

CHAP. 5.

Size and dimensions
of canal.

Sec. 14. *And be it enacted*, That said president and directors shall have power and authority to make said canal in such manner, and of such size and dimensions, and all the works connected therewith, as they shall think proper; and to levy and collect tolls upon the same, for the use thereof, to an amount in the aggregate per annum, clear of all expenses, not exceeding twelve per cent. upon said capital.

Proceedings in
case of disagreement
with owners
of land.

Sec. 15. *And be it enacted*, That in case said president and directors should disagree with the owners of land, waters; or other rights necessary to be used in making said canal, and the tow-paths, locks, dams, ponds, feeders, aqueducts; and other works connected therewith, for the purchase, use or occupation of the same; or in case the owner thereof shall be a *feme covert*, under age, *non compos*, or out of the county, it shall be lawful for said president and directors to apply to a justice of the peace for Frederick county, who thereupon shall issue his warrant to the sheriff of said county to summon a jury of eight freeholders, inhabitants of said county, not related to any of the parties, nor in any manner interested, to meet and value the land, water, or other right expressed in the warrant, at a time within ten days thereafter, which time shall also be mentioned in the said warrant; and the said sheriff, upon receiving said warrant, shall forthwith summon said jury, and when met shall administer an oath, or affirmation, to each jurymen, that he will faithfully, justly and impartially, value the property and rights in question, and all damages the owner thereof shall in any manner sustain; and in every such valuation and assessment of damages the jury shall be, and they are hereby instructed to consider in determining and fixing the amount thereof, the actual benefit which shall accrue to the owner from the construction of said canal, or any of the works thereof, and to regulate their verdict thereby, except that the said owner shall not be required to pay for such benefit, in case it shall be estimated to exceed the value of damages; and the inquisition thereupon taken shall be signed by the sheriff, and some six or more of the jury, and returned by the sheriff to the clerk of said county; and unless good cause be shewn against said inquisition, it shall be affirmed by the court of said county, and recorded; and whenever in the construction of said canal, or any of the works thereof, it shall be necessary to use earth, timber, stone or gravel, or any other material to be found on any of the lands adjacent or near thereto, and the said president and directors cannot procure the same for the works aforesaid by private contract, of the proprietor or owner, or in case the owner should be a *feme covert*, or *non compos*, or under age, or out of the county, the same proceeding in all respects shall be had as in the cases before mentioned; *Provided*, That in every case in which said property sought to be condemned shall