1 to the Western Maryland Railway Company for a right-of-way and railroad bridge across the Canal at this point, conveying the underlying fee to this parcel to the United States.

The procedure, as outlined above, to effect a conveyance of the said 12 parcels of land, as well as parcel B-1, to the United States subject to the easements for rights-of-way in favor of the Western Maryland Railroad Company, is acceptable to this Department.

In approving the above-mentioned descriptions it should be understood that this Department is not modifying in any way its position to the effect that the slope clause provision was incorporated in the original Exhibit "A" for the purpose of reserving unto the Secretary of the Interior the final right of approval of the maximum slope limits which may be finally established upon the ground, in order to preserve a water way sufficient for canal purposes.

In accordance with the request contained in the letters of September 12 and 22 from Col. Hartz, this letter has been written so that it may be filed by you in the above-mentioned proceedings indicating this Department's consent to the acceptance of the proposed conveyances of the parcels of land in question to the United States.

Sincerely yours,



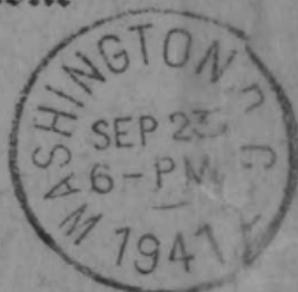
First Assistant ~~Under~~ Secretary.



Post Office Department

OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300



BUY  
POSTMARK OF DELIVERING  
OFFICE  
DEFENSE SAVINGS  
BONDS AND STAMPS

Return to

*Ofc Rivers C/O Canal*

Street and Number,  
or Post Office Box,

(NAME OF SENDER)  
*40 Roger S B North  
2 N Charles St*

REGISTERED ARTICLE

No.

*27527*

INSURED PARCEL

No.

**BALTIMORE,**

**MARYLAND.**

RETURN RECEIPT

The sender should write the name of the addressee on each check or on identification. The sender should also specify in case of money or securities the quantity and amount. The sender should also specify the name of the addressee and the address to which the check or securities should be sent. The sender should also specify the date of the check or securities and the date of the return receipt. The sender should also specify the name of the addressee and the address to which the check or securities should be sent. The sender should also specify the date of the check or securities and the date of the return receipt. The sender should also specify the name of the addressee and the address to which the check or securities should be sent. The sender should also specify the date of the check or securities and the date of the return receipt.



Handwritten markings: a large stylized 'S' or '1', a vertical line, and the number '32' written upside down.

original

PT

11

RUR

above

INGS

# RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

INTERIOR DEPT.  
RECEIVED

1

(Signature or name of addressee)

SEP 23 1941

MAIL COUNTER  
SECRETARY'S  
MAIL CENTER

2

(Signature of addressee's agent— Agent should enter addressee's name on line ONE above)

Date of delivery \_\_\_\_\_, 194

FORM 3800-8

Receipt for Registered Article No. **27527**

Postmaster per

Fee paid 1.50 cents. Class postage \_\_\_\_\_

Declared value \_\_\_\_\_ Surcharge paid, \$ \_\_\_\_\_

Return Receipt fee \_\_\_\_\_ Spl. Del'y fee \_\_\_\_\_  
Delivery restricted to addressee:

in person \_\_\_\_\_, or order \_\_\_\_\_ Fee paid \_\_\_\_\_

Accepting employee will place his initials in space indicating restricted delivery.



The sender should write the name of the addressee on back hereof as an identification. Preserve and submit this receipt in case of inquiry or application for indemnity.

Registry Fees and Indemnity.—Domestic registry fees range from 15 cents for indemnity not exceeding \$5 up to \$1 for indemnity not exceeding \$1,000. The fee on domestic registered matter without intrinsic value and for which indemnity is not paid is 15 cents. Consult postmaster as to the specific domestic registry fees and surcharges and as to the registry fees chargeable on registered parcel-post packages for foreign countries. Fees on domestic registered C. O. D. mail range from 25 cents to \$1.20. Indemnity claims must be filed within 1 year (C. O. D. 6 months) from date of mailing.

OFFICE OF RECEIVERS  
CHESAPEAKE & OHIO CANAL COMPANY  
ROOM 402, 2 N. CHARLES STREET  
BALTIMORE, MARYLAND

October 9, 1941

Mr. Geo. M. Shriver, Vice President,  
The Real Estate and Improvement Company of Baltimore City,  
2 N. Charles Street,  
Baltimore, Maryland.

Dear Mr. Shriver:

Referring to the further Report and Petition which the Surviving Receivers of the Chesapeake and Ohio Canal Company filed in the Consolidated Cases, Equity, Nos. 4191 and 4198, in the Circuit Court for Washington County, Maryland, on September 20, 1941, wherein the Surviving Receivers submitted to the Court a revised Exhibit "A" containing corrected descriptions of the respective parcels and easements, which were reserved from the sale of Canal lands to the United States in 1938 and subsequently sold to your Company, as the same have been determined by survey made pursuant to the provisions of Paragraph (5) of the certain Contract of Sale under which the aforesaid Canal lands were sold to the United States. The consent of your Company was appended to the aforesaid Report and Petition, wherein your Company consented to the use of the corrected descriptions of the aforesaid parcels and easements and joined in the prayer of the Surviving Receivers to the Court to pass an order directing the said Surviving Receivers to execute and deliver deeds of conveyance to your Company of the said parcels of land and easements as correctly described in the said revised Exhibit "A".

We wish to advise that the Surviving Receivers have today received by registered mail a letter from the First Assistant Secretary of the Interior notifying said Surviving Receivers that the corrected descriptions set out in the revised Exhibit "A", which was attached to the aforesaid Report and Petition, are acceptable to the Department of the Interior, and announcing the Department's desired interpretation of the slope clause wherever it appears in these descriptions, and in respect of the Department's desired interpretation of the said slope clause, the First Assistant Secretary of the Interior wrote as follows:

"In approving the above-mentioned descriptions it should be understood that this Department is not modifying in any way its position to the effect that the slope clause provision was incorporated in the original Exhibit "A" for the purpose of reserving unto the Secretary of the Interior the final right

October 9, 1941

of approval of the maximum slope limits which may be finally established upon the ground, in order to preserve a water way sufficient for canal purposes."

As it will be necessary for the Surviving Receivers, as promptly as practicable after October 11th, to make their report to the Court in this matter and to file with the Court the letter referred to above which has been received from the First Assistant Secretary of the Interior, we request that you advise us whether the Department's desired interpretation of the present slope clause, wherever it appears in the revised Exhibit "A", is acceptable to your Company, as substituted purchaser of the affected parcels. The said slope clause, reading as follows

"....; together with the necessary slopes for fills, provided that such slopes shall not extend beyond a point midway between the bottom of the canal bed slope and the top of the same slope where it joins the tow path grade, and shall not encroach upon any canal company locks, aqueducts, or spillway structures, and provided further that such slope limit lines shall be subject to the final approval of the Secretary of the Interior, or his successors."

appears in the descriptions of the following six Parcels included in the revised Exhibit "A", viz:

- (1) Five Parcels for right of way for The Baltimore and Ohio Railroad Company situated along the line of the Canal between Point of Rocks and Harpers Ferry, Md., viz:-

Parcel No. 1 at Point of Rocks, Frederick County, Md. (Map B)  
" " 2 at Catoclin Tunnel, Frederick County, Md. (Map B)  
" " 3 at Catoclin Creek, Frederick County, Md. (Map B)  
" " 4 - Weverton to Sandy Hook, Washington County, Md. (Map D).  
" " 5 - Sandy Hook to Harpers Ferry Tunnel, Washington County, Md. (Map D).

- (2) One Parcel for right of way for Western Maryland Railway Company situated along the line of the Canal within the town of Hancock, Md. viz:-  
Parcel No. W.M. 2,- Washington County, Md. (Map F).

As we understood the intention of the contracting parties at the time we sold the Canal lands in 1938, it was the intention of the representatives of the United States that the National Park Service would restore the Canal as a waterway from its terminus in Georgetown, D. C., as far west as Seneca, Md., and incorporate this section of the Canal into the very excellent park system of the Nation's Capital. If you will refer to the appraisal which the Receivers had made of all of the Canal lands as of the date of sale in 1938, you will find that the Canal lands sold to the United States at that date for \$2,000,000 were appraised at roundly \$4,156,000, and it is interesting to note in this connection that the 23-mile section of the Canal between Georgetown, D. C. and Seneca, Md. was valued in this appraisal at roundly \$3,391,000, or 81.6% of the total, and the remaining 161-mile section of the Canal from Seneca, Md. to Cumberland, Md. was valued at roundly \$765,000, or 18.4% of the total. The appraisal is of interest at this time only in that it indicates that by far the most valuable portion of the Canal lands purchased by the Government in 1938 were included in the short section of the Canal between Georgetown, D. C. and Seneca, Md.; and as the six Parcels referred to above, which are affected by this slope question, lie considerably to the west of Seneca, the question at issue, involving slope rights, does not affect in any way the section of the Canal between Georgetown and Seneca, which section, we understand, has already been incorporated into the National Capital Parks System and is being developed for park purposes.

As far as the Surviving Receivers are aware, no mention was made by representatives of the Government that the Government might desire to rebuild the Canal as a waterway for canal purposes throughout the remaining 161 miles of its length between Seneca and Cumberland. In fact, as the Surviving Receivers recall, it was the intention of the representatives of the Government at time of sale that this 161-mile section of the Canal between Seneca and Cumberland (in which section the six Parcels in question are situated) might perhaps later be used as a right of way for a new road, and for that purpose only the tow path which formed the southerly bank of the Canal was considered essential.

That the representatives of the Government, at time of sale in 1938, were fully acquainted respecting the desires of the Railroad Companies in acquiring the six Parcels in question, is set out clearly in the memorandum which the Associate Director wrote to the Director of the National Park Service on May 9, 1938, of which memorandum a copy was furnished us. The following excerpt from this memorandum would appear particularly pertinent as setting out the Government's understanding of the intention of the parties in respect of this matter; viz:-

x x x x x x x x x

"During the negotiations for the acquisition of the Chesapeake and Ohio Canal properties by the Department of the Interior, it was proposed that certain parcels of land would be conveyed to the Baltimore and Ohio Railroad Company and certain other parcels would be conveyed to the Western Maryland Railroad Company. In other words, this Department would acquire the Canal Company's land less the parcels conveyed to the railroads. Mr. Simmers of this Branch and Mr. Albrecht of the Branch of Plans and Design met the engineers of the railroads in the field on May 5 and 6 and inspected each of the parcels in question. They have the following report and recommendations to make. This report is made after a thorough inspection of all parcels involved and supersedes the statement made by Mr. Albrecht on April 29 after he made an initial inspection of the parcels without having the detailed descriptions of them.

"Statement Showing the Several Sections of the Canal  
with Relation to the Railroads.

(a) From Rock Creek to Point of Rocks	47 miles
(b) From Point of Rocks to Harpers Ferry - Baltimore & Ohio Railroad adjoins the canal for the entire distance	16 miles
(c) From Harpers Ferry to McCoys Ferry	28 miles
(d) From McCoys Ferry to Cumberland, Md.- Western Maryland Railroad adjoins the canal at various places for about 50 per cent of this distance	93 miles
Total	<u>184 miles</u>

"The Baltimore & Ohio Railroad would like to secure sufficient canal land between Point of Rocks and Harpers Ferry so that two additional main tracks could be constructed at some future time. The parcels are shown on the railroad property maps and are indicated as extending usually 45 feet from the center line of the present two tracks. The railroad's south property line and the north line of the canal land are supposed to be the same line; however, it is impossible to determine the exact amount of land to be conveyed to the railroad because the property lines of the railroad are shown only in scale relation to the tracks, and in addition there has been no attempt made to coordinate the deed descriptions and land surveys of the railroad and canal.

October 9, 1941

"It is recommended that the Baltimore & Ohio Railroad acquisition be approved as to the purpose of securing land for additional track facilities, but that in no instance shall the lines of the Baltimore & Ohio parcels extend beyond a point midway between the bottom of the canal bed slope and the top of the same slope where it joins the tow-path grade; nor in no instance shall the lines of the Baltimore & Ohio parcels include any portion of any of the canal locks, aqueducts, or spillway structures; and that a correct survey be made, permanent rail boundary markers set, and closed descriptions made from such surveys showing the exact amount of land conveyed to the Baltimore & Ohio Railroad Company. The reason for this is that the continuity of the tow-path and river shore is desirable and that it may be possible at some future time to restore some of the old canal structures." Etc.

x x x x x x x x x x

The foregoing excerpt quoted from a memorandum written by the Associate Director to the Director of the National Park Service on May 9, 1938 just prior to consummation of the sale, indicates that the representatives of the Government understood clearly just what Canal lands the said Railroads wished to acquire for railroad purposes and the extent that their acquisition would occupy the channel of the Canal at these particular points.

We should perhaps explain further that acceptance of the Government's interpretation of the slope clause by your Company as substituted purchaser in behalf of said Railroad Companies will of course permit the Government at its option to eliminate practically all rights for "necessary slopes for fills" along the southerly boundaries of the six Parcels referred to herein, and make it necessary for the Railroad Companies to construct retaining walls to support the railroad fill, should they later desire to extend the existing railroad embankment to the extreme southerly limits of said Parcels.

We have endeavored herein to set out clearly the question at issue, and request that you advise us whether or not your Company wishes to accept at this time the Government's desired interpretation of the present slope clause, so that we may file your views in respect of this matter with the Court as a part of the Report which we shall make in this matter promptly after October 11th next.

Very truly yours,

R.S.B.Hartz and G.L.Nicolson,  
Surviving Receivers, Chesapeake  
and Ohio Canal Company:

By

*R.S.B. Hartz*  
Co-Receiver

THE REAL ESTATE AND IMPROVEMENT COMPANY OF BALTIMORE CITY

BALTIMORE, MD.

October 10, 1941

Messrs. R. S. B. Hartz and G. L. Nicolson  
Surviving Receivers of the  
Chesapeake and Ohio Canal Company  
2 North Charles Street  
Baltimore, Maryland

Dear Sirs:

Replying to your letter of October 9th respecting the special interpretation of the slope clause which is desired by the Department of the Interior.

As you will recall, the six Parcels in question, which include easements to occupy additional Canal lands for necessary slopes, are being acquired to permit the Baltimore and Ohio Railroad to widen its existing roadbed between Point of Rocks and Harper's Ferry to an extent sufficient for two additional tracks, and to permit the Western Maryland Railroad to widen its existing roadbed through the town of Hancock to an extent sufficient for one additional track. While these additional tracks have not perhaps been seriously needed by said Railroads up to the present time, it is possible that the additional tracks may be seriously needed during the existing National emergency, or at some later time in the public interest, and the said Parcels are being acquired with this possibility in mind.

Accordingly, The Real Estate and Improvement Company of Baltimore City, as substituted purchaser, respectfully requests the Court to pass an Order directing the said Surviving Receivers to execute and deliver deeds of conveyance to it at this time of the said parcels of land and easements as correctly described in the said revised Exhibit "A"; and in respect of the said slope clause, The Real Estate and Improvement Company of Baltimore City respectfully requests that the deed or deeds to it contain the exact language that was incorporated in the original Contract of Sale and the Exhibit "A" attached thereto, this without any change, except that The Real Estate and Improvement Company of Baltimore City does not now desire that the slope limits be described by metes and bounds, but is willing to leave those limits for future survey subject to the approval of the Secretary of the Interior, and it is our understanding that the slope clause as the same appears in the descriptions of the several parcels and easements contained in the revised Exhibit "A", which we have approved, so provides.

Very truly yours,

THE REAL ESTATE AND IMPROVEMENT COMPANY  
OF BALTIMORE CITY

By

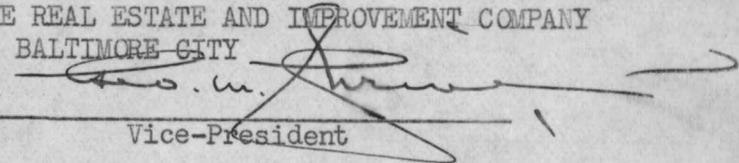
  
Vice-President

EXHIBIT NO. 4

GEORGE S. BROWN, et al : NOS. 4191 and 4198 EQUITY  
vs. : CONSOLIDATED CASES  
CHESAPEAKE AND OHIO CANAL : IN THE CIRCUIT COURT FOR  
COMPANY, et al : WASHINGTON COUNTY, MARYLAND

ORDER OF COURT

The foregoing report and Exhibits of R. S. B. Hartz and G. L. Nicolson, surviving Receivers in this cause, having been read and considered, it is, thereupon, this 15<sup>th</sup> day of October, 1941, ORDERED, ADJUDGED AND DECREED by the Circuit Court for Washington County, Maryland, sitting as a Court of Equity:

That R. S. B. Hartz and G. L. Nicolson, surviving Receivers in this cause, be and they are hereby authorized and directed to execute and deliver to The Real Estate and Improvement Company of Baltimore City, as Substituted Purchaser, a deed or deeds conveying the parcels of land and easements in lands described in the revised Exhibit "A" attached to the petition filed in this cause on September 20, 1941, and said Receivers are further directed to use in said deed or deeds the corrected descriptions and the language with respect to the slope clauses set forth in said revised Exhibit "A", without further interpretation or addition.

jos. D. wish

NOS. 4191 and 4198 EQUITY  
CONSOLIDATED CASES

GEORGE S. BROWN, et al

vs.

CHESAPEAKE AND OHIO CANAL  
COMPANY, et al

Report of surviving  
receivers in connection  
with petition of The Real  
Estate and Improvement  
Company of Baltimore  
City, relinquishing rights  
to parcels of land, and  
*order of Court thereon.*

*Filed Oct. 15, 1941*

LAW OFFICES

LANE, BUSHONG & BYRON

HAGERSTOWN TRUST BUILDING

HAGERSTOWN, MD.

GEORGE S. BROWN, et al : NOS. 4191 and 4198 EQUITY  
vs. : CONSOLIDATED CASES  
CHESAPEAKE AND OHIO CANAL : IN THE CIRCUIT COURT FOR  
COMPANY, et al : WASHINGTON COUNTY, MARYLAND

TO THE HONORABLE, THE JUDGES OF SAID COURT:

This, the report of R. S. B. Hartz and G. L. Nicolson, surviving Receivers in this cause, filed by the said R. S. B. Hartz for said Receivers, with respect to the petition of The Real Estate and Improvement Company of Baltimore City, Substituted Purchaser, filed in this cause on September 20, 1941, respectfully shows:

1- That the said The Real Estate and Improvement Company of Baltimore City by letter dated September 20, 1941, which is filed herewith as Exhibit "No. 1", requested your Receivers to inquire of the Secretary of the Interior of the United States as to whether the United States of America would accept title to the twelve parcels of land with respect to which the said The Real Estate and Improvement Company of Baltimore City desired to relinquish its right to a conveyance thereof.

2- That on September 22, 1941 your Receivers, by letter, a copy of which is hereto attached marked Exhibit "No. 2", notified the Secretary of the Interior of the United States of the desire of The Real Estate and Improvement Company of Baltimore City, as Substituted Purchaser, to relinquish its right, to the conveyance of said twelve parcels of land described in said petition and asked to be advised whether the United States of America would accept title to the parcels of land so relinquished.

3- That on October 7, 1941 your Receivers were advised by the Secretary of the Interior by letter, a copy of which is

hereto attached as Exhibit "No. 3", that the United States of America would accept title to said parcels of said land.

4- Your Receivers therefore pray your Honorable Court to pass an order directing them to execute and deliver to the United States of America a deed or deeds conveying the following twelve parcels of land which are specifically designated in Exhibit "A" attached to the Agreement of Sale dated August 6, 1938, filed by the Receivers in this cause on August 13, 1938, as: Parcel No. W. M. 1 - Washington County; Parcel No. W. M. 3 - Washington County; Parcel No. W. M. 4 - Washington County; Parcel No. W. M. 5 - Washington County; Parcel No. W. M. 6 - Washington County; Parcel No. W. M. 7 - Washington County; Parcel No. W. M. 8 - Allegany County; Parcel No. W. M. 9 - Allegany County; Parcel No. W. M. 10 - Allegany County; Parcel No. 11 - Allegany County; Parcel No. W. M. 12 - Allegany County; and Parcel No. W. M. 13 - Allegany County, and your Receivers further pray that the said The Real Estate and Improvement Company of Baltimore City be directed to join in the execution of said deed or deeds conveying said parcels of land to the United States of America for the purpose of re-conveying and relinquishing whatever right, title or interest it may have acquired therein by reason of the Contract of Sale which was finally ratified and confirmed on September 10, 1938.

Respectfully submitted,

*R. S. B. Hartz*

In behalf of R. S. B. Hartz and  
G. L. Nicolson, Surviving Receivers.

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:

I HEREBY CERTIFY, that on this 15th day of October, A. D., 1941, before me, the subscriber, a Notary Public of the State of Maryland, in and for Washington County, personally appeared R. S. B. Hartz, one of the Surviving Receivers in this cause, who made oath in due form of law that the matters and facts set forth in the foregoing report are true to the best of his knowledge, information and belief.

WITNESS my hand and Official Notarial Seal.

Alice S. Hemelright  
Notary Public.

BALTIMORE, MD.

September 20, 1941

Messrs. R. S. B. Hartz and G. L. Nicolson  
Surviving Receivers of the  
Chesapeake and Ohio Canal Company  
2 North Charles Street  
Baltimore, Maryland

Dear Sirs:

We enclose copy of our Petition filed this date in the Consolidated Canal Cases, Equity, Nos. 4191 and 4198, in the Circuit Court for Washington County, Maryland, for authority of the Court to relinquish our rights as Substituted Purchaser to have conveyed to this Company the twelve certain "Western Maryland" parcels enumerated in the last paragraph of said Petition.

Inasmuch as the Court has deferred taking action on our Petition until assured that the United States will accept title to the said twelve parcels, we request that you forward a copy of our Petition to the Secretary of the Interior and advise him that, if the United States will accept title to the said twelve parcels, this Company will join with the Receivers in conveying to the United States whatever equitable title it may have acquired as Substituted Purchaser under the Contract of Sale in and to the said parcels, subject however, of course, to the rights heretofore granted the Western Maryland Railway Company to occupy and use said parcels without limitations of time as a right of way for its railroad. As such conveyance would finally quiet all claims to occupy additional Canal lands adjoining the said parcels for supporting slopes for fills, we believe such conveyance will satisfy the desires of the United States in respect of this matter.

You may also inform the Secretary of the Interior that as soon as this Company has received from you a good title to the fee of parcel B-1 in the District of Columbia, this Company will promptly convey an easement to the Washington and Western Maryland Railroad Company for a railroad bridge and right of way for its railroad across the Canal at this point, and will thereafter forthwith convey the underlying fee of said parcel B-1 (subject to said easement which will have been previously recorded) to the United States, which conveyance will, we believe, finally satisfy the desires of the United States in respect of this parcel B-1.

Yours very truly,

The Real Estate and Improvement Company  
of Baltimore City

By   
Vice-President

OFFICE OF RECEIVERS

CHESAPEAKE & OHIO CANAL COMPANY  
ROOM 402, 2 N. CHARLES STREET  
BALTIMORE, MARYLAND

September 22, 1941

Hon. John J. Dempsey,  
Under Secretary of the Interior  
New Interior Building,  
Washington, D. C.

Re: Sale of Chesapeake and Ohio Canal Lands.

Dear Mr. Dempsey:

Referring to our letter to you of September 12th last on the Canal matter, and referring in particular to paragraph (5) of the legal procedure suggested therein.

We enclose copy of a Petition which was filed on September 20, 1941 by The Real Estate and Improvement Company of Baltimore City in the Consolidated Cases, Equity, Nos. 4191 and 4198, in the Circuit Court for Washington County, Maryland, wherein said Real Estate and Improvement Company of Baltimore City seeks authority of the Court to relinquish its rights as Substituted Purchaser to have conveyed to it the twelve certain "Western Maryland" parcels enumerated in paragraph (5) of our letter to you of September 12th.

Since we find the Court has deferred taking action on this Petition of The Real Estate and Improvement Company of Baltimore City until assured that the United States will accept title to the said twelve parcels, if the Court shall direct that said Real Estate and Improvement Company of Baltimore City join with the Receivers in conveying to the United States whatever right, title and interest they may hold respectively in and to said parcels, subject to the existing rights of the Western Maryland Railway Company to occupy and use said parcels without limitation of time as a right of way for its railroad, we request that you advise us informally by letter which we may file with the Court, that the United States will accept title to said parcels subject to the conditions enumerated. While it is true that the said parcels are occupied and used without limitation of time by the Western Maryland Railway Company as a right of way for its railroad, nevertheless such conveyance should serve to quiet all claims to occupy additional Canal lands adjoining said parcels for supporting slopes for fills, and should therefore serve to settle

COPY

EXHIBIT NO. 2

Hon. John J. Dempsey

-2-

September 22, 1941

the differences which have arisen on this subject, this insofar as the said twelve parcels are concerned.

We wish to advise you further that we have now been assured in writing by The Real Estate and Improvement Company of Baltimore City that, upon receiving title from the Receivers to the fee of parcel B-1 in the District of Columbia, and after having conveyed an easement to the Washington and Western Maryland Railroad Company to occupy said parcel with a railroad bridge and the approaches thereto and to use said parcel for a right of way for its railroad over the Canal at this point, said Real Estate and Improvement Company of Baltimore City will forthwith convey to the United States title to the underlying fee of the said parcel B-1, subject to said easement, which action, we believe, will finally satisfy the desires of the United States in respect of the said parcel.

Yours very truly,

R. S. B. Hartz  
Co-Receiver

Cc: Donald E. Lee, Esq.  
Asst. Chief Counsel  
National Park Service  
Department of the Interior  
Washington, D. C.

Wm. Preston Lane, Jr., Esq.  
Hagerstown, Maryland

John J. Hamilton, Esq.  
Washington, D. C.

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SECRETARY

WASHINGTON

OCT - 7 1941

REGISTERED MAIL

Messrs. R. S. B. Hartz and G. L. Nicolson,  
Surviving Receivers of the Chesapeake & Ohio Canal Company,  
2 N. Charles Street,  
Baltimore, Maryland.

Gentlemen:

Further reference is made to the letter of September 12 as supplemented by the letter of September 22 from Col. R. S. B. Hartz, Co-Receiver of the Chesapeake & Ohio Canal Company, concerning the corrected descriptions, as determined by survey, of certain lands and easements in lands excepted from the conveyance of the Chesapeake & Ohio Canal Company's properties to the United States which were described in Exhibit "A" of the original contract of sale between the United States and the Canal Company.

The descriptions of the parcels of land and easements in lands contained in the revised Exhibit "A", which Exhibit has been filed in the receivership proceedings entitled George S. Brown et al. v. Chesapeake & Ohio Canal Company, et al., in the Circuit Court for Washington County, Maryland (Consolidated Cases, Equity, Nos. 4191 and 4198) in lieu of the original Exhibit "A" above referred to, are unobjectionable to this Department.

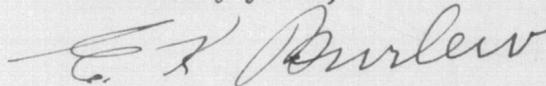
It is noted in the letters of September 12 and 22, that the Receivers of the Canal Company propose to convey to the United States whatever right, title and interest they may have in and to 12 parcels of land designated as Nos. W.M. 1, W.M. 3, W.M. 4, W.M. 5, W.M. 6, W.M. 7, W.M. 8, W.M. 9, W.M. 10, W.M. 11, W.M. 12, and W.M. 13, which parcels are not included in the revised Exhibit "A", subject to existing rights of the Western Maryland Railway Company to occupy and use said parcels without limitation of time as a right-of-way for its railroad. It is noted also that the Receivers propose to convey parcel B-1 located in the District of Columbia and included in the revised Exhibit "A", to the Real Estate and Improvement Company of Baltimore City, which Company will in turn grant an easement over parcel B-1 to the Western Maryland Railway Company for a right-of-way and railroad bridge across the Canal at this point, conveying the underlying fee to this parcel to the United States.

The procedure, as outlined above, to effect a conveyance of the said 12 parcels of land, as well as parcel B-1, to the United States subject to the easements for rights-of-way in favor of the Western Maryland Railroad Company, is acceptable to this Department.

In approving the above-mentioned descriptions it should be understood that this Department is not modifying in any way its position to the effect that the slope clause provision was incorporated in the original Exhibit "A" for the purpose of reserving unto the Secretary of the Interior the final right of approval of the maximum slope limits which may be finally established upon the ground, in order to preserve a water way sufficient for canal purposes.

In accordance with the request contained in the letters of September 12 and 22 from Col. Hartz, this letter has been written so that it may be filed by you in the above-mentioned proceedings indicating this Department's consent to the acceptance of the proposed conveyances of the parcels of land in question to the United States.

Sincerely yours,



First Assistant ~~Under~~ Secretary.

GEORGE S. BROWN, et al : NOS. 4191 and 4198 EQUITY  
vs. : CONSOLIDATED CASES  
CHESAPEAKE AND OHIO CANAL : IN THE CIRCUIT COURT FOR  
COMPANY, et al : WASHINGTON COUNTY, MARYLAND

ORDER OF COURT

The foregoing report and Exhibits of R. S. B. Hartz and G. L. Nicolson, Surviving Receivers in this cause, having been read and considered, and upon further consideration of the petition of The Real Estate and Improvement Company of Baltimore City, filed in this cause on September 20, 1941, it is, thereupon, this 15<sup>th</sup> day of October, 1941, ORDERED, ADJUDGED AND DECREED by the Circuit Court for Washington County, Maryland, sitting as a Court of Equity:

1- That R. S. B. Hartz and G. L. Nicolson, Surviving Receivers in this cause, be and they are hereby authorized and directed to execute and deliver to the United States of America a deed or deeds conveying the following twelve parcels of land which are described in Exhibit "A", filed with the Agreement of Sale in this cause on August 13, 1938, and which are therein designated as: Parcel No. W. M. 1 - Washington County; Parcel No. W. M. 3 - Washington County; Parcel No. W. M. 4 - Washington County; Parcel No. W. M. 5 - Washington County; Parcel No. W. M. 6 - Washington County; Parcel No. W. M. 7 - Washington County; Parcel No. W. M. 8 - Allegany County; Parcel No. W. M. 9.- Allegany County; Parcel No. W. M. 10 - Allegany County; Parcel No. 11 - Allegany County; Parcel No. W. M. 12 - Allegany County; and Parcel No. W. M. 13 - Allegany County.

2- That said parcels of land shall be conveyed subject, however, to the right heretofore granted to the Western Maryland Railway Company to occupy and use the said lands, without limitation of time, as a right of way for its railroad.

3- That The Real Estate and Improvement Company of Baltimore City is hereby ordered and directed to join in the execution of the aforesaid deed or deeds to the United States of America for the purpose of conveying or relinquishing any rights that it may have acquired by reason of the aforesaid Contract of Sale.

Jos. D. Wish



SOUVENIR  
BOND  
PAID USA

GEORGE S. BROWN, et al., : NOS. 4191 and 4198 EQUITY  
VS. : IN THE CIRCUIT COURT  
CHESAPEAKE AND OHIO CANAL : FOR  
COMPANY, et al. : WASHINGTON COUNTY

TO THE HONORABLE, THE JUDGES OF SAID COURT:-

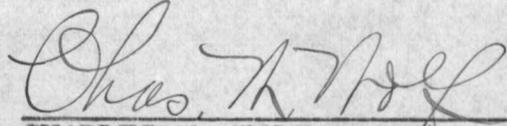
THIS, the Auditor's 11th Report in the above entitled cause, respectfully shows:-

That he has examined the further proceedings in said cause and from them has stated the within account.

He has charged the Receivers with the balance remaining in their hands as per Auditor's Report and Account No. 10; namely, \$58,327.29, and also with the further sum of \$78.60 representing cash received from Lehnert, Griffin and Anderson, Inc., Agents, representing the pro rata return premium on Receivers' Bond, making the total amount of cash in the hands of the Receivers in the amount of \$58,405.89. He has then credited the Receivers with the payment of \$96.00 to the Security Storage Company, Washington, D. C., for rental service of storage space for records of the Trustees for one year to September 27, 1942. He has also credited them with \$240.00 paid to McComas-Armstrong, Inc., for premium renewal of Bonds, leaving a balance in the hands of the Receivers of \$58,069.89. Out of said balance he has then distributed to Charles F. Jenkins, Assignee of Solomon Jenkins, deceased, claimant, in full payment of claim of \$33.00 with interest in the amount of \$97.35, making total claim in the amount of \$130.35, leaving a balance retained in the hands of the Receivers for further distribution to labor claims and judgments that may be properly filed and proven under the Acts of 1896 and 1900, including interest thereon, and further distributions to costs, commissions, counsel and auditor's fees and for further distribution to claims properly proven in the order of the priorities in the amount of \$57,939.54.

All of which will more fully appear in the  
within and annexed account, which is herewith

Respectfully submitted,

  
\_\_\_\_\_  
CHARLES W. WOLF - Auditor

DATED: November 17<sup>th</sup> 1941.



AUDITOR'S 11th REPORT

THE REAL ESTATE OF THE CHESAPEAKE AND OHIO CANAL COMPANY, ET AL, IN ACCOUNT WITH R. S. B. HARTZ AND G. L. NICOLSON, SURVIVING RECEIVERS, IN EQUITY CAUSES NOS. 4191 and 4198.

NOVEMBER \_\_, 1941

DR.

CR.

By This sum, being the total amount of cash remaining in the hands of the Receivers as per Auditor's Report and Account No. 10,		\$ 58,327.29
By Cash received from Lehnert, Griffin & Anderson, Inc., Agent, representing the pro rata return premium on Receivers' Bond in the principal amount of \$30,000 underwritten by Maryland Casualty Company by its Policy No. 163,000, the same having been cancelled by order of the Court passed September 5, 1941		78.60 <u>78.60</u>
		<u>\$ 58,405.89</u>
By This sum being total amount of cash in hands of the Receivers		\$ 58,405.89
To Security Storage Company, Washington, D. C. for rental of storage space for records of Canal Trustees for one year to September 27, 1942	\$ 96.00	
To McComas-Armstrong, Inc., Hagerstown, Md., for premium account renewal for one year of Receivers' Bonds in the principal amount of \$60,000, to September 10, 1942	240.00	
To Balance for further distribution	58,069.89 <u>\$ 58,405.89</u>	<u>\$ 58,405.89</u>
By Balance for further distribution		\$ 58,069.89
To Charles F. Jenkins, Assignee of Solomon Jenkins, deceased, claimant, in full payment of claim of . . . . . 33.00 and interest in amount of <u>97.35</u>	130.35	
To Balance retained in the hands of these Receivers for further distribution to labor claims and judgments that may be properly filed and proven under the Acts of 1896 and 1900, including interest thereon, and further distribution to costs, commissions, counsel and auditor's fees and for further distribution to claims properly proven in the order of their priorities,	\$ 57,939.54 <u>\$ 58,069.89</u>	<u>\$ 58,069.89</u>

RECEIVED BY THE RECEIVERS

RECEIVED BY THE RECEIVERS

RECEIVED BY THE RECEIVERS



GEORGE S. BROWN, ET AL.

VS.

CHESAPEAKE AND OHIO CANAL  
COMPANY, ET AL.

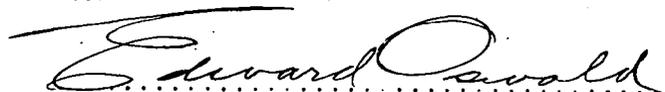
No.s. 4191 & 4198 EQUITY  
Consolidated Cases

IN THE CIRCUIT COURT FOR  
WASHINGTON COUNTY

SITTING AS A  
COURT OF EQUITY

Auditor's Report and Account No. 11..... filed in this cause  
..... November 7th, 19 41, will be ready for final ratification after the same  
shall have lain fourteen days in Court agreeable to Rule No. 21.

Test:

 Clerk.

VS.

CHESAPEAKE AND OHIO CANAL

COMPANY, ET AL.

*No. S. Equity*  
Consolidated Cases

In the Circuit Court for Washington County,

SITTING AS A

COURT OF EQUITY

Auditor's Report and Account No. 11, filed November 7th, 1941.

Notice thereof set up in Clerk's Office same day. No objection or exception thereto filed to this date,  
November 22nd, 1941

TEST:

*Edward Oswald*

.....Clerk.

4191 & 4198

*No. S. Equity*  
Consolidated Cases

In the Circuit Court for Washington County,

SITTING AS A

COURT OF EQUITY

GEORGE S. BROWN, ET AL.

VS.

CHESAPEAKE AND OHIO CANAL

COMPANY, ET AL.

ORDERED, By the Circuit Court for Washington County, sitting as a Court of Equity, this 22<sup>nd</sup> day of November, 1941, that the Auditor's Report and Account No. 11, in the above entitled cause, be and the same is hereby finally ratified and confirmed, no cause to the contrary thereof having been shown, and no exception thereto having been filed, although notice appears to have been given as required by Rule 21 of this Court, and the trustee<sup>s</sup> ~~is~~ <sup>are</sup> hereby directed to pay out the fund accordingly.

*Jos. D. Bush*

NOS. 4191 and 4198 EQUITY  
CONSOLIDATED CASES

Petition of William P. Lane,  
Jr., for counsel fee and  
expenses, and Order of Court  
thereon.

LAW OFFICES  
**LANE, BUSHONG & BYRON**  
HAGERSTOWN TRUST BUILDING  
HAGERSTOWN, MD.

*Filed Dec. 8. 1941.*

CHARLES S. BROWN, et al : NOS. 4191 and 4198 EQUITY  
vs. : CONSOLIDATED CASES  
CHESAPEAKE AND OHIO CANAL : IN THE CIRCUIT COURT FOR  
COMPANY, et al : WASHINGTON COUNTY, MARYLAND

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The petition of William P. Lane, Jr., respectfully represents:

That he has continued to act as counsel to the Receivers in this cause since September 1, 1938.

That he has received no compensation for said services nor reimbursement for expenses in connection therewith, rendered or expended since September 1, 1938 except that he has been compensated for the particular services and expenses that he has rendered and incurred in connection with the successful prosecution of the appeal to the Court of Appeals of Maryland in connection with the case designated as No. 7 Appeals, October Term, 1939, upon the docket of said Court.

That he has continued to act as counsel to said Receivers in these proceedings in connection with the consummation of the sales of the entire property of the Chesapeake and Ohio Canal Company to the United States of America and to The Real Estate and Improvement Company of Baltimore City for the aggregate purchase price of \$2,100,000.00.

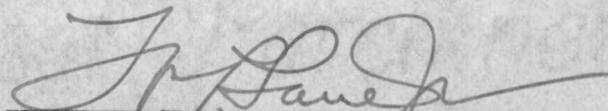
That in connection with said sales and the consummation thereof it has been necessary for him to do an enormous amount of work in connection with the clearance of titles to all of the parcels of property formerly owned by said Receivers; to investigate and consider all of the claims and the merits thereof filed

for allowance under the provisions of Chapter 270 of the Acts of Maryland of 1900; to supervise the survey of all of the parcels of land and easements set forth in Exhibit "A" of the Contract of Sale and to negotiate between the respective purchasers in these proceedings the acceptance of the corrected descriptions in reference thereto; to negotiate and arrange for the conveyance of all of the parcels of land by corrected description to the respective purchasers thereof; to collaborate with Messrs. Hamilton and Hamilton, Attorneys at Law, of Washington, D. C., in connection with the legal work performed by them in the District of Columbia in connection with the duties of said Receivers. That said work has been engaged in more or less continuously for a period of over three years and has involved innumerable trips to Washington, D. C. and to Baltimore, Maryland.

That it is impossible to detail the enormous amount of time that your petitioner has been called upon to devote to the matters arising in these proceedings as counsel since September 1, 1938, and that, therefore, he has consulted said Receivers in reference to the propriety of such charges as should be made for said services and that said Receivers have agreed that a fair and reasonable compensation for his services as counsel for the work done since September 1, 1938 would be the sum of Eleven Thousand Dollars (\$11,000.00) and that a conservative reimbursement for the expenses that he has incurred would be the sum of Five Hundred Dollars (\$500.00).

TO THE END THEREFORE, your petitioner prays your Honorable Court to pass an order authorizing and directing said Receivers to pay to your petitioner such sum for his services as counsel as may be fair and reasonable under the circumstances.

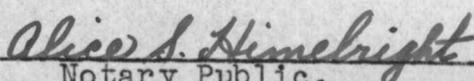
And as in duty bound, etc.,

  
Counsel to the Receivers.

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:

I HEREBY CERTIFY, that on this 8th day of December, A. D., 1941, before me, the subscriber, a Notary Public of the State of Maryland, in and for Washington County, personally appeared William P. Lane, Jr., and he made oath in due form of law that the matters and facts set forth in the foregoing petition are true, to the best of his knowledge, information and belief.

WITNESS my hand and Official Notarial Seal.

  
Notary Public.

GEORGE S. BROWN, et al

vs.

CHESAPEAKE AND OHIO CANAL  
COMPANY, et al

IN THE CIRCUIT COURT FOR  
WASHINGTON COUNTY, MARYLAND  
NOS. 4191 AND 4198 EQUITY  
CONSOLIDATED CASES

ORDER OF COURT

The foregoing petition having been read and considered, it is, thereupon, this *28th* day of December, A.D. 1941, by the Circuit Court for Washington County, sitting as a Court of Equity, ordered, adjudged and decreed that William P. Lane, Jr., be paid the sum of *eleven thousand* Dollars for his services as counsel and solicitor for the Receivers in this cause, said services covering a period from September 1, 1938, subject to all legal exceptions.

And it is further ordered, adjudged and decreed that the said William P. Lane, Jr., be paid the sum of *five hundred* Dollars as reimbursement of his expenses, subject to all legal exceptions.

*D. Lindley*

BALTIMORE

OFFICE SUPPLY CO.

NOS. 4191 and 4198 EQUITY  
CONSOLIDATED CASES

Petition of William P. Lane,  
Jr., for counsel fee and  
expenses, and Order of Court  
thereon.

*Filed Dec. 8. 1941.*

GEORGE S. BROWN, et al  
  
v.  
  
CHESAPEAKE AND OHIO CANAL  
COMPANY, et al.

IN THE CIRCUIT COURT FOR  
WASHINGTON COUNTY, MARYLAND,  
NOS. 4191 and 4198, EQUITY,  
CONSOLIDATED CASES

To the Honorable, the Judges of said Court:

The petition of GEORGE E. HAMILTON, JOHN J. HAMILTON, GEORGE E. HAMILTON, JR. and HENRY R. GOWER, members of the law firm of HAMILTON and HAMILTON, respectfully represents:

That they are attorneys at law, practicing under said firm name in the Supreme Court of the United States and in all the courts of the District of Columbia and before various Departments of the Government of the United States.

That after the appointment of the Receivers in this cause on April 29th, 1938, by this Honorable Court, these petitioners were authorized and directed to file an ancillary proceeding in the District Court of the United States for the District of Columbia in Equity No. 12,240 for the confirmation of the appointment of said Receivers.

That since March 1st, 1938 petitioners rendered to said Receivers all necessary services in the matter of conferences, advice, preparation and filing of petitions and answers and obtaining orders in the District of Columbia Courts with reference to the business of said Receivers and their dealings with the United States Government and the Real Estate and Improvement Company of Baltimore City in regard to the sale of the Chesapeake and Ohio Canal Company properties, and have continued to represent said Receivers

from said date of March 1st, 1938 down to the present time.

These petitioners at the request of the Receivers furnished them with accounts of services rendered between March 1st, 1938 and September 15th, 1938, and between September 15, 1938 and December 23rd, 1939, exclusive of services rendered in a certain ejectment suit in the District Court of the United States for the District of Columbia in the name of George L. Nicolson, Trustee, against the present occupants of certain land, which suit is referred to in petitions heretofore filed in this Court by these petitioners, for which said services your petitioners were duly paid the sums of \$2,500.00 and \$1,500.00, it being understood and agreed with said receivers that subsequent bills should be rendered from time to time for services rendered from and after September 15th, 1938 in said ejectment suit in the District Court of the United States for the District of Columbia and services rendered in other matters from and after December 23rd, 1939.

Said Receivers have now requested your petitioners to furnish them with a statement of charges for services rendered and costs expended by these petitioners from and after September 15th, 1938 to date with reference to said ejectment suit in the District Court of the United States for the District of Columbia and all other services rendered the Receivers from and after December 23rd, 1939 to date.

After careful consideration of the services rendered to said Receivers since September 15th, 1938 in said ejectment suit, consisting of the investigation of said suit; the preparation and filing of Bill of Complaint; Motion for more definite statement; Motion to substitute parties; Order of Publication thereon; extended law search; conferences

with reference to stipulation of facts; pre-trial and two trials of the case; extended conferences with the Court in Chambers with reference to the intervention of the United States; preparation of Findings of Fact and Conclusions of Law; Appeal from final Order, and numerous conferences with attorneys for United States with reference to appeal; numerous conferences with the Receivers and attorneys for the Department of Justice and the Interior Department; preparation of petition to conform the proceedings in the District Court of the United States for the District of Columbia with the orders of this Court dated September 20th, 1941 and October 15th, 1941; conferences with the Court in Chambers with reference to notice to be given of said petition to the Attorney General, Secretary of Interior and the Real Estate and Improvement Company of Baltimore City, and obtaining an order based on said petition authorizing the use of the corrected descriptions set forth in revised Exhibit "A" in making conveyance of said property to the Real Estate and Improvement Company of Baltimore City; preparation and examination of the necessary Deeds to the Real Estate and Improvement Company of Baltimore City and to the United States; the total amount of time spent in all such matters being four hundred and twenty and one-quarter ( $420\frac{1}{4}$ ) hours.

These petitioners believe that they are reasonably entitled to receive from said Receivers for said services to date the sum of Five Thousand Dollars (\$5,000.00) and expenditures totalling One Hundred and Sixty-Four Dollars and Sixty-Eight Cents (\$163.68), set out in the attached schedule.

WHEREFORE, these petitioners pray that the Court will allow them for the services rendered the Receivers in

the District of Columbia the sum of Five Thousand Dollars (\$5,000.00) and One Hundred and Sixty-Four Dollars and Sixty-Eight Cents (\$164.68) expenses, and that said Receivers be authorized to pay the same for services rendered to December 1st, 1941.

And for such other and further relief as to the Court may seem just and proper.

George E Hamilton  
John J Hamilton  
Sam Hamilton  
Henry R Gower

We do solemnly swear that we have read the foregoing petition by us subscribed, and know the contents thereof; that the matters and facts set forth therein are true to the best of our knowledge and belief.

George E Hamilton  
John J Hamilton  
Sam Hamilton  
Henry R Gower

Subscribed and sworn to before me this 2d day of December, 1941.

Regina C. McSiverson  
Notary Public, D. C.  
My Commission Expires Feb. 29, 1944.

HAMILTON AND HAMILTON

UNION TRUST BUILDING

WASHINGTON, D. C.

GEORGE E. HAMILTON  
JOHN J. HAMILTON  
GEORGE E. HAMILTON, JR.  
HENRY R. GOWER  
WILLIAM A. GLASGOW  
LEO N. MCGUIRE  
JOHN L. HAMILTON

December 1st,  
1 9 4 1.

RECEIVERS, C. & O. CANAL COMPANY

TO . . . . . HAMILTON and HAMILTON . . . . . DR.

In re: Brown vs. Nicholson

1938

December 20 - Deposit for costs in accordance  
with order of Court of December  
14th, 1938 - - - - - \$100.00

EXPENDED

Dec. 8 - Court costs, deposit for suit - - - - - \$ 10.00

Dec. 8 - Taxi fare to Interior Department - - - - .50

Dec. 8 - Court costs, Summons - - - - - 9.00

1939

Jan. 10- Charles E. Stewart, Clerk of Court,  
for costs - - - - - 5.00

1940

Oct. 21- Taxi fare to Court House & Return - - - - .50

Dec. 14 -Court costs for certified copy of Deed  
in Liber W.B. 26, Folio 84 - - - - - 3.00

1941

Jan. 10- Marshal's costs for 4 subpoenas - - - - - 4.00

Jan. 29- Notary fee, affidavit of H.R. Gower - - - .25

Feb. 13- Registration fee for two letters, contain-  
ing notice of publication - - - - - .42

Feb. 18- Notary fee, affidavit of H.R. Gower - - - .25

Feb. 26- To Law Reporter Printing Company for  
publication of legal notice - - - - - 23.46

Feb. 26- To Evening Star Newspaper Company for  
publication of legal notice - - - - - 24.30

1941  
March 7 - Taxi fare expended in trip to Baltimore for conference with Colonel Hartz - - - - - \$ 1.35  
April 3 - To Hart & Dice for reporting and transcribing - - - - - 59.25  
April 1 - Taxi fare to Court House - - - - - .30  
April 9 - To Hart and Dice for additional copy of transcript - - - - - 19.70  
May 21 - Court costs, new trial - - - - - 5.00  
July 24 - Court costs for filing Notice of Appeal - - - - - 5.00  
Aug. 2 - To Thos. J. Fisher & Co. for premium on Bond for costs of Appeal - - - - 10.00  
Sept. 26 - Telephone call to Colonel Hartz under date of 7/23/41 - - - - - .40  
Nov. 14 - Charles E. Stewart, Clerk of Court for costs on Appeal - - - - - 31.00  
Nov. 14 - James Stewart, Clerk, Court of Appeals, for costs in re Appeal - - - - - 35.00  
Expended - \$247.68  
Deposit - \$100.00  
BALANCE DUE - - - \$147.68

In re: Brown vs. Chesapeake & Ohio Canal Company

1941  
Oct. 21 - Taxi fare to Department of Justice & return - - - - - \$ .50  
Oct. 21 - Taxi fare to Department of Interior & return - - - - - .75  
Oct. 21 - Two telephone calls to Colonel Hartz, Baltimore, Md. - - - - - 3.25  
Oct. 22 - Two telephone calls to Colonel Hartz, Baltimore, Md. - - - - - 1.65  
Oct. 23 - Taxi fare to Department of Interior & return - - - - - .50

1941

Oct. 23	- Telephone call to Colonel Hartz, Baltimore, Md. - - - - -	\$ .70
Oct. 23	- Telephone call to Mr. Lane, Hagerstown, Md. - - -	1.40
Oct. 29	- Telephone call to Colonel Hartz, Baltimore, Md. -	.90
Nov. 6	- Telephone call to Colonel Hartz, Baltimore, Md. -	.45
Nov. 12	- Telephone call to Colonel Hartz, Baltimore, Md. -	1.25
Nov. 13	- Telephone call to Colonel Hartz, Baltimore, Md. -	.45
Nov. 14	- Payment for telephone call to Colonel Hartz, Baltimore, Md. under date of Oct. 18/41 - - - -	2.55
Nov. 17	- Court costs for 3 copies of Certified Order - - -	1.25
Nov. 18	- Telephone call to Colonel Hartz, Baltimore, Md. -	.45
Nov. 26	- Notary Fee, acknowledgment of Colonel Hartz and G. L. Nicolson to Deed - - - - -	.50
Nov. 27	- Telephone call to Colonel Hartz, Baltimore, Md. -	<u>.45</u>
	TOTAL DUE - - - -	\$164.68

GEORGE S. BROWN, et al : IN THE CIRCUIT COURT FOR  
vs. : WASHINGTON COUNTY, MARYLAND  
CHESAPEAKE AND OHIO CANAL : NOS. 4191 AND 4198 EQUITY  
COMPANY, et al : CONSOLIDATED CASES

ORDER OF COURT

The foregoing petition having been read and considered, it is, thereupon, this 5th day of December, A.D. 1941, by the Circuit Court for Washington County, Maryland, sitting as a Court of Equity, ORDERED, ADJUDGED and DECREED:

That George E. Hamilton, John J. Hamilton, George E. Hamilton, Jr., and Henry R. Gower, members of the law firm of Hamilton & Hamilton, be paid the sum of Five Thousand Dollars, (\$5,000.00) for their services as counselors and solicitors retained for and on behalf of the Surviving Receivers in this cause, in the District of Columbia, from December 23, 1939, to date, and be paid the further sum of One Hundred Sixty-Four Dollars and Sixty-Eight Cents (\$164.68) in reimbursement of their expenses, subject to all legal exceptions.

*D. Lindley Stover*

NOS. 4191 and 4198 Equity

AUDITOR'S  
REPORT AND ACCOUNT NO. 12

CHARLES W. WOLF  
ATTORNEY AT LAW  
HAGERSTOWN, MARYLAND

*Filed Dec. 8. 1941.*



with the amount of \$37,500.00 heretofore allowed them altogether in the Auditor's 2nd and 5th Accounts, would in the aggregate be in part of the commissions to which they are entitled by the rules of this Court.

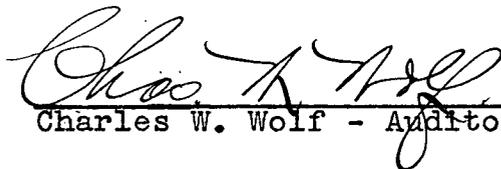
That your Auditor has charged for his services as Auditor in this cause the sum of \$500.00 as compensation for hearings, audits and work done by him since the statement of the Auditor's 5th Account, which was heretofore stated in this cause on January 12, 1940.

That he has allowed the sum of \$155.00 to the Clerk of the Court as costs for recording the proceedings in this cause for the period from August 8, 1938 to date.

That after the allowance of the respective disbursements hereinabove set forth, he has allowed to be retained by the Surviving Receivers a balance of \$29,119.86 for further distribution to costs, commissions and fees, and for further distribution to claims properly proven in the order of their priorities.

All of which will more fully appear in the within and the next Account, which is herewith respectfully submitted.

December 8, 1941.

  
Charles W. Wolf - Auditor.

AUDITOR'S 12th REPORT

THE REAL ESTATE OF THE CHESAPEAKE & OHIO CANAL  
COMPANY, ET AL, IN ACCOUNT WITH R. S. B. HARTZ  
AND G. L. NICOLSON, SURVIVING RECEIVERS IN  
EQUITY CAUSES NOS. 4191 AND 4198 CONSOLIDATED  
CASES.

December 8, 1941

Dr.

Cr.

By	This sum, being the total amount of cash remaining in the hands of the Surviving Receivers as per Auditor's Report and Account No. 11,	\$57,939.54
To	William P. Lane, Jr., Attorney at Law, For services as Solicitor and Counsel to Receivers from September 1, 1938 to date <span style="float: right;">\$11,000.00</span> and reimbursement of expenses of <span style="float: right;"><u>500.00</u></span> <span style="float: right;">\$11,500.00</span> as per Order of Court passed December 8, 1941,	
"	Hamilton and Hamilton, Attorneys at Law, Washington, D. C., For services as Solicitors and Counsel to Surviving Receivers in the District of Columbia <span style="float: right;">\$5,000.00</span> and reimbursement of expenses of <span style="float: right;"><u>164.68</u></span> <span style="float: right;">\$ 5,164.68</span> as per Order of Court passed December 8, 1941.	
"	R. S. B. Hartz and G. L. Nicolson, Surviving Receivers in this cause, in further part of the commissions to which they are entitled by the rules of this Court,	\$11,500.00
"	Charles W. Wolf, Auditor's fees covering Accounts Nos. 6 to 12 inclusive,	\$ 500.00
"	Edward Oswald, Clerk, For recording proceedings in this cause from August 8, 1938 to date	\$ 155.00

Dr.

Cr.

To Balance retained in the hands of these Surviving Receivers for further distribution to labor claims and judgments, including interest, that may be properly filed and proven under the Acts of 1896 and 1900, and further distribution to costs, commissions, expenses and fees, and for further distribution to claims properly proven in the order of their priority,

\$29,119.86

\$57,939.54

\$57,939.54

GEORGE S. BROWN, et al : IN THE CIRCUIT COURT FOR  
vs. : WASHINGTON COUNTY, MARYLAND  
CHESAPEAKE AND OHIO CANAL : NOS. 4191 and 4198 EQUITY  
COMPANY, et al : CONSOLIDATED CASES

HONORABLE CHARLES W. WOLF, AUDITOR:

The petition of R. S. B. Hartz and G. L. Nicolson, Surviving Receivers in the above entitled cause respectfully represents:

1. That the Receivers have heretofore reported the receipt of the proceeds of sale of the property in these proceedings in the aggregate amount of \$2,100,000.

2. That there has been allowed to the Receivers in the above entitled cause on account for their services, commissions and expenses on said sales the amount of \$22,500 in the Auditor's Second Account and the further amount of \$15,000 in the Auditor's Fifth Account, an aggregate of \$37,500.

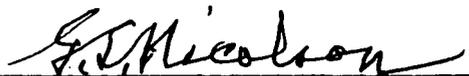
3. The Surviving Receivers now desire that there be distributed to them the further sum of \$11,500 on account for their services, commissions and expenses, and they authorize and request the Auditor of this Court to make such distribution in the next Account stated.

4. That the total amount of commissions to which said Receivers are entitled under the rules of Court exceeds the aggregate amount heretofore distributed as commissions and the further amount herein authorized.

And as in duty bound, etc.,



R. S. B. Hartz



G. L. Nicolson

Surviving Receivers in Nos. 4191 & 4198, Equity, in the Circuit Court for Washington County, Maryland.

Nos. 4191 and 4198 Equity

Consolidated Cases.

Notice thereof set up in Clerk's Office same day. No objection or exception thereto filed to this date.

December 23, 1941.

That:

Clerk.

Ratification of Auditor's Report and Account No. 12.

In the Circuit Court for Washington County,

COURT OF EQUITY

SITTING AS A

Consolidated Cases

4191 and 4198

Filed Dec. 23, 1941.

In the Circuit Court for Washington County,

COURT OF EQUITY

SITTING AS A

Consolidated Cases

4191 and 4198

respectively.

been given as required by Rule 21 of this Court and the undersigned hereby directed to say and the Court shall thereupon have shown and no exception thereto having been filed although motion appears to have the above entitled cases be set the same is hereby finally settled and confirmed, no cause in the Court's day of... 1941. That the Auditor's Report and Account No. 12... in

ORDERED by the Circuit Court for Washington County sitting as a Court of Equity this 23rd day of December 1941.

GRACE R. BROWN, CLERK.

N3

N3

GEORGE S. BROWN, ET AL.

VS.

CHESAPEAKE AND OHIO CANAL  
COMPANY, Et al.

4191 and 4198

No.<sup>s</sup>.....EQUITY  
Consolidated Cases

IN THE CIRCUIT COURT FOR  
WASHINGTON COUNTY

SITTING AS A  
COURT OF EQUITY

Auditor's Report and Account No...12.....filed in this cause  
....December 8th,.... 19 41, will be ready for final ratification after the same  
shall have lain fourteen days in Court agreeable to Rule No. 21.

Test:

*Edward Oswald*..... Clerk.

GEORGE S. BROWN, ET AL.

VS.

CHESAPEAKE AND OHIO CANAL

COMPANY, ET AL.

4191 and 4198

No.s. Equity

Consolidated Cases

In the Circuit Court for Washington County,

SITTING AS A

COURT OF EQUITY

Auditor's Report and Account No. 12, filed December 8th, 1941.

Notice thereof set up in Clerk's Office same day. No objection or exception thereto filed to this date,

December 23, 1941.

TEST:

Edward Oswald Clerk.

GEORGE S. BROWN, ET AL.

VS.

CHESAPEAKE AND OHIO CANAL

COMPANY, ET AL.

4191 and 4198

No.s. Equity

Consolidated Cases

In the Circuit Court for Washington County,

SITTING AS A

COURT OF EQUITY

ORDERED, By the Circuit Court for Washington County, sitting as a Court of Equity, this 23rd day of December, 1941, that the Auditor's Report and Account No. 12, in the above entitled cause, be and the same is hereby finally ratified and confirmed, no cause to the contrary thereof having been shown, and no exception thereto having been filed, although notice appears to have been given as required by Rule 21 of this Court, and the trustees <sup>s are</sup> hereby directed to pay out the fund accordingly.

Jos. D. Wish



GEORGE S. BROWN, et al : NOS. 4191 and 4198 EQUITY  
vs. : CONSOLIDATED CASES  
CHESAPEAKE AND OHIO : IN THE CIRCUIT COURT FOR  
CANAL COMPANY, et al : WASHINGTON COUNTY

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The petition of R. S. B. Hartz and G. L. Nicolson, Surviving Receivers in the above entitled cause, respectfully shows:

That upon their appointment as Receivers in this cause, in compliance with the order of this Court they qualified by filing on May 4, 1938, a Bond in the penalty of \$30,000.00 underwritten by Maryland Casualty Company by its policy No. 163,000 and conditioned for the faithful performance of the trust reposed in them by said decree, or to be reposed in them by any further decree or order in the premises;

That on September 8, 1938 this Court ordered that these Receivers file in this Court four additional Bonds, each in the penalty of \$517,500.00 and that your Receivers complied with said order by filing said Bonds on September 9th, 1938, and said Bonds being underwritten respectively by Maryland Casualty Company, Fidelity & Deposit Company of Maryland, New Amsterdam Casualty Company and United States Fidelity & Guaranty Company, so that the aggregate amount of the Bonds filed thereafter in this Court by said Receivers was \$2,100,000.00;

That all of the property of the Chesapeake and Ohio Canal Company has been sold by these Receivers, and they have collected the purchase price therefor in the amount of \$2,100,000.00;

That of all the funds coming into the hands of your Receivers they distributed and disbursed the same as shown in Auditor's Accounts Nos. 1, 2, 3, and 3-A, filed in this cause and ratified by this Court, and that as shown by said Auditor's Account No. 3-A ratified by this Court on February 6, 1939, there remained thereafter a balance of \$150,994.10 retained in the hands of these Receivers for further distribution to labor claims, and judgments, including interest, that might possibly be filed and proven under the Acts of

1896 and 1900, and further distribution to costs, commissions and fees, and further distribution to claims properly proven in order of their priorities;

That on petition of these Receivers, this Court on June 21, 1939 passed an Order reducing the penalty of the five Bonds, which the Receivers had theretofore filed in this cause, to an aggregate of \$160,000, and decreed that the penalty of each of the said four Bonds filed by said Receivers in this cause on September 9, 1938 shall be reduced from the amount of \$517,500.00 to the amount of \$32,500.00;

That subsequently of the funds retained in the hands of these Receivers, they distributed and disbursed the same as shown in Auditor's Accounts Nos. 4, 5, 6, 7, 8, 9, and 10 filed in this cause and ratified by this Court, and that as shown by said Auditor's Account No. 10 there remained thereafter a balance of \$58,327.29 retained in the hands of these Receivers for further distribution to labor claims, and judgments, including interest, in the aggregate amount of \$641.43, that may possibly be filed and proven under the Acts of 1896 and 1900, and for further distribution to costs, commissions and fees, and further distribution to claims properly proven in order of their priorities;

That on petition of these Receivers, this Court on September 8, 1941 passed an Order reducing the penalty of the Bonds, which the Receivers had theretofore filed in this cause, to an aggregate of \$60,000, and decreed that the Bond filed by said Receivers in this cause on May 4, 1938 in the penalty of \$30,000, the same being underwritten by Maryland Casualty Company by its policy No. 163,000, shall be terminated with respect to further faithful performance of the trust reposed in said Receivers, and decreed further that liability under each of the said four Bonds filed by said Receivers in this cause on September 9, 1938 shall be reduced to FIFTEEN THOUSAND (\$15,000.00) DOLLARS;

That subsequently of the funds retained in the hands of these Receivers, they distributed and disbursed the same as shown in Auditor's Accounts Nos. 11 and 12, filed in this cause and ratified by this Court, and that as shown by said Auditor's Account No. 12 there is now a balance of

\$29,119.86 retained in the hands of these Receivers for further distribution to labor claims, and judgments, including interest, in the aggregate amount of \$511.08 that may possibly be filed and proven under the Acts of 1896 and 1900, and further distribution to costs, commissions and fees, and further distribution to claims properly proven in order of their priorities;

That the aggregate penalty of the four Bonds which the Receivers have at this date filed in this cause amounts to \$60,000; and that the aggregate annual premium required to be paid by your Receivers for said Bonds amounts to \$240.00;

That to continue said Bonds in the aggregate amount of \$60,000 would appear an unnecessary burden and expense upon the funds remaining in the hands of your Receivers;

TO THE END, THEREFORE, your Receivers pray your Honorable Court to pass an Order reducing the amount of the penalty of said Bonds to an aggregate amount of \$30,000 conditioned for the continued faithful performance of the trust reposed in them by the decree or to be hereafter reposed in them by any further decree or order in the premises.

And as in duty, etc.

  
Solicitor for Receivers

GEORGE S. BROWN, et al : NOS. 4191 and 4198 EQUITY  
vs. : CONSOLIDATED CASES  
CHESAPEAKE AND OHIO : IN THE CIRCUIT COURT FOR  
CANAL COMPANY, et al : WASHINGTON COUNTY

ORDER OF COURT

WHEREAS at the time of the appointment of R. S. B. Hartz and G. L. Nicolson, Surviving Receivers in this cause, they were required by the order of this Court, passed on April 29th, 1938, to file their Bond in the penalty of THIRTY THOUSAND (\$30,000.00) DOLLARS conditioned for the faithful performance of the trust reposed in them, and

WHEREAS, thereafter, on September 8th, 1938, by the further order of this Court, said Receivers were required to file four additional Bonds, each in the penalty of FIVE HUNDRED SEVENTEEN THOUSAND FIVE HUNDRED (\$517,500.00) DOLLARS, each with a different corporate surety or sureties, and each conditioned that said Receivers do and shall well and faithfully perform the trust reposed in them by the decree of this Court filed on April 29th, 1938, appointing them Receivers in this cause or that should be reposed in them by any future decree or order in the premises, and should account for the proceeds of the sale of the real estate in these proceedings, and

WHEREAS, said Receivers have reported the receipt of the proceeds of said sale, and have further reported the distribution and disbursement of most of said funds, retaining in their hands a balance of \$29,119.86, and

WHEREAS, on June 21, 1939, by further order of this Court the penalty of the Bonds which had heretofore been filed by said Receivers in this cause was reduced to an aggregate of \$160,000; and on September 8, 1941 by further order of this Court the penalty of the said Bonds was further reduced to an aggregate of \$60,000, and

WHEREAS, it is unnecessary to continue the penalty of the said Bonds in an aggregate amount of \$60,000.00 with reference to future acts and duties of said Receivers, in the premises;



Nos. 4191 and 4198 Equity  
Consolidated cases in the  
Circuit Court for Washington  
County, Maryland.

---

GEO. S. BROWN, et al  
vs.  
CHESAPEAKE AND OHIO CANAL COMPANY,  
et al

---

PETITION OF WESTERN MARYLAND RAILWAY  
COMPANY

AND ORDER OF COURT THEREON.

---

*Filed November 9 1942.*

GEO. S. BROWN, et al : Nos. 4191 and 4198 Equity  
vs. : Consolidated cases in the  
CHESAPEAKE AND OHIO CANAL COMPANY, : Circuit Court for Washington  
et al : County, Md.  
-----

PETITION OF WESTERN MARYLAND RAILWAY COMPANY

To the Honorable, the Judge of said Court:

Western Maryland Railway Company, a corporation, duly organized under the laws of the states of Maryland and Pennsylvania, through Paul S. Parsons and E. Stuart Bushong, its solicitors, begs leave to intervene in the above entitled cause for the purposes hereinafter set forth and in this connection respectfully submits:

1. That this Honorable Court upon the Petition of The Real Estate and Improvement Company of Baltimore City, substituted purchaser, filed September 20, 1941, together with the report and Exhibits of R.S.B. Hartz and G. L. Nicholson, Surviving Receivers in the aforementioned cause, filed October 15, 1941, did on October 15, 1941, enter an order directing the aforesaid surviving Receivers to execute and deliver to the United States of America a deed or deeds conveying the following twelve (12) parcels of land which are described in Exhibit "A", filed with the Agreement of Sale in this cause on August 13, 1938, and which are therein designated as Parcel No. W.M. 1-Washington County; Parcel No. W.M. 3-Washington County; Parcel No. W.M. 4-Washington County; Parcel No. W.M. 5-Washington County; Parcel No. W.M. 6-Washington County; Parcel No. W.M. 7-Washington County; Parcel No. W.M. 8-Allegany County; Parcel No. W.M. 9-Allegany County; Parcel No. W.M. 10-Allegany County; Parcel No. 11-Allegany County; Parcel No. W.M. 12-Allegany County and Parcel No. W.M. 13-Allegany County; and directing that said parcels of land be conveyed, however, subject to the right heretofore granted to Western Maryland Railway Company to occupy and use the said lands, without limitation of time, as a right of way for its railroad.

2. That when the sale by the Receivers of the Canal property to the United States Government was first under consideration in the summer of 1938, the Receivers requested your Petitioner to furnish them with the legal descriptions

of any lands or rights in lands which your Petitioner might need from the said Receivers of said Canal Company for the future development of its line of railroad; that your Petitioner had prepared and furnished to the Receivers the legal descriptions of fifteen (15) parcels of land, of which the twelve (12) parcels referred to herein were a part; that through error in the preparation of the descriptions of these twelve (12) parcels there was included therein portions of the rights of way of your Petitioner which are owned and possessed by it, partly in fee and partly by easement for railroad purposes in perpetuity; that your petitioner acquired the greater portion of said parcels of land aforesaid by deed but that it claims title by adverse possession against said Receivers of the Canal Company for certain portions of said parcels, the embankment of your Petitioner's railroad having encroached upon the lands of the Canal Company, said encroachments having been made and having remained in effect for over twenty-one (21) years.

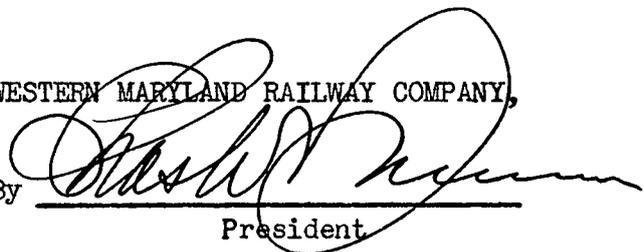
3. That your Petitioner, in order to acquire title to so much of said twelve (12) parcels not already owned and possessed by it, was requested, pursuant to the terms of the aforesaid agreement of sale, to survey the said twelve (12) parcels and mark each of them with suitable monuments and thereafter to furnish corrected legal descriptions of said parcels from the survey so made; that your petitioner did not have available a sufficient engineering staff to comply with this request and consequently advised said Receivers that it would not be able to purchase said twelve (12) parcels from The Real Estate and Improvement Company, substituted purchaser, from whom your petitioner was to have acquired title thereto; and that thereafter this court entered the order dated October 15, 1941 referred to in the first paragraph of this petition.

4. That in said order of October 15, 1941 it is provided that the Surviving Receivers of the Canal Company were directed to make conveyance of said twelve (12) parcels of land aforesaid subject "to the right heretofore granted to the Western Maryland Railway Company to occupy and use the said lands without limitation of time as a right of way for its railroad", and that your Petitioner believes said order as so drawn does not properly protect its ownership and possession to those parts of said twelve (12) parcels of land which it had already acquired.

To the end, therefore, your Petitioner prays this Honorable Court to amend the order of this Court passed October 15, 1941 by passing an order directing R.S.B. Hartz and G. L. Nicholson, Surviving Receivers of the Chesapeake and Ohio Canal Company, and the said The Real Estate and Improvement Company of Baltimore City to convey to the United States all right, title and interest of which they, the said Surviving Receivers of the Chesapeake and Ohio Canal Company and the said The Real Estate and Improvement Company of Baltimore City, may be possessed in and to the aforesaid twelve (12) parcels of land, subject, however, to all right, title and interest now owned and possessed by Western Maryland Railway Company, its successors and assigns, in and to the said lands, and to occupy and use the same without limitation of time as a right of way for its railroad.

WESTERN MARYLAND RAILWAY COMPANY,

By

  
President

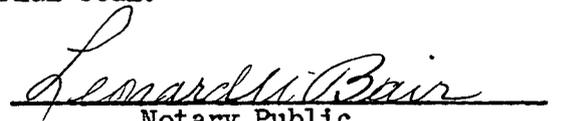
  
\_\_\_\_\_

  
\_\_\_\_\_  
Solicitors for Petitioner

STATE OF MARYLAND    SS:  
CITY OF BALTIMORE

I hereby certify that on the 27th day of October, 1942, before me the subscriber, a Notary Public of the State of Maryland in and for Baltimore City, personally appeared Chas. W. Brown, President of Western Maryland Railway Company, who made oath in due form of law that the matters and facts set forth in the foregoing petition are true to the best of his knowledge, information and belief.

Witness my hand and official notarial seal.

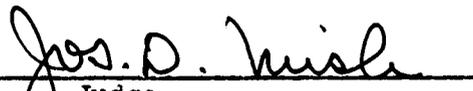
  
\_\_\_\_\_  
Notary Public  
My commission expires May 3, 1943.

ORDER OF COURT

The foregoing petition of Western Maryland Railway Company, intervenor in these proceedings, having been read and considered, it is thereupon this 9<sup>th</sup> day of November, 1942, ORDERED, ADJUDGED AND DECREED by the Circuit Court for Washington County, Maryland, sitting as a Court of Equity:

1. That Paragraph 2 of the Order of Court heretofore passed in these proceedings on October 15, 1941 be and the same is hereby amended to read as follows:

"2. That all of said parcels of land shall be conveyed subject, however, to all right, title and interest now owned and possessed by Western Maryland Railway Company, its successors and assigns, in and to the said lands, or to occupy and use the same without limitation of time as a right of way for its railroad."

  
\_\_\_\_\_  
Judge

NOS. 4191 and 4198 Equity.

from September 30, 1942  
Records of General Director for the year  
D. C. for rental of storage space for  
to Security Storage Company, Washington,

An order of audit by  
classification of  
expenses and fees, and  
classification to cost  
items of 1942 and 1943  
properly filed and  
including interest,  
pertaining receipts  
to balance retained in

AUDITOR'S REPORT AND ACCOUNT  
NO. 13.

68,928.88  
52,719.83  
52,719.83

Filed: - Sept. 15, 1943.

60.00

(Forward)

(A 228.00)

DR. CR.

GEORGE S. BROWN, et al	)	NOS. 4191 and 4198 EQUITY
	)	
vs.	)	CONSOLIDATED CASES
	)	
CHESAPEAKE AND OHIO CANAL	)	IN THE CIRCUIT COURT FOR
COMPANY, et al	)	WASHINGTON COUNTY, MARYLAND

TO THE HONORABLE, THE JUDGES OF SAID COURT:

This, the Auditor's 13th Report in the above entitled cause, respectfully shows:

That he has examined the further proceedings in said cause since the statement of the 12th Report and from them has stated the within account.

That he has charged R. S. B. Hartz and G. L. Nicolson, Surviving Receivers in the above entitled cause, with the balance of the funds in these proceedings as shown by the Auditor's 12th account in the amount of \$29,119.86.

That he has credited the Surviving Receivers with the amount of \$25.00 paid to Tongue, Brooks & Zimmerman, Inc., for premium on renewal for one year from May 2, 1942 of Receivers' Bond filed in the ancillary proceeding, Equity No. 12,240, in the District Court of the United States for the District of Columbia.

That he has also credited the Surviving Receivers with the amount of \$120.00 paid to McComas-Armstrong, Inc., for premium account renewal for one year from September 10, 1942 of Receivers' Bonds filed in these proceedings

That he has further credited the Surviving Receivers with the amount of \$96.00 paid to Security Storage Company, Washington, D. C., for rental of storage space for records of Canal Trustees for one year from September 27, 1942.

That he has further credited the Surviving Receivers with the amount of \$25.00 paid to Tongue, Brooks & Zimmerman, Inc., for premium on renewal for one year from May 2, 1943 of Receivers' Bond filed in the ancillary proceeding, Equity No. 12,240, in the

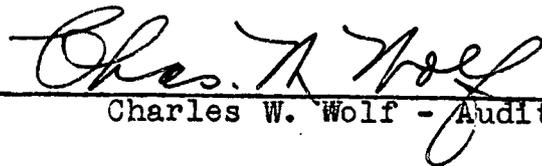
District Court of the United States for the District of Columbia.

That he has further credited the Surviving Receivers with the amount of \$120.00 paid to McComas-Armstrong, Inc., for premium account renewal for one year from September 10, 1943 of Receivers' Bonds filed in these proceedings.

That he has further credited the Surviving Receivers with the amount of \$96.00 representing a charge by the Security Storage Company, Washington, D. C., for rental of storage space for records of Canal Trustees for one year from September 27, 1943.

That after the allowance of the respective disbursements hereinabove set forth, he has allowed to be retained by the Surviving Receivers a balance of \$28,637.86 for further distribution to costs, commissions and fees, and for further distribution to claims properly proven in the order of their priorities.

All of which will more fully appear in the within and annexed account, which is herewith respectfully submitted.



Charles W. Wolf - Auditor

September 15<sup>th</sup> 1943.

AUDITOR'S 13TH REPORT

THE REAL ESTATE OF THE CHESAPEAKE AND OHIO CANAL COMPANY,  
ET AL, IN ACCOUNT WITH R. S. B. HARTZ AND G..L. NICOLSON,  
SURVIVING RECEIVERS IN EQUITY CAUSES NOS. 4191 and 4198,  
CONSOLIDATED CASES.

September	1943	DR.	CR.
By this sum, being the total amount of cash remaining in the hands of the Surviving Receivers as per Auditor's Report and Account No. 12,			
			\$ 29,119.86
To Tongue, Brooks & Zimmerman, Inc., for premium on renewal for one year from May 2, 1942 of Receivers' Bond filed in the ancillary proceeding, Equity No. 12,240, in the District Court of The United States for the District of Columbia in the penalty of \$5000 at 1/2 of 1%			
			\$ 25.00
To McComas-Armstrong, Inc., Hagerstown, Md., for premium account renewal for one year from September 10, 1942 of Receivers' Bonds in the total penalty of \$30,000, filed in Consolidated Cases, Equity Nos. 4191 and 4198, in the Circuit Court for Washington County, Md. at 4/10 of 1%			
			120.00
To Security Storage Company, Washington, D. C., for rental of storage space for records of Canal Trustees for one year from September 27, 1942			
			96.00
To Tongue, Brooks & Zimmanman, Inc., for premium on renewal for one year from May 2, 1943 of Receivers' Bond filed in the ancillary proceeding, Equity No. 12,240, in the District Court of the United States for the District of Columbia in the penalty of \$5000 at 1/2 of 1%			
			25.00
To McComas-Armstrong, Inc., Hagerstown, Md., for premium account renewal for one year from September 10, 1943 of Receivers' Bonds in the total penalty of \$30,000, filed in Consolidated Cases, Equity Nos. 4191 and 4198 in the Circuit Court for Washington County, Md., at 4/10 of 1%			
			120.00

	DR.	CR.
(Forward)	( <u>\$ 386.00</u> )	
To Security Storage Company, Washington, D. C., for rental of storage space for records of Canal Trustees for one year from September 27, 1943	96.00	
To Balance retained in the hands of these Surviving Receivers for further distribution to labor claims and judgments, including interest, that may be properly filed and proven under the Acts of 1896 and 1900, and further distribution to costs, commissions, expenses and fees, and for further distribution to claims properly proven in order of their priority	<u>\$28,637.86</u>	
	<u>\$29,119.86</u>	<u>\$29,119.86</u>

No. 4191 & 4198 Equity

CONSEIL DE EQUITY

RATIFICATION OF  
AUDITOR'S REPORT

AND

ACCOUNT NO. 13

CHESAIRE & ORIO CIVIT CORP.

GEORGE S. BROWN, JR.

Filed Oct 11 1943

GEORGE S. BROWN, ET AL

No.s. 4191. & 4198 EQUITY

VS.

IN THE CIRCUIT COURT FOR  
WASHINGTON COUNTY

CHESAPEAKE & OHIO CANAL  
COMPANY, ET AL.

SITTING AS A  
COURT OF EQUITY

Auditor's Report and Account No. 13..... filed in this cause  
.....September 15, 19 43, will be ready for final ratification after the same  
shall have lain fourteen days in Court agreeable to Rule No. 21.

Test:

*Edward Oswald* Clerk.

GEORGE S. BROWN, ET AL

VS.

CHESAPEAKE & OHIO CANAL COMPANY,

ET AL

No. 4191 & 4198 Equity

In the Circuit Court for Washington County

SITTING AS A

COURT OF EQUITY

Auditor's Report and Account No. 13, filed September 15, 1943.

Notice thereof set up in Clerk's Office same day. No objection or exception thereto filed to this date, October 1, 1943.

TEST:

*Edward Oswald*  
.....Clerk.

## ORDER OF COURT

ORDERED, By the Circuit Court for Washington County, sitting as a Court of Equity, this 1<sup>st</sup> day of October, 1943, that the Auditor's Report and Account No. 13 in the above entitled cause, be and the same is hereby finally ratified and confirmed, no cause to the contrary thereof having been shown, and no exception thereto having been filed, although notice appears to have been given as required by Rule 21 of this Court, and the Trustees are hereby directed to pay out the fund accordingly.

*Joe D. Misk*

NOS: 4191 and 4198 EQUITY  
CONSOLIDATED CASES

CHARLES S. BROWN, et al

vs.

CHESAPEAKE AND OHIO CANAL  
COMPANY, et al.

Petition of Messrs. Hamilton  
& Hamilton for Attorneys' fees  
and Order of Court thereon.

LAW OFFICES

LANE, BUSHONG & BYRON

HAGERSTOWN TRUST BUILDING

HAGERSTOWN, MD.

*Filed July 5 1944.*

GEORGE S. BROWN, et al	)	IN THE CIRCUIT COURT FOR
	)	
v.	)	WASHINGTON COUNTY, MARYLAND,
	)	
CHESAPEAKE AND OHIO CANAL	)	NOS. 4191 and 4198, EQUITY
COMPANY, et al.	)	CONSOLIDATED CASES.

To the Honorable, the Judges of said Court:

The petition of GEORGE E. HAMILTON, JOHN J. HAMILTON, GEORGE E. HAMILTON, JR. and HENRY R. GOWER, members of the law firm of HAMILTON and HAMILTON, respectfully represents:

That they are attorneys at law, practicing under said firm name in the Supreme Court of the United States and in all the courts of the District of Columbia and before various Departments of the Government of the United States.

That after the appointment of the Receivers in this cause on April 29th, 1938, by this Honorable Court, these petitioners were authorized and directed to file an ancillary proceeding in the District Court of the United States for the District of Columbia in Equity No. 12,240 for the confirmation of the appointment of said Receivers.

That since March 1st, 1938 petitioners rendered to said Receivers all necessary services in the matter of conferences, advice, preparation and filing of petitions and answers and obtaining orders in the District of Columbia Courts with reference to the business of said Receivers and their dealings with the United States Government and the Real Estate and Improvement Company of Baltimore City in regard to the sale of the Chesapeake and Ohio Canal Company properties, and have continued to represent said Receivers

from said date of March 1st, 1938 down to the present time.

These petitioners at the request of the Receivers furnished them with accounts of services rendered between March 1st, 1938 and September 15th, 1938, and between September 15th, 1938 and December 23rd, 1939, and between December 23rd, 1939 and December 1st, 1941, for which said services your petitioners were duly paid the sums of \$2,500.00, ✓ \$1,500.00 ✓ and \$5,000.00, it being understood and agreed with said Receivers that subsequent bills should be rendered from time to time for services rendered from and after December 1st, 1941.

Said Receivers have now requested your petitioners to furnish them with a statement of charges for services rendered and costs expended by these petitioners from and after December 1st, 1941 to date with reference to said ejectment suit in the Court of Appeals of the United States for the District of Columbia and all other services rendered Receivers from and after December 1st, 1941 to date, and also to include services to be rendered that may be necessary in the closing out of the ancillary proceedings in the District Court of the United States for the District of Columbia.

After careful consideration of the services rendered to said Receivers from December 1st, 1941 in said ejectment suit, consisting of conferences with, assistance to and cooperation with the Department of Justice in maintaining the position of the Receivers in said suit in the Court of Appeals, and thereafter in the District Court with reference to the Mandate, including presence at the argument in the Court of Appeals, numerous conferences with Receivers with reference to Deeds finally consummating the conveyance of the property purchased

by the United States Government, the recordation of such Deeds, conferences with Receivers with reference to termination of Ancillary Receivership in the District of Columbia, and the preparation of Verified Statement of Settlement in lieu of account in said proceedings, and the necessary services to be rendered with reference to the termination of such Ancillary Receivership, these petitioners believe that they are reasonably entitled to receive from said Receivers for such services the sum of One Thousand Dollars (\$1,000.00) and expenditures totalling Thirteen Dollars and Sixty Cents (\$13.60), set out in the attached schedule.

WHEREFORE, these petitioners pray that the Court will allow them for the services rendered the Receivers in the District of Columbia the sum of One Thousand Dollars (\$1,000.00) and Thirteen Dollars and Sixty Cents (\$13.60) expenses, and that said Receivers be authorized to pay the same for services rendered to date and the necessary services to be rendered with reference to the termination of such Ancillary Receivership.

And for such other and further relief as to the Court may seem just and proper.

John S. Hamilton

John S. Hamilton

John S. Hamilton

Henry R. Gower

We do solemnly swear that we have read the foregoing petition by us subscribed, and know the contents there-

of; that the matters and facts set forth therein are true  
to the best of our knowledge and belief.

John J. Hamilton  
In Solatinity.

Henry R. Gowers

Subscribed and sworn to before me this 28<sup>th</sup> day of  
June, 1944.

Regina S. McQuinn  
NOTARY PUBLIC, D. C.

My Commission Expires Feb. 14, 1949.

HAMILTON AND HAMILTON  
UNION TRUST BUILDING  
WASHINGTON 5, D.C.

GEORGE E. HAMILTON  
JOHN J. HAMILTON  
GEORGE E. HAMILTON, JR.  
HENRY R. GOWER  
WILLIAM A. GLASGOW  
LEO N. MCGUIRE  
JOHN L. HAMILTON

May 23rd,  
1 9 4 4.

RECEIVERS, C. & O. CANAL COMPANY

TO . . . . . HAMILTON and HAMILTON . . . . . DR.

1942			
Jan. 7	-	Telephone call to Colonel Hartz, Baltimore, 12/4/41 . . . . .	\$ .45
Feb. 5	-	Telephone call to Colonel Hartz, Baltimore, 1/15/42 . . . . .	.45
July 20	-	Thomas J. Fisher & Company Premium on Bond on Appeal . . . . .	10.00
1943			
Sept. 29-		Joseph W. Stewart, Clerk, U. S. Court of Appeals, Costs Accrued . . . . .	1.25
1944			
May 20	-	Charles E. Stewart, Clerk, District Court, Certified copy of Verified Statement of Settlement . . . . .	<u>1.45</u>
			\$13.60

GEORGE S. BROWN, et al       \*       NOS. 4191 and 4198 EQUITY  
                                  \*       CONSOLIDATED CASES  
                                  \*       IN THE CIRCUIT COURT FOR  
CHESAPEAKE AND OHIO CANAL \*       WASHINGTON COUNTY, MARYLAND.  
COMPANY, et al.               \*

The foregoing petition having been read and considered, it is, thereupon, this 5<sup>th</sup> day of July, A. D., 1944, by the Circuit Court for Washington County, sitting as a Court of Equity, ORDERED, ADJUDGED and DECREED, that Messrs. Hamilton and Hamilton, Attorneys at Law, be paid the sum of \$ 1000<sup>00</sup> for their services as counsel and solicitors for the Receivers in this cause, said services covering a period from December 1, 1941, subject to all legal exceptions.

And it is further ORDERED, ADJUDGED and DECREED that the said Messrs. Hamilton and Hamilton, attorneys, be paid the sum of \$13.60 as reimbursement of their expenses, subject to all legal exceptions.

*J. W. Wish*

NOS. 4191 and 4198 EQUITY  
CONSOLIDATED CASES

CHARLES S. BROWN, et al

vs.

CHESAPEAKE AND OHIO CANAL  
COMPANY, et al.

Petition of Wm. P. Lane, Jr.,  
for Attorney's fees and  
Order of Court thereon.

LAW OFFICES  
LANE, BUSHONG & BYRON  
HAGERSTOWN TRUST BUILDING  
HAGERSTOWN, MD.

5  
Filed July 5 1944

BALTIMORE

GEORGE S. BROWN, et al	*	NOS. 4191 and 4198 EQUITY
vs.	*	CONSOLIDATED CASES
CHESAPEAKE AND OHIO CANAL COMPANY, et al.	*	IN THE CIRCUIT COURT FOR
	*	WASHINGTON COUNTY, MARYLAND.

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The petition of William P. Lane, Jr., respectfully represents:

That he has continued to act as counsel to the Surviving Receivers in this cause since December 1, 1941.

That he has received no compensation for said services rendered since that date.

That he has continued to act as counsel to said Receivers in these proceedings in connection with the consummation of the sales of the entire property of the Chesapeake and Ohio Canal Company to the United States of America and to the Real Estate and Improvement Company of Baltimore City for the aggregate purchase price of \$2,100,000.00.

That in connection with said sales and the consummation thereof, it has been necessary for him to do an enormous amount of work in connection with the clearance of titles of properties to be conveyed through the Real Estate and Improvement Company of Baltimore City to the Western Maryland Railway Company; to investigate and consider all of the balance of the claims and the merits thereof filed for allowance under the provisions of Chapter 270 of the Acts of Maryland of 1900; to assist with and supervise the litigation in the ancillary proceedings in the District of Columbia in connection with the ejectment suits and clearances of titles; to investigate and pass upon for said

BALTIMORE

Receivers the history of the titles of numerous parcels of land conveyed by them.

That it is impossible for your petitioner to detail the considerable amount of time that he has been called upon to devote to the matters arising in these proceedings as counsel and that, therefore, he has consulted said Receivers in reference to the propriety of such charges as should be made for said services, and that said Receivers have agreed that a fair and reasonable compensation for such services as counsel for the work done since December 1, 1941, would be the sum of \$5,000.00.

To the end, therefore, your petitioner prays your Honorable Court to pass an order authorizing and directing said Receivers to pay to your petitioner such sum for his services as counsel as may be fair and reasonable under the circumstances.

AND AS IN DUTY BOUND, ETC.



Counsel to the Receivers.

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:

I HEREBY CERTIFY, that on this 5th day of July A. D., 1944, before me, the subscriber, a Notary Public, of the State of Maryland, in and for Washington County, personally appeared William P. Lane, Jr., and he made oath in due form of law that the matters and facts set forth in the foregoing petition are true to the best of his knowledge, information and belief.

WITNESS my hand and Official Notarial Seal.

  
Notary Public.



NOS. 4191 and 4198 EQUITY  
CONSOLIDATED CASES

CHARLES S. BROWN, et al

vs.

CHESAPEAKE AND OHIO CANAL  
COMPANY, et al.

Auditor's Report and Account  
No. 14

LAW OFFICES  
LANE, BUSHONG & BYRON  
HAGERSTOWN TRUST BUILDING  
HAGERSTOWN, MD.

6-  
Filed July 6, 1944.

CHARLES S. BROWN, et al \* NOS. 4191 and 4198 EQUITY  
vs. \* CONSOLIDATED CASES  
CHESAPEAKE AND OHIO CANAL \* IN THE CIRCUIT COURT FOR  
COMPANY, et al \* WASHINGTON COUNTY, MARYLAND

TO THE HONORABLE, THE JUDGES OF SAID COURT:

This, the Auditor's 14th Report in the above entitled cause, respectfully shows:

That he has examined the further proceedings in said cause and from them has stated the within account.

That he has charged R. S. B. Hartz and G. L. Nicolson, Surviving Receivers in the above entitled cause, with the balance of the funds in these proceedings as shown by the Auditor's 13th Account in the amount of \$28,637.86.

That he has examined the list of unpaid judgments and other claims for labor, materials and supplies which were filed in these proceedings under the provisions of Chapter 136 $\frac{1}{2}$  of the Acts of the Assembly of Maryland of 1896, and Chapter 270 of the Acts of the Assembly of Maryland of 1900, and he has found that all of said judgments and claims have heretofore been allowed and paid under previous reports, except three of such claims hereafter set forth.

He has investigated and examined the claim of George F. Mallon, in the principal amount of \$86.96, which, together with interest and costs, amounted to \$347.62. Objection was made to the allowance of this claim on the ground that it did not comply with the provisions of Chapter 270 of the Acts of 1900, in that there was no evidence that said claim had ever been filed with Colonel Charles A. Little, Auditor, as required by the provisions of said Act. The claim was disallowed.

He has investigated and examined the claim of D. Walter, in the principal amount of \$32.70, which, together with interest and costs, amounted to \$129.16. Objection was made to the allowance of this claim for the reason that there was no evidence that said claim had been filed in the manner required by the provisions of either the Act of 1896 or the Act of 1900. Further objection to the claim was made on the ground that at the time the claim was barred by limitations. The claim was accordingly disallowed.

He has further investigated and considered the claim of J. W. Santman, in the principal amount of \$8.40, which, together with interest and costs, amounted to \$34.30. Objection was made to the allowance of said claim on the ground that it did not comply with the provisions of Chapter 270 of the Acts of 1900, in that there was no evidence that said claim had ever been filed with Colonel Charles A. Little, Auditor, as required by the provisions of said Act. The claim was disallowed.

The Receivers in this cause have heretofore in previous reports been allowed commissions in the aggregate amount of \$49,000.00. The total amount of commissions allowable on the sale price of \$2,100,000.00, under the rules of this Court, would amount to an aggregate of \$63,069.00. He has accordingly allowed the balance of the commissions due the Surviving Receivers in the amount of \$14,069.00.

That in accordance with the order of this Court passed on July 5, 1944, he has allowed to Messrs. Hamilton and Hamilton, Attorneys at Law, Washington, D. C., for services as solicitors and counsel to the Surviving Receivers in the District of Columbia, for the period from December 1, 1941 to date, the sum of \$1,000.00, and that he has allowed them the further sum of \$13.60 in reimbursement of their expenses.

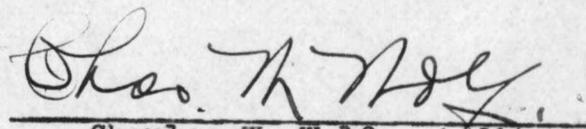
That in accordance with the order of this Court passed on July 5, 1944, he has allowed to William P. Lane, Jr., for services as solicitor and counsel to the Surviving Receivers in this cause from December 1, 1941 to date, the sum of \$5,000.00.

That he has allowed the sum of \$50.00 to the Clerk of the Court as costs for recording the proceedings in this cause for the period from December 1, 1941 to date.

Upon consultation with and approval by the Surviving Receivers in this cause, your Auditor has charged for his services as Auditor the sum of \$1,000.00, as compensation for hearings, audits and work done by him since the statement of the Auditor's 12th Account.

That all of the costs, commissions, expenses and fees in this cause have now been either paid or allowed and that all claims filed in these proceedings under the provisions of the Acts of 1896 and 1900 have now been either allowed and paid or disallowed, and the Auditor has allowed to be retained by the Surviving Receivers a balance of \$7,505.26, for distribution to the claimants entitled thereto hereunder, to the end that the proceedings in this cause may be finally terminated.

All of which will more fully appear in the within and annexed Account, which is herewith respectfully submitted.

  
\_\_\_\_\_  
Charles W. Wolf - Auditor.

July 5, 1944.

AUDITOR'S 14th REPORT

THE REAL ESTATE OF THE CHESAPEAKE & OHIO CANAL  
COMPANY, ET AL, IN ACCOUNT WITH R. S. B. HARTZ  
AND G. L. NICOLSON, SURVIVING RECEIVERS IN  
EQUITY CAUSES NOS. 4191 AND 4198 CONSOLIDATED  
CASES.

July 5, 1944

Dr.

Cr.

By	This sum, being the total amount of cash remaining in the hands of the Surviving Receivers as per Auditor's Report and Account No. 13,	\$28,637.86
To	Hamilton and Hamilton, Attorneys at Law, Washington, D. C., For services as Solicitors and Counsel to Surviving Receivers in the District of Columbia <span style="float: right;">\$1,000.00</span> and reimbursement of expenses of <span style="float: right;">13.60</span> <span style="float: right;">\$1,013.60</span> as per Order of Court passed July 5, 1944,	
"	R. S. B. Hartz and G. L. Nicolson, Surviving Receivers in this cause in payment of the balance of the commissions to which they are entitled by the rules of this Court,	\$14,069.00
"	William P. Lane, Jr. Attorney at Law, For services as Solicitor and Counsel to Receivers from December 1, 1941 to date as per Order of Court passed July 5, 1944,	\$ 5,000.00
"	Charles W. Folf, Auditor's fees covering hearings, audits and work done since the statement of Account No. 12 to date,	1,000.00
"	Edward Oswald, Clerk, For recording proceedings in this cause from December 1, 1941 to date,	50.00

Dr.

Cr.

To Balance retained in the  
hands of these Surviving  
Receivers for distribution  
to the claimants entitled  
thereto,

\$7,505.26  
\$28,637.86

\$28,637.86

BALTIMORE

OFFICE SUPPLY CO.

No. 4191 & 4198 *Equity*

**RATIFICATION OF  
AUDITOR'S REPORT**

AND

ACCOUNT NO. 14

*Filed July 21, 1944.*

Charles S. Brown, et al

VS.

Chesapeake & Ohio Canal  
Company, et al.

No. 4191 & 4198 EQUITY

IN THE CIRCUIT COURT FOR  
WASHINGTON COUNTY

SITTING AS A  
COURT OF EQUITY

Auditor's Report and Account No... 14..... filed in this cause  
..... July 6th, ..... 1944 , will be ready for final ratification after the same  
shall have lain fourteen days in Court agreeable to Rule No. 21.

Test:

*Edward Oswald*  
..... Clerk.

CHARLES S. BROWN, ET AL

VS.

CHESAPEAKE & OHIO CANAL  
COMPANY, ET AL.

No. 4191 & 4198 Equity

In the Circuit Court for Washington County

SITTING AS A

COURT OF EQUITY

Auditor's Report and Account No. 14, filed July 6th, 1944.  
Notice thereof set up in Clerk's Office same day. No objection or exception thereto filed to this date,  
July 21st, 1944.

TEST:

*Edward Oswald*  
.....Clerk.

## ORDER OF COURT

ORDERED, By the Circuit Court for Washington County, sitting as a Court of Equity, this 21<sup>st</sup>  
day of July, 1944, that the Auditor's Report and Account No. 14  
in the above entitled cause, be and the same is hereby finally ratified and confirmed, no cause to the con-  
trary thereof having been shown, and no exception thereto having been filed, although notice appears to  
have been given as required by Rule 21 of this Court, and the Trustees are hereby  
directed to pay out the fund accordingly.

*J. D. Hish*  
.....

NOS. 4191 - 4198 EQUITY

GEORGE S. BROWN AND OTHERS

VS.

CHESAPEAKE AND OHIO CANAL  
COMPANY

Petition of Surviving  
Receivers  
Statement of Final Account

LAW OFFICES

**LANE, BUSHONG & BYRON**

HAGERSTOWN TRUST BUILDING

HAGERSTOWN, MD.

*Filed July 18 1945*

GEORGE S. BROWN AND OTHERS	:	NOS. 4191 - 4198 EQUITY
	:	CONSOLIDATED
VS.	:	
	:	IN THE CIRCUIT COURT
CHESAPEAKE AND OHIO CANAL	:	
COMPANY	:	FOR WASHINGTON COUNTY
	:	

This, the petition of R. S. B. Hartz and G. L. Nicolson, surviving Receivers in the above entitled cause, by William P. Lane, Jr., their solicitor, respectfully represents that in conformity with the Auditor's 14th Report filed in this cause on July 5th, 1944, and finally ratified on July 21st, 1944, there was retained in the hands of the surviving receivers "for distribution to the claimants entitled thereto," the sum of \$7,505.26.

That since statement of said Auditor's Account No. 14, your surviving receivers have received from the Security Storage Company, Washington, D. C., the sum of \$13.85, representing return of rental, prepaid for storage space for records of Canal Trustees for a period of one year ending September 27, 1944, account cancellation of rental contract effective July 31, 1944.

That your surviving receivers have incurred the expense of \$120.00, payable to McComas-Armstrong, Inc., Hagerstown, Maryland, for premium account renewal for one year of Receivers' bond in the principal amount of \$30,000.00 to September 10, 1945.

That all of the costs, commissions, expenses and fees in this cause have now been paid, and that all claims filed in these proceedings under the provisions of the Acts of 1896 and 1900 have now been either paid or disallowed.

That as a result of the foregoing there remains in the hands of the surviving receivers a balance in the sum of \$7,399.11, which sum should be paid to The Baltimore and Ohio Railroad Company, Assignee, in part payment of balance due on principal, with legal interest thereon, of loan from the State

of Maryland in the amount of \$2,000,000.00 secured by mortgage, dated April 23, 1835, by virtue of Chapter 241 of the Acts of 1834, which is recorded among the Land Records of Washington County, Maryland, in Liber P.P. Folio 738; and thereafter confirmed by mortgage dated January 8, 1846, by virtue of Chapter 281 of the Acts of 1844, which is recorded among the aforesaid Land Records in Liber IN No. 3, Folio 137, which said mortgages were sold and transferred by the Board of Public Works of the State of Maryland, by Deed dated January 4, 1905, to Fairfax S. Landstreet and assigned by him, by Deed dated July 29, 1907, to Continental Trust Company, Trustee, now Maryland Trust Company, Successor Trustee, and which have now been transferred to The Baltimore and Ohio Railroad Company.

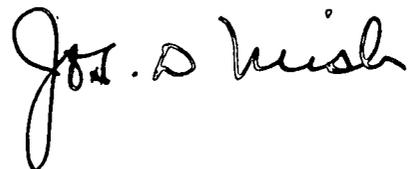
To The End Therefore, the surviving receivers pray that the Auditor may be required to state a final account in these proceedings.

And as in duty bound, etc.

  
William P. Lane, Jr., Solicitor  
for R. S. B. Hartz and G. L.  
Nicolson, surviving receivers.

ORDER OF COURT

Upon the reading of the foregoing petition, it is ordered by the Circuit Court for Washington County, Maryland, this 18<sup>th</sup> day of July, 1945, that the same be referred to Charles W. Wolf, the Auditor of the Court for the statement of a final account in these proceedings.



NOS. 4191 - 4198 EQUITY

GEORGE S. BROWN AND OTHERS

VS.

CHESAPEAKE AND OHIO CANAL  
COMPANY

Auditor's 15th and Final  
Report

*Filed July 19, 1945*  
LAW OFFICES

LANE, BUSHONG & BYRON

HAGERSTOWN TRUST BUILDING

HAGERSTOWN, MD.

GEORGE S. BROWN AND OTHERS	:	NOS. 4191 - 4198 EQUITY
	:	CONSOLIDATED
VS.	:	
	:	IN THE CIRCUIT COURT
CHESAPEAKE AND OHIO CANAL	:	
COMPANY	:	FOR WASHINGTON COUNTY
	:	

This, the Auditor's 15th and Final Report in the above entitled cause, respectfully shows:

That he has examined the further proceedings in said cause and from them has stated the within account.

That he has charged R. S. B. Hartz and G. L. Nicolson, Surviving Receivers in the above entitled cause, with the balance of the funds in these proceedings as shown by the Auditor's 14th Account in the amount of \$7,505.26.

That he has credited the sum of \$13.85, received from Security Storage Company, Washington, D. C., representing return of rental, prepaid for storage space for records of Canal Trustees for a period of one year ending September 27, 1944, account cancellation of rental contract effective July 31, 1944.

That he has allowed the disbursement of the sum of \$120.00 to McComas-Armstrong, Inc., Hagerstown, Maryland, for premium on the Receivers' Bond filed in the cause to September 10, 1945.

That all costs, commissions, expenses and fees in this cause have now been paid, and that all claims filed in these proceedings under the provisions of the Acts of 1896 and 1900 have now been either paid or disallowed, and the Auditor has therefore distributed the sum of \$7,399.11, being the balance of the funds in the hands of the Surviving Receivers to the claimant entitled thereto, The Baltimore and Ohio Railroad Company, Assignee, in part payment of balance due on principal, with legal interest

thereon, of loan from the State of Maryland in the amount of \$2,000,000.00 secured by mortgage, dated April 23, 1835, by virtue of Chapter 241 of the Acts of 1834, which is recorded among the Land Records of Washington County, Maryland, in Liber P.P. Folio 738; and thereafter confirmed by mortgage dated January 8, 1846, by virtue of Chapter 281 of the Acts of 1844, which is recorded among the aforesaid Land Records in Liber IN No. 3, Folio 137, which said mortgages were sold and transferred by the Board of Public Works of the State of Maryland, by Deed dated January 4, 1905, to Fairfax S. Landstreet and assigned by him, by Deed dated July 29, 1907, to Continental Trust Company, Trustee, now Maryland Trust Company, Successor Trustee, and which have now been transferred to The Baltimore and Ohio Railroad Company.

All of which will more fully appear in the within and annexed Account, which is herewith respectfully submitted.



---

Charles W. Wolf - Auditor.

# RISING FISCAL BOND

## AUDITOR'S 15th AND FINAL REPORT

THE REAL ESTATE OF THE CHESAPEAKE AND OHIO CANAL COMPANY, ET AL,  
IN ACCOUNT WITH R. S. B. HARTZ AND C. L. NICOLSON, SURVIVING  
RECEIVERS, IN EQUITY CAUSES NOS. 4191 and 4198

JULY	, 1945	DR.	CR.
By	This sum, being the total amount of cash remaining in the hands of the surviving Receivers as per Auditor's Report and Account No. 14,		\$ 7,505.26
By	Cash received from Security Storage Company, Washington, D. C., representing return of rental, prepaid for storage space for records of Canal Trustees for a period of one year ending September 27, 1944, account cancellation of rental contract effective July 31, 1944,		13.85 <u>\$ 7,519.11</u>
By	This sum being total amount of cash in hands of the Surviving Receivers		\$ 7,519.11
To	McComas-Armstrong, Inc., Hagerstown, Md., for premium account renewal for one year of Receivers' Bonds in the principal amount of \$30,000 to September 10, 1945,	\$ 120.00	
To	Balance for further distribution	<u>7,399.11</u> <u>\$ 7,519.11</u>	<u>\$ 7,519.11</u>
By	Balance for further distribution		\$ 7,399.11
To	The Baltimore and Ohio Railroad Company, Assignee, in part payment of balance due on principal, with legal interest thereon, of loan from the State of Maryland in the amount of \$2,000,000.00 secured by mortgage, dated April 23, 1835, by virtue of Chapter 241 of the Acts of 1834, which is recorded among the Land Records of Washington County, Maryland, in Liber P.P. Folio 738; and thereafter confirmed by mortgage dated January 8, 1846, by virtue of Chapter 281 of the Acts of 1844, which is recorded among the aforesaid Land Records in Liber IN No. 3, Folio 137, which said mortgages were sold and transferred by the Board of Public Works of the State of Maryland, by Deed dated January 4, 1905, to Fairfax S. Landstreet and assigned by him, by Deed dated July 29, 1907, to Continental Trust Company, Trustee, now Maryland Trust Company, Successor Trustee, and which have now been transferred to The Baltimore and Ohio Railroad Company,	\$ 7,399.11 <u>\$ 7,399.11</u>	<u>\$ 7,399.11</u>

No. 4191 - 4198 Equity

COMMISSION OF EQUITY

**RATIFICATION OF  
AUDITOR'S REPORT**

AND

**ACCOUNT NO. 15 and Final**

JAMES W. ...  
 CHESTER ...  
 GEORGE P. ...

*Filed Aug. 3, 1945.*

ORDER TO RECORD

*[Faint handwritten notes and signatures]*

GEORGE S. BROWN AND OTHERS

Nos. 4191...-...4198. EQUITY

VS.

CHESAPEAKE AND OHIO CANAL  
COMPANY

IN THE CIRCUIT COURT FOR  
WASHINGTON COUNTY

SITTING AS A  
COURT OF EQUITY

Auditor's Report and Account No. 15 & Final filed in this cause  
..... July 19th..... 1945 , will be ready for final ratification after the same  
shall have lain fourteen days in Court agreeable to Rule No. 21.

Test:

  
..... Clerk.

GEORGE S. BROWN AND OTHERS

VS.

CHESAPEAKE AND OHIO CANAL  
COMPANY

No. S. 4191 - 4198 Equity

In the Circuit Court for Washington County

SITTING AS A

COURT OF EQUITY

Auditor's Report and Account No. 15 and Final, filed July 19th, 1945.  
Notice thereof set up in Clerk's Office same day. No objection or exception thereto filed to this date,  
August 3, 1945.

TEST:

*Edward Oswald*  
.....Clerk.

## ORDER OF COURT

ORDERED, By the Circuit Court for Washington County, sitting as a Court of Equity, this 3<sup>rd</sup>  
day of August, 1945, that the Auditor's Report and Account No. 15 & Final  
in the above entitled cause, be and the same is hereby finally ratified and confirmed, no cause to the con-  
trary thereof having been shown, and no exception thereto having been filed, although notice appears to  
have been given as required by Rule 21 of this Court, and the Surviving Receivers <sup>are</sup> hereby  
directed to pay out the fund accordingly.

*Joe D. Hish*  
.....

NOS. 4191 - 4198 EQUITY  
CONSOLIDATED

GEORGE S. BROWN AND OTHERS

VS.

CHESAPEAKE AND OHIO CANAL  
COMPANY

Petition for Discharge of  
Receivers and Order of Court  
thereon.

LAW OFFICES

LANE, BUSHONG & BYRON

HAGERSTOWN TRUST BUILDING

HAGERSTOWN, MD.

*Filed Sept. 22. 1945.*

GEORGE S. BROWN AND OTHERS \* NOS. 4191 - 4198 EQUITY  
VS. \* CONSOLIDATED  
CHESAPEAKE AND OHIO CANAL \* IN THE CIRCUIT COURT  
COMPANY \* FOR WASHINGTON COUNTY  
\*

This, the petition of R. S. B. Hartz and George L. Nicolson, Surviving Receivers in the above entitled cause, by William P. Lane, Jr., their solicitor, respectfully represents:

That they were heretofore on April 29, 1938, appointed Receivers in this cause with authority to negotiate for and contract for the sale of the property held under the jurisdiction of this Court.

That the sale of all of said property has been accomplished, and the purchase price therefor in the amount of Two Million One Hundred Thousand (\$2,100,000.00) Dollars has been collected and distributed to those entitled thereto, as is shown by the Receivers' reports herein filed, and that no funds now remain in the hands of your Receivers as is shown by the Auditor's 15th and Final Report filed in this cause and finally ratified on August 3, 1945.

That the ancillary proceedings filed in the District Court of the United States for the District of Columbia, under the title George S. Brown, et al, vs. Chesapeake and Ohio Canal Company, et al, Equity Cause No. 12240, have been finally terminated on April 24, 1944, under Rule 22 of that Court dealing with the termination of receiverships and the discharge of fiduciaries, as is shown by the certified copy of the "Verified Statement of Settlement Under Local Rule 22(g)", which is filed herewith as Exhibit "A".

That R. S. B. Hartz and George L. Nicolson, your  
Surviving Receivers, have now completed all of the duties that  
have been imposed upon them and the receivership proceedings  
have been terminated.

To the end, therefore, your Receivers pray this Honor-  
able Court to pass an order discharging them of any further duty  
in this cause.

AND AS IN DUTY BOUND, etc.

*R. S. B. Hartz*

R. S. B. Hartz

*George L. Nicolson*

George L. Nicolson

Surviving Receivers

Subscribed and sworn to by R. S. B. Hartz before me  
this 18<sup>th</sup> day of September, 1945.

*Raymond W. Auld*

Notary Public.

My Commission Expires May 5, 1947

Subscribed and sworn to by George L. Nicolson before  
me this 19<sup>th</sup> day of September, 1945.

*Steve D. Auld*

Notary Public. *D. A. A.*

*My Comm Expires Jan 15-1949*

In the District Court of the United States for the  
District of Columbia

---

To all to whom these presents come, Greeting:

UNITED STATES OF AMERICA } ss:  
DISTRICT OF COLUMBIA }

*BE IT REMEMBERED, That in the District Court of the United States for the  
District of Columbia, at the City of Washington, in said District, at the time .... herein-  
after mentioned, among others ..... was ..... the following proceeding ....., to wit:*

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF COLUMBIA

FILED  
APR 24 1944  
CHARLES E. STEWART, CLERK

GEORGE S. BROWN, et al,  
vs.  
CHESAPEAKE AND OHIO CANAL  
COMPANY, et al.

Equity No. 12240.

VERIFIED STATEMENT OF SETTLEMENT  
UNDER LOCAL RULE 22(g)

Come now R. S. B. Hartz and George L. Nicolson, surviving Ancillary Receivers of the Chesapeake and Ohio Canal Company duly appointed in the above entitled cause and, being first duly sworn, declare that all of the property of said Chesapeake and Ohio Canal Company has been sold and conveyed to the United States of America and to The Real Estate and Improvement Company of Baltimore City pursuant to certain orders of the Circuit Court of Washington County, Maryland, which orders were duly ratified and confirmed by Orders of this Honorable Court passed in the above entitled cause; that none of the assets of said Chesapeake and Ohio Canal Company have come into the possession of these Ancillary Receivers in the District of Columbia but all of said assets have been held and accounted for by the Receivers appointed in the principal proceedings in the Circuit Court of Washington County, Maryland; that by reason of the sale and conveyance of all the property, estates, rights and franchises of the Chesapeake and Ohio Canal Company and the receipt of the proceeds of said sales by the Receivers in the principal proceedings in the Circuit Court of Washington County, Maryland, no functions remain to be performed by these surviving

Ancillary Receivers and said Ancillary Receivership has fully terminated.

*R. S. B. Hartz*

R. S. B. Hartz

*George L. Nicolson*

George L. Nicolson

Surviving Ancillary Receivers  
of the Chesapeake and Ohio Canal  
Company.

Subscribed and sworn to by R. S. B. HARTZ before me  
this 20th day of April, 1944.

*Wm. Schuppert*

Notary Public

MY COMMISSION  
EXPIRES MAY 7th 1945

Subscribed and sworn to by GEORGE L. NICOLSON before  
me this 22<sup>nd</sup> day of April, 1944.

*Jane D. Acudlo*

Notary Public

# Authentication

District Court of the United States for the District of Columbia:

I, CHARLES E. STEWART, Clerk of the said Court, do hereby certify that the writing annexed to this certificate is a true copy of original on file and of record in said Court in this cause. I further certify that the original VERIFIED STATEMENT OF SETTLEMENT UNDER LOCAL RULE 22(g) was filed April 24, 1944.

Witness my hand and the seal of said Court, this

18th day of MAY, 1944.

CHARLES E. STEWART, Clerk,

By

*H.B. Perlsbaugh, Deputy Clerk*  
XXXXXXXXXX

I, EDWARD C. FISHER, CHIEF

Justice of said Court, do hereby certify

the foregoing authentication by CHARLES E. STEWART, Clerk of the said Court, to be in due form.

Witness my hand this 18th day of MAY, 1944.

*Edward C. Fisher*  
Chief Justice.

I, CHARLES E. STEWART, Clerk of said Court, hereby certify that the Honorable EDWARD C. FISHER, whose genuine signature is subscribed to the foregoing certificate, was at the time of signing and attesting the same, CHIEF Justice of said Court, duly commissioned and qualified.

Witness my hand and the seal of said Court, this

18th day of MAY, 1944.

CHARLES E. STEWART, Clerk,

By

*H.B. Perlsbaugh, Deputy Clerk*  
XXXXXXXXXX



ORDER OF COURT

Upon the foregoing petition, it is ORDERED by the Circuit Court for Washington County, Maryland, sitting as a Court of Equity, this 22<sup>nd</sup> day of September 1945, that R. S. B. Hartz and George L. Nicolson, Surviving Receivers in this cause, be discharged from their duties as Receivers in this cause.

jos. D. wish