

to make repairs or do other necessary acts for the use and benefit of the company; and such sums as may accrue to the contingent fund, shall be vested in such stocks as the company may direct, and shall be held in the name of the president and directors of the company, and may be sold by them as necessity may require, by a resolution of the board, under the signature and authority of the then president and four of the six directors of the said company; *and provided* further, that nothing herein contained shall be so construed as in any manner to affect the prior right of the Chesapeake and Ohio canal company to the waters of said Town creek.

SEC. 11. *And be it enacted*, That the said creek or navigation as so improved, and works to be erected thereon in virtue of this act, when completed, shall forever thereafter be esteemed and taken to be navigable as a public highway, free for the transportation of all goods, commodities and produce whatever, on payment of the tolls to be imposed as provided for by this act, and no other toll or tax whatever for the use of the said company and the works thereon erected, shall at any time thereafter be imposed but by the consent of the said State.

*And whereas*, it is necessary, for the making the said lock and dam navigation, feeders and other works, that a provision shall be made for condemning a quantity of land for the purpose.

*Be it enacted*, That it shall and may be lawful for the president and directors or a majority of them, to agree with the owners of any lands through which the said improvements may pass, or which may be occasioned by inundation any lands through which the same may pass, for the purchase or use and occupation thereof; and in case of disagreement, or in case the owner thereof shall be a feme covert, under age, non compos mentis or out of the State or county, on application to a justice of the peace of the county in which such land shall lie, the said justice of the peace shall issue his warrant, under his hand to the sheriff of the county, to summon a jury of twelve inhabitants of his county, not related to the parties, nor in any manner interested, to meet on the lands to be valued, at a day to be expressed in the warrant, not less than ten nor more than twenty days thereafter, and the sheriff upon receiving the said warrant, shall forthwith summon the said jury, and when met shall administer an oath or affirmation to every juryman who shall appear, being not less than twelve in number, that he will faithfully, justly and impartially value the land and damages the owner thereof shall sustain by the said improvements, by or on account of said locks, dams,

CHAP. 231.

Proviso.

Highway.

Preamble

President  
may agree for  
purchase or  
use.