

The various Turnpike Company Acts gave the various companies their franchises and set forth the procedure which the companies had to follow in order to get the land required for the roads. These procedures required the recording of the "courses, bounds and plots" of the turnpike roads (See Chptr LXV, Laws of 1797, which by Chapter LI of the Laws of 1803 is part of the law governing the road in this proceeding) and "All precedent conditions must be complied with strictly or the estate will not vest. It is the performance of these conditions that creates the estate, and therefore they cannot be dispensed with." 23 Am. Jur. (Franchises) 725; People v. K & M Turnpike Road Co., 23 Wendel (NY) 193; 35 Am. Dec. 551. And "No matter how broad and comprehensive may be the terms in which a franchise is granted, it will be confessedly subordinate to the constitutional guarantees, such, for example, as the right of the individual not to be deprived of his property without just compensation". 23 Am. Jur. 725

As point out in Peddicord v. Railway Co., 34 Md. 463 the turnpike companies did not always comply with all of the requirements laid down in the legislative acts under which they were enfranchised and given the right to obtain land for the roads. Because they feared their franchises might be forfeited due to these failures, they obtained legislation in 1809 and 1811 protecting their franchises. But these later acts, while protecting the company's franchise did not give the company any additional rights to obtain property than those rights contained in the original enactments and the later acts certainly did not CONVEY to the company any part of the Summers dwelling or any of the land not then "turnpiked and located".

But even these are not controlling factors in this case - even if the turnpike company did get the front part of the Summers dwelling and the land on which it stands - the Summers family and their predecessors in title acquired undoubted title by adversary possession. Arey v. Baer, 112 Md. 546. The Summers family alone acquired title in April 1890 at the Trustee's sale and the old picture (Exhibit 2) introduced into evidence showed that the bed of the road or that part of the road that was laid out, turnpiked and used, was considerably north of what the Summers family claim in this case. It is obvious that the dwelling was an old one at the time of the Summers purchase and from the descriptions used in the deeds and advertisements it can be safely said that the old dwelling was standing at the time of the