

so as to be used and enjoyed for the purposes of navigation, to keep the corresponding part of the river in a proper state for navigation, and in good order as the same now is; and in the default thereof, they shall be in all things responsible in the same manner as the Potowmac company is now responsible: and in all rivulets, streams, creeks and rivers required for the western section of the said Chesapeake and Ohio canal, the same rights shall be and are hereby vested in the Chesapeake and Ohio canal company by this act, as the charter of the Potowmac company vested in the said company in relation to the waters of the Potowmac, and the tributary streams thereof.

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14. *And be it enacted*, That the said canal, and the 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 by this act, and no other toll or tax whatever for the use of the said canal and the works thereon erected, shall at any time hereafter, be imposed but by consent of the said states, and of the United States.

Public high-ways.

15. *And whereas*, it is necessary for the making of the said canal, locks, dams, ponds, feeders and other works, that a provision should be made for condemning a quantity of land for the purpose: *Be it enacted*, that it shall and may be lawful for the said president and directors or majority of them, to agree with the owners of any land through which the said canal is intended to 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, or out of the state or county, on application to a justice of the peace of the county in which such land shall be, the said justice of the peace shall issue his warrant under his hand, to the sheriff of the county, to summon a jury of eighteen inhabitants of his county, not related to the parties, nor in any manner interested, to meet on the land 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 jurymen who shall appear, being not less than twelve in number, that he will faithfully, justly and impartially value the land, and all damages the owner thereof shall sustain by cutting the canal through such land, or the partial or temporary appropriation, use or occupation of such land, according to the best of his skill and judgment; and that in such valuation he will not spare any person for favor or affection, nor any person grieve for malice, hatred or ill will; 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 will accrue to the owner from conducting the said canal through, or erecting any of the said works upon his land, and to regulate their verdict thereby, except that no assessment shall require any such owner to pay or contribute any thing to the said company where such benefit shall exceed, in the estimate of the jury, the value and damages ascertained as

Condemnation of materials.

Land, &amp;c.