

entitled to exercise a right of eminent domain, provided, however, that in the exercise of this right due care shall be taken to do no unnecessary damage to the property or rights of said public utilities companies and in case of failure to agree upon the terms of interference, not to interfere with the operation of usefulness of said companies beyond the actual necessities of the case, due regard being paid to the other public interests involved, and included within this dominant right of eminent domain shall be the right to condemn such part or parts of the property of the Chesapeake and Ohio Canal Company or rights therein as may be necessary and proper for the purpose of carrying out said Partial Flood Prevention Plan.

1927, ch. 479, sec. 12.

126. For the purpose of carrying out the condemnation powers granted by this Act said Mayor and City Council may proceed as follows:

It shall appoint three commissioners, whose duty it shall be to ascertain whether any and what amount in value of damage will be caused thereby, for which the owner or possessor of any property affected by said condemnation ought to be compensated; provided that it shall serve upon the owner or possessor of said property, if said owner or possessor is a resident of the City of Cumberland or Allegany County, actually residing therein, a notice warning said owner or possessor that said commissioners will proceed upon a certain day to be named therein, which said day shall not be less than fifteen days after the date of said notice, to hear all persons who may be interested therein, and view the premises and fix the amount of compensation to which said owner or possessor may be entitled. And if said owner or possessor shall be absent from or a non-resident of the City of Cumberland, then like notice shall be given by posting the same upon the premises to be affected or by registered mail, or by publication in two daily newspapers published in the City of Cumberland, once a week for three consecutive weeks. Said commissioners shall meet agreeable to the terms of said notice, and shall hear the interested parties, and shall fix the compensation, and shall return a report of their proceedings, within fifteen days thereafter, to the Mayor and City Council, and said report shall include a statement of the name of the owner or possessor of any property viewed, and the amount of compensation allowed, and upon the payment of the compensation allowed, and not before, the said Mayor and City Council shall have a right to proceed to carry on the work contemplated by such condemnation.

The right to condemn as herein authorized shall include the right to condemn property of persons *non compos mentis*, infants, or persons under any other legal disability to contract, and shall include property in the hands of Trustees or property then being administered by any Court or public officer of this State.

Any person or other owner who shall feel aggrieved by the decision of the commissioners appointed, as to the amount of damage allowed him, may appeal therefrom, at any time within ten days after said commissioners shall have made their return, to the Circuit Court of Allegany