

An. Code, sec. 358. 1904, sec. 323. 1888, sec. 223. 1868, ch. 471, sec. 128.

**294.** Such corporation may, with the consent of a majority of its stockholders given in general meeting, become the purchaser, assignee or lessee of any property within this State of any telegraph company or companies now existing, or which may hereafter be incorporated, or may be doing business within this State.

See sec. 401, and notes to sec. 293.

An. Code, sec. 359. 1904, sec. 324. 1888, sec. 224. 1868, ch. 471, sec. 129.

**295.** It may construct a line or lines of telegraph through this State, or from or to any point or points within this State, or upon the boundaries thereof, and along and upon any postal roads and postal routes, roads, streets and highways, or across any of the bridges or waters within the limits of this State, by the erection of the necessary fixtures, including posts, piers or abutments for sustaining the cords or wires of such lines, without their being deemed a public nuisance, or subject to be abated by any private party; provided, the same shall not be so constructed as to incommode injuriously the public use of said postal roads or postal routes, roads, highways and bridges or injuriously interrupt the navigation of said waters, or interfere with the convenience of any land owner more than is unavoidable; and this section shall not be so construed as to authorize the construction of any bridge across any of the navigable waters of this State; but the said corporation shall be responsible for any damages which any person or corporation may sustain by the erection, continuance and use of such fixtures; and in any action brought for the recovery thereof by the owner or possessor of any lands, the damages to be awarded may, at the election of such corporation, include the damages for allowing the said fixtures permanently to continue; on payment of which damages, the right of the corporation to continue such fixtures shall be confirmed, as if granted by the parties to the suit; provided, that no person or body politic shall be entitled to sue for or recover damages as aforesaid, until the said corporation, after due notice, shall have failed or refused to remove, in reasonable time, the fixtures complained of; or the president and directors of the said company may apply to a justice of the peace of the county or city where such lands are, and such justice shall thereupon issue his warrant, directed to the sheriff of said county or city, commanding him to summon twelve disinterested persons, qualified to serve as jurors, to meet at the proper place, as directed by the said justice; and the sheriff shall qualify the said persons, by oath or affirmation, faithfully to perform the duties required of them by the next succeeding section.

Notwithstanding this section, if a pole is erected so near the beaten track as to endanger the safety of travelers, it must be regarded as incommoding the public. This section dealt with in a suit for personal injuries, alleged to have been caused by the location of a telegraph pole too near the road. Term "unavoidable" qualifies only the restriction upon interference with the convenience of land owners and does not relate to the provision against incommoding the public use, to which the adverb "injuriously" is applied. Recital of a statute in prayers. *Phelps v. Howard County*, 117 Md. 180; *Earp v. Phelps*, 120 Md. 287.

This section does not entitle a corporation to make special use of the state's property without compensation; state held entitled to receive compensation from a telegraph company for its special use of the Conowingo bridge. *Postal Tel. Co. v. State Rds. Comm.*, 127 Md. 246.