

APPENDIX I.

ACTS of the states of Virginia, Pennsylvania, and Maryland, and of the Congress of the United States, incorporating the Chesapeake and Ohio Canal Company—the Proceedings of the General Special Meeting of the Potowmac Company, declaring their assent thereto, made necessary by said acts, to which are added, extracts from the Charter of the Potowmac Company. [See Act of May 23, 1828, ch. 85, cited page 292.]

ACT OF THE STATE OF VIRGINIA.

An Act incorporating the Chesapeake and Ohio Canal Company.

Jan. 27, 1824.

Preamble.

WHEREAS a navigable canal from the tide water of the river Potowmac, in the District of Columbia, to the mouth of Savage creek on the north branch of said river, and extending thence, across the Alleghany mountain, to some convenient point on the navigable waters of the river Ohio, or some one of its tributary streams, to be fed, through its course, on the east side of the mountain, by the river Potowmac and the streams which empty therein, and on the western side of the mountain, and in passing over the same, by all such streams of water as may be beneficially drawn thereto by feeders, dams, or any other practicable mode, will be a work of great profit and advantage to the people of this state, and of the neighbouring states, and may, ultimately, tend to establish a connected navigation between the eastern and western waters, so as to extend and multiply the means and facilities of internal commerce and personal intercourse between the two great sections of the United States, and to interweave more closely all the mutual interests and affections that are calculated to consolidate and perpetuate the vital principles of union; and whereas it is represented to this General Assembly, that the Potowmac Company are willing and desirous that a charter shall be granted to a new company, upon the terms and conditions hereinafter expressed; and that the charter of the present company shall cease and determine,

1. *Be it therefore enacted by the General Assembly of Virginia,* That so soon as the Legislatures of Maryland and Pennsylvania, and the Congress of the United States, shall assent to the provisions of this act, and the Potowmac company shall have signified their assent to the same, by their corporate act, a copy whereof shall be delivered to the executives of the several states aforesaid, and to the Secretary of the Treasury of the United States, there shall be appointed by the said executives and the President of the United States, three commissioners on the part of each state, and of the government of the United States, any one of whom shall be competent to act for his respective government. The said commissioners shall cause books to be opened at such times and places as they shall think fit, in their respective states, and the District of Columbia, under the management of such persons as they shall appoint, for receiving subscriptions to the capital stock of the company hereinafter incorporated; which subscriptions may be made either in person or by power of attorney; and notice shall be given in such manner as may be deemed advisable, by one or more of the said commissioners, of the time and places of opening the books.

Commissioners to be appointed.

Subscriptions.

2. And the said commissioners shall cause the books to be kept open at least forty days, and, within twenty days after the expiration thereof, shall call a general meeting of the subscribers at the city of Washington, of which meeting notice shall be given, by a majority of the commissioners aforesaid, in at least

Regulations as to subscriptions.

Act of Virginia. four of the newspapers printed in Pennsylvania, Maryland, and Virginia, and the District of Columbia, at least twenty days next before the said meeting, and such meeting shall, and may be, continued from day to day until the business is finished; and the commissioners, at the time and place aforesaid, shall lay before such of the subscribers as shall meet according to the said notice, the book containing the state of the said subscriptions: and, if one-fourth of the capital sum of six millions of dollars should appear not to have been subscribed, then the said commissioners, or a majority of them, at the said meeting, are empowered to take and receive subscriptions to make up such deficiency, and may continue to take and receive such subscriptions for the term of twelve months thereafter; and a just and true list of all the subscribers, with the sum subscribed by each, shall be made out, and returned by the said commissioners or by a majority of them, under their hands, to the board of public works of this state, to the governor and council of the state of Maryland, to the Secretary of State of the state of Pennsylvania, and to the Secretary of the Treasury of the United States, to be carefully preserved; and in case more than six millions of dollars shall be subscribed, then the sum subscribed shall be reduced to that amount, by the said commissioners, or a majority of them, by beginning at and striking off a share from the largest subscription or subscriptions, and continuing to strike off a share from all subscriptions under the largest and above one share, until the same is reduced to the capital aforesaid, or until a share is taken from all subscriptions above one share; and lots shall be drawn between subscribers of equal sums, to determine the number of shares which each subscriber shall be allowed to hold, on a list to be made for striking off as aforesaid; and if the sum subscribed still exceed the capital aforesaid, then to strike off by the same rule, until the sum subscribed is reduced to the capital aforesaid, or all the subscriptions reduced to one share respectively; and, if there still be an excess, then lots shall be drawn to determine the subscribers who are to be excluded, in order to reduce the subscription to the capital aforesaid; which striking off shall be certified on the lists aforesaid; and the said capital stock of the company, hereby incorporated, shall consist of six millions of dollars, divided into sixty thousand shares, of one hundred dollars each; of which every person subscribing may take, and subscribe for one or more whole shares, and such subscriptions may be paid and discharged either in the legal currency of the United States, or in the certificates of stock of the present Potowmac Company, at the par or nominal value thereof, or in the claims of the creditors of the said company, certified by the acting president and directors to have been due, for principal and debt, on the day on which the assent of the said company shall have been signified by their corporate act as hereinbefore required: *Provided*, That the said certificates of stock shall not exceed, in the whole amount, the sum of three hundred and eleven thousand one hundred and eleven dollars and eleven cents; nor the said claims the sum of one hundred and seventy-five thousand eight hundred dollars: *Provided, also*, That the stock so paid for in certificates of the stock of the present company, and of the debts due from the said company, shall be entitled to dividend, only as hereinafter provided; and that no payment shall be received, in such certificates of stock, until the Potowmac Company shall have executed the conveyance prescribed by the thirteenth section of this act. *And provided*, That, unless one-fourth of the said capital shall be subscribed, as aforesaid, all subscriptions made in consequence of this act, shall be void; and, in case one-fourth, and less than the whole capital, shall be subscribed as aforesaid, then the said commissioners, or a majority of them, are hereby empowered and directed to take and receive the subscriptions, which shall first be offered in whole shares, as aforesaid, until the deficiency shall be made up; a certificate of which additional subscription shall be made, under the hands of said commissioners, or a majority of them, for the time being, and returned as aforesaid.

**Incorporation
of the company.**

3. *And be it further enacted*, That, whenever one-fourth, or a greater part of the said stock shall have been subscribed, in the manner aforesaid, then the subscribers, their heirs and assigns, shall be, and are hereby, declared to be incorporated into a company by the name of the "Chesapeake and Ohio Canal Company," and may sue and be sued, and, as such, shall have perpetual succession, and a common seal; and the estates, rights, and interests of the said company, shall be adjudged and taken in law to be real estate; and it shall, thereupon, be the duty of the said commissioners, or a majority of them, to call a general meeting of the said subscribers, at such time and place as they, or a majority of them, shall appoint, after advertising the same, in such public

Name.

prints as they, or a majority of them, may think proper, and such of the said subscribers as shall be present at the said meeting, or a majority of them, are hereby empowered and required to elect a president and six directors, for conducting the said undertaking, and managing all the said company's business and concerns, for, and during such time, not exceeding three years, as the said subscribers, or a majority of them, shall think fit; and, in counting the votes of all general meetings of the said company, each member shall be allowed one vote for every share, as far as ten shares, and one vote for every five shares above ten, by him or her held at the time, in the stock of the said company; and any proprietor, by writing, under his or her hand, executed before two witnesses, may depute any other member or proprietor, to vote and act as proxy for him or her, at any general meeting: *Provided, also*, That no officer or director of said company shall, under any circumstances, be allowed to vote on any stock but his own.

4. *And be it further enacted*, That the said president and directors, and their successors, or a majority of them, assembled, shall have full power and authority to appoint, and, at their pleasure, dismiss such engineer or engineers, and agent or agents, as they may deem expedient, and to fix their compensation; and to agree with any person or persons, on behalf of the said company, to cut canals, erect dams, open feeders, construct locks, and perform such other works, as they shall judge necessary or expedient, for completing the canal hereinbefore mentioned and described; and, out of the money arising from the subscriptions and tolls and other aids, hereinafter given, to pay for the same, and to repair and keep in order the said canals, locks, and other works necessary thereto, and to defray all incidental charges; and also to appoint a treasurer, clerk, and other officers, toll-gatherers, managers, and servants, as they shall judge requisite, and to agree for, and settle their respective wages or allowances; and to settle, pass, and sign their accounts; and also to make and establish rules of proceeding, and to transact all other business and concerns of the said company, in and during the intervals between the general meetings of the same; and they shall be allowed as a compensation for their trouble therein, such sum of money as shall, by a general meeting of the stockholders, be determined: *Provided always*, That the treasurer shall give bond, in such penalty and with such security, as the said president and directors, or a majority of them, shall direct, for the true and faithful discharge of the trust reposed in him, and that the allowance to be made him for his services, shall not exceed three dollars in the hundred for the disbursements by him made; and that no officer in the company shall have any vote in the settlement or passing of his own account.

5. *And be it further enacted*, That, on all subscriptions which shall not be paid, as hereinbefore provided, in certificates of the stock or debts of the present Potowmac Company, there shall be paid, at the time of subscription, on each share one dollar; and thereafter, when the company shall be formed, the stock subscribed shall be paid on such instalments, and at such times, as the president and directors shall, from time to time, require, as the work advances: *Provided*, That not more than one-third part shall be demanded within any year, from the commencement of the work: nor any payment demanded within any year from the commencement of the work: nor any payment demanded, until at least sixty days' public notice thereof shall have been given, in such public newspapers as the said president and directors shall direct such notices to be published in; and, whenever any subscriber shall fail to pay any instalment called for by the company, it shall and may be lawful for the company, upon motion to be made in any court of record, after ten days' notice, to obtain judgment against the subscriber so failing to pay; or the said company, at their option, may, after giving sixty days' notice, in such public newspaper, printed within the District of Columbia, as they may judge proper, sell the stock of such subscriber; and, if the proceeds of any such sale shall exceed the sum demanded, the surplus, after paying the expenses of such sale, shall be paid to the subscriber so failing, or to his legal representatives; and the purchaser, at such sale, shall become a stockholder, and be subject to the same rules and regulations, and entitled to the same privileges, rights and emoluments, as original subscribers under this act.

6. And to continue the succession of the said president and directors, and to keep up the same number: *Be it enacted*, That, from time to time, upon the expiration of the said term for which the said president and directors were appointed, the stockholders of the said company, at the next general meeting,

Act of Virginia.

Powers of the president and directors.

Their compensation.

How subscriptions shall be paid.

Election of president and directors.

Act of Virginia. shall either continue the said president or directors, or any of them, or choose others in their stead, and, until such choice be made, the president and directors for the time being shall continue in office; and, in case of the death, removal, resignation, or incapacity of the president, or any of the said directors, may and shall, in manner aforesaid, elect any other person or persons to be president and directors, in the room of him or them so dying, removing, or resigning; and may, at any of their general meetings, remove the president, or any of the directors, and appoint others for and during the remainder of the term for which such person or persons were at first to have acted.

Oath.

7. *And be it enacted*, That every president and director, before he acts as such, shall take an oath or affirmation for the due execution of his office.

General meeting.

8. *And be it enacted*, That the presence of stockholders, having a major part of the stock at least, shall be necessary to constitute a general meeting of the stockholders, which shall be held on the first Monday in June in every year, at such convenient town or place as shall be, from time to time, appointed by the said general meeting: but, if a sufficient number shall not attend on that day, the stockholders who do attend, may adjourn from time to time, until the stockholders holding the major part of the stock do attend, and the business of the company is finished; to which meeting the president and directors shall make report, and render distinct accounts of all their proceedings; and, on finding them fairly and justly stated, the stockholders then present, or a majority of them, shall give a certificate thereof, a duplicate of which shall be entered on the company's books; and at such yearly general meetings, after leaving in the hands of the treasurer such sums as the stockholders, or a majority of them, shall judge necessary for repairs and contingent charges, an equal dividend of all the net profits arising from the tolls hereby granted, shall be ordered and made to and among all the stockholders of the said company, in proportion to their several shares, subject to the provisions and enactments hereinafter declared; and, upon any emergency in the interval between the said yearly meetings, the said president, or a majority of the said directors, may appoint a general meeting of the stockholders of the company, at any convenient town or place, giving at least one month's previous notice, in at least four of the newspapers in Pennsylvania, Maryland, Virginia, and the District of Columbia; which meeting may be adjourned and continued as aforesaid: and in case the stockholders, or a majority of them, in any general meeting aforesaid, shall deem it expedient to order a semi-annual, rather than a yearly dividend as aforesaid, then, in like manner, with like notice, and under like restrictions, there shall be a half-yearly, or semi-annual dividend of net profits declared and paid.

Improvements vested in the stockholders.

9. *And be it enacted*, That, for and in consideration of the expenses the said stockholders will be at, not only in cutting the said canal, erecting locks and dams, providing aqueducts, feeders, and other works, and in improving and keeping the same in repair, the said canal and all other works aforesaid, or required to improve the navigation thereof, at any time hereafter, with all their profits, subject to the limitations herein provided, and to none other, shall be, and the same are hereby, vested in the said stockholders, their heirs and assigns, for ever, as tenants in common, in proportion to their respective shares, and be for ever exempt from the payment of any tax, imposition, or assessment whatsoever; and that it shall and may be lawful for the said president and directors, at all times, for ever hereafter, to demand and receive, at such places as shall hereafter be appointed by the president and directors aforesaid, tolls for the passage of vessels, boats, rafts, produce, and all other articles, at such rates as the said president and directors may hereafter allow and establish, according to the provisions of this act.

To be exempt from taxation.

Toll to be received.

Commissioners.

10. *And be it enacted*, That if the commissioners hereby required to be appointed, shall die, resign or refuse to act, the vacancy occasioned thereby shall be filled by the same authority by which the original appointment was made; and the person or persons appointed to fill such vacancy, shall have all the power and authority which was vested in the commissioner whose place he or they shall be appointed to supply; and when any part of the canal aforesaid shall have been completed, according to the true intent and meaning of this act, the president and directors of the company hereby created, shall have power, and it shall be their duty to ordain and establish a rate of tolls to be paid upon boats, vessels, rafts, or other property, passing on the part of the canal so completed; and so, from time to time, as part or parts shall be completed; and until the eastern section thereof shall be finished up to the mouth of Savage river or creek; and, thereafter, until the entire

Collection of tolls, &c.

canal shall have been finished according to the true intent and meaning of this act. For the collection of which tolls, the president and directors shall have power to establish so many toll-houses, and at their pleasure to appoint and remove so many collectors, and at such places as from time to time they may judge expedient; and the said president and directors shall have full authority, subject to the direction and control of a majority in interest of the stockholders represented in any general meeting, to regulate and fix a tariff of tolls, not exceeding an average of two cents per ton per mile; and so to adjust the said tolls, in relation to the capacity or burden of the boats, and the dimensions of the rafts passing the locks of the said canal, as to promote economy of water and time in the navigation thereof.

11. *And be it enacted*, That the president and directors shall, annually, or semi-annually, declare and make such dividend of the net profits, from the tolls to be received according to the provisions of this act, and from the other resources of the company, as they may deem advisable, after deducting therefrom the necessary current, and the probable contingent expenses, to be divided among the proprietors of the stock of the said company, in proportion to their respective shares, in manner following; that is to say: if such net profits shall not exceed ten per cent. on the amount of shares, which shall have been paid for in current money of the United States, and expended on the eastern section of the said canal, then the whole thereof shall be divided among the holders of such shares, in proportion to their respective shares; but, if such net profits shall exceed the rate of ten per cent. per annum in any year, on such amount of stock, then the surplus shall be divided among such stockholders as shall have paid for their shares in certificates of the debts of the Potowmac Company, until they shall therefrom have received a dividend of six per cent.; and, if a surplus yet remain, the same shall be divided among the stockholders who shall have paid for their shares in certificates of the stock of the Potowmac Company, until they shall have received therefrom a dividend of six per cent. per annum on such shares; and if a surplus still remain, so long as the western section of the canal shall remain unfinished, such surplus shall be applied, from time to time, to the construction and completion thereof, in such mode as the president and directors, under such rules and regulations, not inconsistent with the constitution of the United States, or of the several states aforesaid, as the stockholders, or a majority thereof, in general meeting, may prescribe, until the western section of the canal shall be also completed; after which, if such surplus shall still arise, the same shall be divided among all the stockholders, without discrimination, in proportion to their respective shares, until the annual dividend thereon shall have reached fifteen per cent., beyond which it shall never extend. But should the net revenue of the company exceed that amount for any two years in succession, then such excess shall be applied, by the president and directors, in such mode as shall be agreed on by a majority of the stockholders convened in general meeting; first, to strengthening and improving the works of the canal of every description requiring the same; next, to the accommodation, where not already provided, of the inhabitants of the shores of the river Potowmac, and of the country drained by the tributary streams thereof, now navigable, or which may hereafter become so, by affording to them, in the best practical mode, a safe and easy access to the canal, from the surface of the main river, and of the said streams emptying therein; and, last of all, to the erection of such walls of stone or other materials, along the water margin of the canal, as shall fit the same for the navigation of steamboats of a size adapted to the said canal. And should the said tolls continue, after all such improvements have been completed, to net more than fifteen per cent. per annum to the stockholders for any two years in succession, the tolls upon the same shall be reduced, by the president and directors, according to some just and equitable ratio, till the said dividend shall fall to fifteen per cent. per annum: *Provided*, That, should the said dividend thereafter sink below fifteen per cent., the said tolls, or a part thereof, may be renewed, till the said net dividend reaches that amount. And for any, or all the within-mentioned purposes, the said president and directors are empowered to borrow, in behalf of the company, on the credit of such excess of tolls, such sum or sums of money as they may deem expedient, at such rate of interest, and with such delay of payment, as they may stipulate, with the previous consent of a majority of the stockholders in general meeting convened.

12. *And be it further enacted*, That it shall be the duty of the president and directors of the Chesapeake and Ohio Canal Company, so long as there shall

Act of Virginia.

Dividends.

Creditors of
the Potowmac
Company.

Act of Virginia. be and remain any creditor of the Potowmac Company, who shall not have vested his demand against the same in the stock of the Chesapeake and Ohio Canal Company, to pay to such creditor or creditors annually, such dividend, or proportion of the net amount of the revenues of the Potowmac Company, on an average of the last five years preceding the organization of the said proposed company, as the demand of the said creditor or creditors at this time may bear to the whole debt of one hundred and seventy-five thousand eight hundred dollars.

The Potowmac Company to surrender charter.

13. *And be it further enacted*, That whenever the Potowmac Company shall have declared its assent to the provisions of this act, in the manner hereinbefore provided, it shall be lawful for the said company to surrender its charter, and convey, in due form of law, to the Chesapeake and Ohio Canal Company, hereby incorporated, all the property, rights, and privileges by them owned, possessed and enjoyed, under the same; and thereupon it shall be lawful to and for the said company, hereby proposed to be created, to accept such surrender and transfer, and to hold, possess, use and occupy, all the said property, rights, and privileges, in the same manner, and to the same effect, as the said Potowmac Company now hold, possess, and occupy the same by law; and thereupon the charter of the said Potowmac Company shall be, and the same is hereby vacated and annulled, and all the rights and powers thereby granted to the Potowmac Company shall be vested in the company hereby incorporated; and it shall be the duty of the said last mentioned company, until every section of the contemplated canal shall be completed, 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 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.

Canal declared a public highway.

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.

Jury to assess damages for the land cut through.

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 a 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 femme covert, under age, non-compos, or out of the state or county, on application to a justice 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 favour 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 aforesaid; and the inquisition thereupon taken, shall be signed by the sheriff and some twelve or more of the jury, and returned by the sheriff to the clerk or prothonotary of his county, and unless good cause be shown against the said inquisition, it shall be affirmed by the court and recorded; but if the said inquisition should be set aside, or if from any cause no inquisition shall be returned to such court within a reasonable time, the said court may, at its discretion, as often as may be necessary, direct another inquisition to be taken in the manner above prescribed; and, upon every such valuation, the jury is hereby directed to describe and ascertain the bounds of the land by them valued, and the quality and duration of the interest and estate in the same, required by the said company for its use; and their valuation shall be conclusive on all persons, and shall be paid for by the said president and directors to the owner of the land or his legal representatives; and on payment thereof, the said company shall be seized of such land as of an absolute estate in perpetuity, or with such less quantity and duration of interest or estate in the same, or subject to such partial or temporary appropriation, use, or occupation, as shall be required and described, as aforesaid, as if conveyed by the owner to them. And whenever, in the construction of the said canal, or any of the works thereof, locks, dams, ponds, feeders, tunnels, aqueducts, culverts, bridges, or works of any other description whatsoever appurtenant thereto, 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, or their agent, cannot procure the same for the works aforesaid by private contract of the proprietor or owner, or in case the owner should be a femme covert, or non-compos, or under age, or out of the state or county, the same proceedings in all respects shall be had as in the case before mentioned of the assessment and condemnation of the lands required for the said canal, or the works appurtenant thereto.

Act of Virginia.

16. *And be it enacted*, That it shall be the duty of the company hereby incorporated, to cut, make, and construct, the said canal, with good and sufficient locks, on the most improved plan for expedition in the use thereof, and with a width of not less than forty feet at the surface of the water therein, or of twenty-eight feet at the bottom thereof, unless the quality of the soil shall require a narrow base to admit of a sufficient slope to preserve the banks from sliding down, and sufficient to admit, at all seasons, the navigation of boats and rafts, with a depth of four feet water at the least; and wherever wastes shall be essential to the security of the said canal, and in no other situation whatever, along the same, the waste water of the said canal may be, from time to time, sold or disposed of by the said company for the purpose of supplying such works and machinery as require a water-power. And along one side at least of the said canal, and such aqueducts as it may render necessary, there shall be provided, throughout its whole extent, a towing-path of sufficient breadth to apply the power of horses to the navigation thereof.

Construction of locks.

Wastes.

Towing-path.

17. *And be it enacted*, That it shall and may be lawful for any of the said stockholders to transfer his or her shares, by deed executed before two witnesses, and registered, after the proof of the execution thereof, in the company's books, and not otherwise, except by devise, which devise shall also be exhibited to the president and directors, and registered in the company's books before the devisee or devisees shall be entitled to draw any part of the profits from the said tolls or dividends: *Provided*, That no transfer shall be made, except for one or more whole share or shares, and not for part of such share or shares; and that no share or shares shall, at any time, be sold, conveyed, or held in trust for the use and benefit, or in the name of another, whereby the said president and directors, or the stockholders of the said company, or any of them, shall or may be challenged, or made to answer concerning any such trust, but that every person appearing as aforesaid to be a stockholder, shall, as to the others of the said company, be, to every intent, taken absolutely as such; but, as between any trustee and the person for whose benefit any trust shall be created, the common remedy may be pursued.

Transfer of shares.

18. *And be it enacted*, That if the said capital, and the other aids already granted by this act, shall prove insufficient, it shall and may be lawful for the said company, from time to time, to increase the said capital by the addition of so many whole shares as shall be judged necessary by the said stockholders, or a majority of them, present at any general meeting of the said company; and the said president and directors, or a majority of them, are hereby empowered and required, after giving at least two months' previous notice thereof, in

President and directors empowered to increase capital.

Act of Virginia. at least four of the newspapers printed in Virginia, Pennsylvania, Maryland, and the District of Columbia, to open books in the before-mentioned states and district, for receiving and entering such additional subscriptions, in which the stockholders of the said company for the time being, shall, and are hereby declared to have the preference of all others, for the first thirty days after the said books shall be opened as aforesaid, of taking and subscribing for so many whole shares, as any of them shall choose; and the said president and directors are hereby required to observe, in all other respects, the same rules, therein, as are by this act prescribed for receiving and adjusting the first subscriptions, and in like manner to return, under the hands of any three or more of them, an exact list of such additional subscriptions, with the sums subscribed, to the public authorities, as aforesaid, to be, by them, preserved as aforesaid; and all stockholders of such additional shares shall, and are hereby declared to be, from thenceforward, incorporated into the said company.

Legal proceedings under this act.

19. *And be it enacted*, That whenever it shall become necessary to subject the lands of any individual to the purposes provided for in this act, and their consent cannot be obtained, it shall and may be lawful for the company to enter upon such lands, and proceed to the execution of such works, as may be requisite; and that the pendency of any proceedings in any suit in the nature of a writ of ad quod damnum, or any other proceedings, shall not hinder or delay the progress of the work; and it shall be the duty of every court to give precedence to controversies which may arise between the company created by this act, and the proprietors of land sought to be condemned for public uses, and to determine them in preference to all other causes.

Eastern section.

20. *And be it enacted*, That the said canal shall be, and the same is hereby, divided into two sections, to be denominated first and second, or eastern and western, respectively; that the first, or eastern section, shall begin at the District of Columbia, on tide-water, and terminate at or near the bank of Savage river, or creek, which empties into the north branch of the Potowmac, at the base of the Alleghany mountain; that the second, or western section, shall commence at the said termination, and extend along the valley of Savage river, or creek, so far as the same, or any branch thereof, as may reach some convenient point thereon, for connecting the eastern and western waters, by a tunnel through, or an open cut across the dividing ridge between the same; and thence, after crossing the said dividing ridge, shall proceed to the highest steamboat navigation of the Ohio river, or of some one tributary stream thereof, in such direction as, in the opinion of the said president and directors, shall be best calculated for the attainment of the end set forth in the preamble of this act: that the said president and directors shall first construct the eastern section aforesaid, out of the capital stock hereinbefore mentioned, and shall next proceed to construct, with all possible despatch, the western section thereof. In case the said company shall not begin the said work within two years after the company shall have been formed, or if the work, having been so begun, shall not be diligently prosecuted, so that one hundred miles of the said canal, with the adequate locks and incidental improvements, shall not be completed, and in fit order for navigation, in the term of five years from the commencement of the work, then all interest of the said company, in the navigation and tolls, shall cease and determine, and their charter shall be thereafter taken to be null and void; and so, in like manner, shall the said charter be null and void, if the entire eastern section be not completed in the term of twelve years from the said commencement. And should the said company fail to begin the western section of the said canal, in two years after the time allowed as aforesaid for the completion of the eastern section; or, having begun the western section, shall fail to complete the same in six years after such beginning, then all right, title, and interest of the said company, in the said western section, shall cease and determine; and the several states aforesaid shall have full authority to incorporate another company for the completion of such section, or to complete the same in any other mode that they may deem expedient. And if, after the completion of the said canal and locks, the president and directors shall fail to keep the same in repair for twelve months at any time, then, in like manner, the interest of the company in the navigation and tolls shall cease, and their charter shall be forfeited.

Time for construction.

Rights reserved to states.

21. *And be it further enacted*, That the right to the waters of the river Potowmac, for the purpose of any lateral canal or canals, which the state of Virginia or Maryland may authorize to be made in connection with the said canal, is reserved to the said states respectively; that a similar right is reserved to the state of Pennsylvania, in relation to the rivers and streams within the ter-

ritory of that state, the waters of which may be used in supplying the western section of the said canal; that the government of the United States shall retain the power to extend the said canal in or through the District of Columbia, on either or both sides of the river Potowmac: *Provided*, That, before this act shall take effect, the Congress of the United States shall authorize the states of Virginia and Maryland, or either of them, to take and continue a canal from any point of the above-named canal, or the termination thereof, through the territory of the District of Columbia, or any part thereof, to the territory of the said states, or either of them, in any direction they may deem proper, upon the same terms and conditions, and with all the rights, privileges, and powers of every kind whatsoever, that the company incorporated by this act have to make the Chesapeake and Ohio canal. *And provided also*, That, in taking or extending such lateral canal or canals through the District of Columbia, by either of the said states, no impediment or injury be done to the navigation of the said Chesapeake and Ohio canal.

22. This act, or so much thereof as respects the canal and works designed to be constructed in the District of Columbia, and the states of Virginia and Maryland, shall take effect, with such necessary modification in the construction thereof, as shall fit it for such limited application or use, upon the assent of the Congress of the United States, and the legislature of Maryland being given thereto; and upon its receiving the further assent of the legislature of Pennsylvania, the whole and every section and part thereof shall be valid and in full force and operation.

When act shall take effect.

23. *Be it further enacted*, That the assent of the Congress of the United States, required by the first section of this act, and the authority conferred by the fourteenth section, is understood and taken, to relate only to their authority as the legislature of the District of Columbia.

Assent of Congress.

24. *Be it further enacted*, That all acts and parts of acts coming within the purview of this act, shall be, and the same are hereby, repealed.

Other acts repealed.

RICHMOND, Dec. 30, 1824.

The foregoing is a true copy of an Act of the General Assembly of Virginia.

WM. MUNFORD, *Keeper of the Rolls*.

ACT OF THE STATE OF MARYLAND.

An act to confirm an act of the General Assembly of the state of Virginia, entitled "An act incorporating the Chesapeake and Ohio Canal Company."

Jan. 31, 1825.

Whereas, the General Assembly of Virginia have, heretofore, at the December session of the said General Assembly, in the year eighteen hundred and twenty-three, passed an act, entitled "An act incorporating the Chesapeake and Ohio Canal Company," in the substance, or words following:

Act of Maryland.

[See the preceding act.]

Therefore, be it enacted by the General Assembly of Maryland, That the said act of the General Assembly of Virginia be, and the same is hereby accepted, assented to, and confirmed.

And be it further enacted and declared, That, by confirming and accepting the act of Virginia, it is not intended by the legislature of Maryland, to deny to the Congress of the United States the constitutional power to legislate on the subjects of roads and canals. And for the purpose of removing all doubt as to the right of the state of Maryland to intersect the said Chesapeake and Ohio canal, for the purpose of conducting a lateral canal or canals to Baltimore or elsewhere in the state of Maryland, from that part of the said Chesapeake and Ohio canal, which shall be within the District of Columbia—

Act of Virginia accepted with a condition.

Be it further enacted and declared, That the said act of Virginia has been accepted and confirmed by the legislature of Maryland, on the express condition, that the act of Congress contemplated by the twenty-first section of the Virginia act, shall direct and provide some safe and practicable mode, whereby such lateral canal or canals may be secured to the state of Maryland, and whereby also it may be determined whether such lateral canal or canals will injure the said Chesapeake and Ohio canal, within the meaning and intention of the said twenty-first section of the Virginia act.

We hereby certify, that the foregoing is a true copy of the original act, as passed both branches of the legislature at December session, eighteen hundred and twenty-four.

WM. KILTY, *Clerk Sen. of Md.*
JOHN BREWER, *Clerk House Del.*

ANNAPOLIS, Jan 31, 1825.

ACT OF THE CONGRESS OF THE UNITED STATES.

March 3, 1825.

1852, ch. 25.

Act of Congress.

An act confirming an act of the legislature of Virginia, entitled "An act incorporating the Chesapeake and Ohio Canal Company," and an act of the state of Maryland, confirming the same.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act of the legislature of the state of Virginia, entitled "An act incorporating the Chesapeake and Ohio Canal Company," be, and the same is hereby, ratified and confirmed, so far as may be necessary for the purpose of enabling any company, that may hereafter be formed by the authority of said act of incorporation, to carry into effect the provisions thereof, in the District of Columbia, within the exclusive jurisdiction of the United States, and no further.

Sec. 2. And be it further enacted, That, should the state of Virginia or Maryland desire at any time, to avail itself of the rights secured to it, by the twenty-first section of the act aforesaid, to take and continue a canal, from any point of the Chesapeake and Ohio canal, to any other point within the territory of the District of Columbia, or through the same, on application to the President of the United States, by the executive of a state, the President is authorized and empowered to depute three skilful commissioners of the United States' corps of engineers, to survey and examine so much of the route of such canal as may affect, in any manner, the navigation of the Chesapeake and Ohio canal. The said commissioners, or a majority of them, shall ascertain, as far as practicable, whether the canal proposed to be constructed by the state aforesaid will injure or impede the navigation of the Chesapeake and Ohio canal, and report to the President of the United States the facts and reasons on which they may ground their judgment thereupon; which report shall be submitted to the Congress of the United States, at their session next ensuing the date thereof, for their decision thereon; and, if Congress shall be of opinion that the said canal may be cut in the manner proposed as aforesaid, without impeding or injuring the navigation of the Chesapeake and Ohio Canal, the same shall be conclusive thereon.

APPROVED, March 3, 1825.

May 16, 1825.

PROCEEDINGS OF THE GENERAL MEETING OF THE POTOWMAC COMPANY.

GEORGETOWN, D. C., 16th May, 1825.

Proceedings
of the general
meeting of Potow-
mac Com-
pany.

At a special meeting of the stockholders of the Potowmac Company, held this day at Semmes' Tavern, previous notice thereof having been given conformably to law—

The following resolutions were unanimously adopted:

That this meeting having duly considered the act of the General Assembly of the state of Virginia, passed at the December session thereof, in the year 1823, entitled "An act incorporating the Chesapeake and Ohio Canal Company," and the acts of the General Assembly of Maryland, and of the Congress of the United States, confirming the same, and being willing and desirous that the charter shall be granted and confirmed to the said Chesapeake and Ohio Canal Company, do hereby declare the full and free assent of the Potowmac Company, to the said act incorporating the said Chesapeake and Ohio Canal Company, and to all the provisions thereof.

That the President of the Potowmac Company be, and he is hereby, required to deliver to the executives of the states of Virginia, Maryland, and Pennsylvania, respectively, and to the Secretary of the Treasury of the United States, copies of the foregoing declaration of assent and corporate act of the Potowmac Company, as required by the first section of the act of the General Assembly of Virginia, entitled "An act incorporating the Chesapeake and Ohio Canal Company."

Surrender of
charter by the
Potowmac
Company.

That the president and directors of the Potowmac Company be, and they are hereby, authorized and required, in the name and behalf of this company, whenever, agreeably to the terms and provisions of the aforesaid act of Virginia, entitled "An act incorporating the Chesapeake and Ohio Canal Company," the subscribers therein mentioned and referred to shall have become incorporated, to make a surrender of the charter of the Potowmac Company, to the said Chesapeake and Ohio Canal Company, and to convey in due form of law to the said Chesapeake and Ohio Canal Company, all the property, rights, and privileges, owned, possessed, and enjoyed, by the said Potowmac Company, under their said charter, to be held, used, and occupied, by the said Chesapeake and Ohio Canal Company, in the same manner and to the same effect, as the said Potowmac Company now hold, possess, and occupy the same by law. And it is hereby resolved and declared, that, upon the completion of the said surrender and conveyance by the said president and directors, to be evidenced by deed or deeds, in the name of this company, under the hands of the said president and directors, or a majority of them, and the corporate seal of this company, the said charter shall be, and hereby is, effectually surrendered, and all the said property, rights, and privileges, shall be, and hereby are, effectually conveyed to the said Chesapeake and Ohio Canal Company, according to the tenor and effect, true intent and meaning, of the said act and acts so incorporating the Chesapeake and Ohio Canal Company, as aforesaid.

In testimony whereof, as the corporate act of the Potowmac Company, &c.

Office of the Potowmac Company,

GEORGETOWN, 16th May, 1825.

I HEREBY certify the foregoing to be a true and faithful extract from the records of the proceedings of the Potowmac Company.

ROBERT BARNARD,

Treasurer and Clerk, Potowmac Company.

Extracts from the Charter of the Potowmac Company, granted November, 1784.

Nov., 1784.

Charter of
the Potowmac
Company.

SEC. 4. *And be it enacted*, That the said president and directors, so elected, and their successors, or a majority of them assembled, shall have full power and authority to agree with any person or persons, on behalf of the said company, to cut such canals, and erect such locks, and perform such other works as they may judge necessary, for opening, improving, and extending the navigation of the said river, above tide water, to the highest part of the North Branch, to which navigation can be extended, and carrying on the same from place to place, and from time to time, and upon such terms, and in such manner, as they shall think fit; and out of the money arising from the subscriptions and the tolls, and other aids hereinafter given, to pay for the same; and to repair and keep in order the said canals, locks, and other works, necessary thereto.

SEC. 11. And whereas it is necessary for the making of the said canal, locks, 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 a majority of them, to agree with the owners of any land through which the said canal is intended to pass, for the purchase thereof; and in case of disagreement, or in case the owner thereof shall be a *femme covert*, under age, *non-compos*, or out of the state, on application to any two justices of the county in which such land shall lie, the said justices shall issue their warrant, under their hands, to the sheriff of their county, to summon a jury of twenty-four inhabitants of their county, of property and reputation, 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 that shall appear, that he will faithfully, justly, and impartially, value the land, (not exceeding in any case the width of two hundred feet,) and all damages the owner thereof shall sustain, by the cutting the canal through such land,

according to the best of his skill and judgment: and that in such valuation he will not spare any person for favour or affection, nor any person grieve for hatred, malice, or ill-will; and the inquisition thereupon taken shall be signed by the sheriff, and some twelve or more of the jury, and returned by the sheriff to the clerk of his county, to be by him recorded. And upon every such valuation, the jury is hereby directed to describe and ascertain the bounds of the land by them valued, and their valuation shall be conclusive on all persons, and shall be paid by the said president and directors to the owner of the land, or his legal representatives; and on payment thereof, the said company shall be seized *in fee* of such land, as if conveyed by the owner to them and their successors by legal conveyance.

SEC. 12. *And be it enacted*, That the said president and directors, or a majority of them, are hereby authorized to agree with the proprietor, for the purchase of a quantity of land, at or near such of the places of receipt of tolls aforesaid, for the purpose of erecting necessary buildings; and in case of disagreement, or any of the disabilities aforesaid, or the proprietor being out of the state, then such land may be valued, condemned, and paid for as aforesaid, for the purpose aforesaid; and the said company shall, upon the payment of the valuation of the said land, be seized thereof *in fee simple*, as aforesaid.

SEC. 13. And whereas some of the places through which it may be necessary to conduct the said canals may be convenient for erecting mills, forges, or other water-works, and the persons possessors of such situation may design to improve the same; and it is the intention of this act not to interfere with private property, but for the purpose of improving and perfecting the said navigation—*Be it enacted*, That the water, or any part thereof, conveyed through any canal or cut made by the said company, shall not be used for any purpose but navigation, unless the consent of the proprietors of the land, through which the same shall be led, be first had.

March 8, 1826.

Extracts from the act of the state of Maryland, for the promotion of internal improvement, passed March 8, 1826.

Act of Maryland.

SEC. 19. *And be it enacted*, That the treasurer of the Western Shore be, and he is hereby, authorized and required, for and on behalf of the state, to subscribe to the Chesapeake and Ohio Canal Company for stock to the whole amount of the stock of the Potowmac Company owned by the state, and of the debt due to the state by the said Potowmac Company, and to pay for the same in the certificates of the stock of the Potowmac Company, and in the evidences of the debt due to the state, certified in the manner specified in the charter of the said Chesapeake and Ohio Canal Company; and also to subscribe for five thousand shares of the stock of the said company, payable, agreeably to the terms of the charter, in the legal currency of the United States.

SEC. 20. *And be it enacted*, That the treasurer of the Western Shore be, and he is hereby, instructed and required, in like manner, to subscribe for five thousand shares in the Maryland Canal Company hereby incorporated.

SEC. 21. *And be it enacted*, That the sum of two hundred thousand dollars shall be, and the same is hereby, appropriated, or such part thereof as may be necessary, to drain, embank, and render dry and arable, the low lands on the margins of such rivers and creeks of the Eastern Shore of this state as the Board of Public Works may think proper and recommend, and to complete and carry into effect such plans for opening and improving the navigation of the Pokomoke, Manokin, Wicomico, Great Choptank, Chester, Elk, and North East rivers, as the Board of Public Works may devise, recommend, and contract for, on behalf of the state of Maryland: *Provided*, That, before any part of the aforesaid subscriptions, except so much as is payable in the stock and debt of the Potomac Company, shall be made, or any part of the sum herein appropriated to execute the improvements contemplated by this act to be made on the low lands situated on the margins of the aforesaid rivers and creeks, or to execute the improvements of the Pokomoke, Manokin, Wicomico, Great Choptank, Chester, Elk, and North East rivers, be expended, the Congress of the United States shall, by law, authorize a subscription for not less than ten thousand shares of the capital stock of the eastern section of the Chesapeake and Ohio Canal, and shall enact a law expressly securing

to the state of Maryland, and to any company incorporated, or hereafter to be incorporated, by the said state, the right to take and continue a canal from any point of the Chesapeake and Ohio canal through the territory of Columbia, or any part thereof, to the said state, in any direction it may deem proper, upon the same terms and conditions, and with all the rights, privileges, and powers, of every kind whatsoever, granted to the Chesapeake and Ohio Canal Company by the act of incorporation, and deciding, agreeably to the act of Congress passed at December session, eighteen hundred and twenty-four, that the canal, as located by the Board of Public Works under the authority of this act, may be cut without impeding or injuring the navigation of the Chesapeake and Ohio canal. *And provided, also,* That the Board of Public Works shall previously ascertain and certify to the executive the practicability of connecting, by the canal described in this act, the Chesapeake and Ohio Canal with the Patapsco river at the city of Baltimore; and if the said Board of Public Works shall adopt for the said canal a line wholly within the state of Maryland, then the act of Congress last mentioned in the foregoing proviso, shall not be necessary to authorize the subscriptions and expenditures aforesaid: *And provided, also,* That the executive shall previously be satisfied that the residue of the sum of money estimated by the United States' Board of Engineers to be adequate to the completion of the eastern section of the Chesapeake and Ohio canal, after deducting the amount of the subscriptions of the state of Maryland and of the United States, herein provided to be made, hath been actually subscribed by bona fide and competent subscribers."

ACT OF THE STATE OF MARYLAND.

An Act to amend the "Act incorporating the Chesapeake and Ohio Canal Company."

Feb. 6, 1827.

SEC. 1. *Be it enacted by the General Assembly of Maryland,* That the act, entitled "An act incorporating the Chesapeake and Ohio Canal Company, passed by the General Assembly of Virginia, at the December session, eighteen hundred and twenty-three," which has already received the assent of the state of Maryland, and of the Congress of the United States, as well as of the Potomac Company, shall be, and the same is hereby, amended, in the manner hereinafter provided, on condition that this act receive, in like manner, the assent of the necessary parties thereto.

Act of Maryland.

SEC. 2. *And be it further enacted,* That the Chesapeake and Ohio Canal Company shall have power to terminate the eastern section of the said canal at or near the town of Cumberland, on the river Potomac, and thence, to extend the western section thereof, in any direction that may be deemed expedient, by any other route, as well as that prescribed in the act aforesaid, towards Pittsburg, on the river Ohio; and, in extending the same in any direction across the dividing ridge which separates the eastern and western waters, to substitute for a tunnel, and numerous locks, on such part of the route, inclined planes and railways, or any other artificial communication or roads; and, in the event that the western section of the Chesapeake and Ohio canal shall leave the valley of the Potomac river at any point below the Coal Banks, at or near the mouth of Savage, on the north branch thereof, the company shall have the power, in like manner, to extend a branch from the main canal to the said Coal Banks, at or above the mouth of Savage, and to cause such branch to be constructed, of such dimensions as their views of their own and the public interest may warrant; and, for the construction of the same, shall have and enjoy the same rights, privileges, and immunities, under the same restraints and conditions, in all respects, as they are entitled to in relation to the main Chesapeake and Ohio canal.

SEC. 3. *And be it further enacted,* That nothing in this act contained shall be held to discharge the said company from a compliance with each and every of the conditions of the original act, except so far as the same are expressly altered by the provisions of this act.

SEC. 4. *And be it further enacted,* That this act shall commence and be in force as soon as it shall have received the assent of the legislature of Virginia, of the Congress of the United States, and of the Potomac Company.

We certify the foregoing is a true copy of the original act, passed the legislature of Maryland, at their present session.

Witness our respective signatures, this sixth day of February, in the year of our Lord one thousand eight hundred and twenty-seven.

W. KILTY, *Clerk Senate,*

GIDEON PIERCE, *Clerk House of Delegates, Md.*

ACT OF THE STATE OF PENNSYLVANIA.

An Act incorporating the Chesapeake and Ohio Canal Company.

Act of Penn-
sylvania giving
assent to act of
Virginia.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That the full and entire assent of this commonwealth be, and the same is hereby, given to all and each of the provisions mentioned and contained in an act of the legislature of the state of Virginia, passed the twenty-seventh day of January, one thousand eight hundred and twenty-four, entitled "An act incorporating the Chesapeake and Ohio Canal Company," so far as the same are or may be applicable to this commonwealth; and the said act of the state of Virginia is hereby adopted, ratified, and confirmed, and enacted into a law of this commonwealth, and all and each of the provisions, conditions, and restrictions thereof, as fully and effectually, as if the same were enacted, paragraph by paragraph, and section by section, so far as the same can apply to this commonwealth; always, nevertheless, subject to the exceptions, provisions, and restrictions, hereinafter mentioned; and the said act shall hereafter be in full force and effect, wherever the same is applicable, as well within, as without this commonwealth, as an act incorporating the Chesapeake and Ohio Canal Company, for all and every of the objects and purposes therein set forth and provided for, according to the true intent and meaning of the said act of the state of Virginia; an exemplification whereof shall be annexed to this act, and be published in the same manner as the laws are usually published; and the governor shall likewise cause an exemplified copy of the said act of Virginia to be deposited in the secretary's office of this commonwealth, and shall also transmit an attested copy of this act to the President of the United States, and one copy thereof to the governor of Virginia, and one copy thereof to the governor of Maryland.

SEC. 2. *And be it further enacted by the authority aforesaid,* That this act shall have no effect, unless, within three years from and after the passage hereof, the state of Maryland shall pass a law authorizing the state of Pennsylvania, or any company which may be for that purpose incorporated by the state of Pennsylvania, to take and continue a lateral canal or canals, or railway, from any point or points within the territory of Pennsylvania, to, and connect with, the Chesapeake and Ohio canal, within the territory of the said state of Maryland, and upon the same terms and conditions, and with all the rights, privileges, and powers, of every kind whatsoever, that the Chesapeake and Ohio Canal Company may have to make the said Chesapeake and Ohio canal, and unless the said Chesapeake and Ohio Canal Company shall assent to and accept the said law of the state of Maryland, within one year after it shall have been enacted: *Provided,* That, should the said Chesapeake and Ohio canal be located on the south side of the Potomac, at any point or points below the town of Hancock, then the assent of Virginia, and the said Chesapeake and Ohio Canal Company, shall also be obtained in like manner, before this act goes into operation, except so far as it requires the assent of Maryland to the right to make a railway through the territory of that state.

SEC. 3. *And be it further enacted by the authority aforesaid,* That, as a condition on which this act shall pass, no greater tolls shall be charged or paid on goods, commodities, and produce, entering and transported on the said Chesapeake and Ohio canal, from such lateral canals, than are charged and paid on other goods, commodities, and produce of the same kind, transported on the said Chesapeake and Ohio canal: *And provided further,* That the aforesaid Chesapeake and Ohio Canal Company shall extend the Chesapeake and Ohio canal to, and terminate the same at, the city of Pittsburg.

SEC. 4. *And be it further enacted by the authority aforesaid,* That the said Chesapeake and Ohio Canal Company shall have full power and authority to alter and change the route of the western section of the said canal, so that the same may commence at the town of Cumberland, situated near the junction of Wills' creek with the north branch of the Potomac, and be continued from

thence, by the valley of Wills' creek and Castleman's river, to the Youghiogany, and from thence to the city of Pittsburgh: *Provided*, That the United States' board of internal improvement, or a majority thereof, should deem and report that route to be the best.

Act of Penn-
sylvania.

Sec. 5. *And be it further enacted by the authority aforesaid*, That, should the United States of America subscribe to the stock of the Chesapeake and Ohio Canal Company, the said company shall, within six months after receiving the sum subscribed, commence the western section of said canal, at such point or points as may be deemed most advantageous to the interests of the said company, and it shall be their duty to apportion at least one half of the subscription of the United States to the western section of the said canal. And whatever amount of stock may be subscribed by the citizens of Pennsylvania, shall be expended wholly on the western section, unless authority is given to the said company, by the Pennsylvania subscribers, to expend their subscriptions differently; and in case of failure of the said company to comply with the provisions herein set forth, this act shall cease to have any force or effect whatever.

Sec. 6. *And be it further enacted by the authority aforesaid*, That, if the net annual dividend of said company shall, for any two years in succession, exceed the amount of fifteen per cent., such excess shall be equally applied, by the president and directors, to the accommodation of the inhabitants of the shores of the Youghiogany and Monongahela rivers, and the country drained by the tributary streams thereof, now navigable, or which may hereafter become so, in the same manner, in proportion to the distance, as is directed for the accommodation of the inhabitants of the shores of the Potomac and its tributary streams, by the eleventh section of an act of the state of Virginia, entitled "An act incorporating the Ohio and Chesapeake Canal Company," passed the twenty-seventh day of January, one thousand eight hundred and twenty-four.

Sec. 7. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the said Chesapeake and Ohio Canal Company, at any place within this commonwealth, on the route of the said canal, to sell or lease the use of the water contained therein, or in any embankment, dyke, pond, or other improvement connected therewith, to any individual or individuals, or private company or companies, for that purpose incorporated by the state of Pennsylvania, for mills, or any other water-works, or for irrigating any lands, or for supplying bleach grounds, tan pits, or brick yards, and the profits or rents resulting therefrom, to take and receive to, and for the use and benefit of, the said corporation, in addition to the tolls and profits allowed to be taken by the act of Virginia: *Provided*, That the navigation of the said canal be not thereby impeded or obstructed: *And provided further*, That the said Chesapeake and Ohio Canal Company shall not, at any time, be, directly or indirectly, engaged or concerned in any banking, merchandising, milling, or the erecting of mills, manufacturing, or mining, or in any other business whatsoever, except such as may be necessary and proper for the construction of such canal and appurtenances, and the performance of the several functions of a canal company.

Sec. 8. *And be it further enacted by the authority aforesaid*, That, as a further condition on which the assent of this state is given to the Virginia act, aforesaid, that, so far as regards the territory of Pennsylvania, whenever the said canal shall cross any public or private laid-out road or highway, or shall divide the ground of any person or persons, so as to require a ford or bridge to cross the same, the jury, who shall inquire of the damages to be sustained, in manner directed by the fifteenth section of the Virginia act, shall find and ascertain whether a passage across the same shall be admitted or maintained by a ford or bridge; and, on such finding, the said Ohio and Chesapeake Canal Company shall cause a ford to be rendered practicable, or a bridge fit for the passage of carts and wagons to be built, and for ever hereafter maintained and kept in repair, at all and every places so ascertained by the said jury, at the cost and charges of the said company; but nothing herein contained shall prevent any person from erecting and keeping in repair any foot or other bridge across the said canal, at his own expense, when the same shall pass through his ground: *Provided*, The same shall be of such height above the water, as shall be usual in the bridges erected by the company: *And provided, also*, That such foot or other bridges so to be erected by the owners of such lands, shall not interfere with any of the locks, buildings, or other works of the company, or with the navigation of the said canal.

Sec. 9. *And be it further enacted by the authority aforesaid*, That the assent

Act of Penn-
sylvania.

of the legislature of this commonwealth to the said act of the legislature of Virginia, is given and granted upon the further express conditions, that any mesne process which may be issued against the said company, may be served on any toll-gatherer, director, or other officer of the company; and such service shall be held good, valid, and effectual, as a service of such process upon the said Ohio and Chesapeake Canal Company; and that said company shall annually report to the legislature of Pennsylvania the progress they may make in constructing the said canal; and also an annual abstract of their accounts, certified by the oath of the president of the said company, showing the amount of capital stock actually paid in, and the sums deposited with the treasurer for contingent and current expenses, and the profits which may have accrued, and the dividends made or declared during the preceding year.

AN ACT OF THE STATE OF VIRGINIA.

Feb. 26, 1828.

An Act giving the assent of this state to an act further to amend the act incorporating the Chesapeake and Ohio Canal Company, passed by the state of Maryland. [Passed Feb. 26, 1828.]

Act of Vir-
ginia giving as-
sent to act of
Maryland.

Whereas it is represented that the General Assembly of the commonwealth of Maryland hath passed, at their present session, an act entitled "An act further to amend the act incorporating the Chesapeake and Ohio Canal Company," in the words following, to wit:

"Whereas it is represented to this General Assembly, that it may tend greatly to the promotion of the object of the original act incorporating the Chesapeake and Ohio Canal Company, to authorize a subscription for its stock by aliens; and doubts have arisen, whether, under said act, such stock may be held by others than citizens of the United States; and whether the stock of said company is to be regarded as real or personal property:—

1. "*Be it enacted by the General Assembly of Maryland*, That it shall and may be lawful for the commissioners for the time being, and for the president and directors of the said company, whensoever the same shall be duly organized, agreeably to the provisions of the original act aforesaid, to receive subscriptions for any number of shares of the capital stock of said company, from any alien or aliens, who are hereby declared competent to hold the same; and, if in their judgment it be necessary, to appoint an agent or agents to visit Europe for that purpose.

2. "*And be it enacted*, That the shares of the capital stock of the said Chesapeake and Ohio Canal Company, shall be deemed and taken to be personal estate, and as such to be liable to be assigned and transferred: *Provided*, That it shall not be lawful for any stockholder in said company to assign any share or shares, by him or her held, unless it be in person, or by attorney, upon the books of said company: *And provided, also*, That no transfer or assignment shall be made, except for one or more whole share or shares, and not for any part of such share or shares; and that no share or shares shall at any time be assigned or transferred, or held in trust for the use and benefit, or in the name of another, whereby the said president and directors, or stockholders, of the said company, or any of them, shall or may be challenged or made to answer concerning any such trust; but that every person appearing as aforesaid to be stockholders, shall, as to others of the said company, be, to every intent, taken absolutely as such; but as between any trustee, and the person for whose benefit any trust shall be created, the common remedy may be pursued.

3. "*And be it enacted*, That the words 'nor any payment demanded within any year from the commencement of the work,' inserted in the proviso to the fifth section of the original act incorporating the Chesapeake and Ohio Canal Company, passed the twenty-seventh day of January, eighteen hundred and twenty-four, by the General Assembly of Virginia, and subsequently confirmed by the General Assembly of Maryland, be, and the same are hereby repealed and expunged from the aforesaid proviso; and henceforth the said proviso shall be construed in the same manner, and have the same effect, as if the afore-recited words had never been recited therein.

4. "*And be it enacted*, That this act shall commence and be in force as soon as it shall have received the assent of the legislature of Virginia, of the Congress of the United States, of the Potowmac Company, and of the stockholders of the said Chesapeake and Ohio Canal Company, to be given at their first general meeting after the passage of this act."

See ante, p.
795.

1. *Be it therefore enacted by the General Assembly of this Commonwealth,* Act of Virginia.
That the assent of this legislature in and to the amendments to the "Act incorporating the Chesapeake and Ohio Canal Company," as contained in the foregoing act of the General Assembly of Maryland, is hereby as fully and completely given, as if the said amendatory act had been passed by this present General Assembly.

2. This act shall be in force from the passing thereof.

ACT OF THE STATE OF MARYLAND.

A further supplement to the act, entitled "An act for the promotion of internal improvement." March 3, 1828.

Act of Maryland.

Whereas by the act, entitled "A supplement to the act, entitled an act for the promotion of internal improvement," passed at December session, eighteen hundred and twenty-six, chapter two hundred and twenty-one, it is, amongst other things, provided, that one of the conditions upon which the treasurer of the Western Shore shall be authorized to subscribe for five thousand shares in the capital stock of the Chesapeake and Ohio Canal Company, is, that whenever the United States shall have authorized subscriptions for not less than ten thousand shares of the capital stock of the Chesapeake and Ohio Canal Company; and whereas it is important, with reference to the interest of the state, that the grant already made by her, to that company, should be made dependent upon such other conditions and restrictions, as will effectually secure the completion of this work, if ever commenced, and the previous payment of the instalments upon all other subscriptions; and that some mode of payment of the subscription already made, should be provided, having reference to the exhausted condition of the treasury, in lieu of the mode of payment provided by the terms of the original subscription: Therefore,

SEC. 1. *Be it enacted by the General Assembly of Maryland,* That the treasurer of the Western Shore be authorized to subscribe the aforementioned five thousand shares of the capital stock of the Chesapeake and Ohio Canal Company, whenever the commissioners, their successors, or a majority of them, appointed on the part of this state, to aid in opening books, and taking subscriptions to the stock of said company, shall certify that the sum of two millions five hundred thousand dollars has been subscribed by bona fide subscribers, with such additional securities as to them may be deemed ample, to ensure the faithful compliance on the part of the subscribers of the aforesaid two millions five hundred thousand dollars: and provided, also, that the instalments thereon, similar to that required to be paid on behalf of the state, and all the previous instalments, which may have accrued thereon, shall have been paid, before any payment shall be demanded on account of the state's subscription.

SEC. 2. *And be it enacted,* That the said subscription is authorized and directed upon the condition, that the said president and directors of the said Chesapeake and Ohio Canal Company, shall certify to the said treasurer, their agreement, under the corporate seal of said company, to accept and receive, in payment of the instalments which may become due on any such subscription, as they may be called for, certificates of stock of the state of Maryland, at par, irredeemable for fifteen years, and bearing an interest of five per centum per annum, payable quarterly, to commence at the end of one year after the same shall have been issued in succession, and that, upon any such subscription being made, the said Treasurer is further authorized and directed to borrow, on the credit of the state, on the best obtainable terms, from time to time, the funds necessary to meet and discharge the first advance, and each successive payment, whensoever and as often as any instalment on the said subscription of the state shall be demanded, and become due, in conformity to the provisions of the charter of the said company; and to issue for the same, certificates of stock of the state, bearing interest at the rate of five per centum per annum, payable quarterly: provided, that the said stock shall be redeemable at the pleasure of the state, at any time after fifty years from each successive issue of certificates as aforesaid; and the premium, if any, on each and every of the said loans, shall be invested in some safe and productive stock, at the discretion of the said treasurer, with the advice and consent of the governor and council, for the time being; and the interests, dividends or profits, arising from such invest-

Act of Maryland.

ment or investments, shall be reinvested, as aforesaid, for the eventual redemption of the said loans; and the said funds, when obtained under the authority of this act, the said treasurer is hereby directed to pay to the order of the president and directors of the Chesapeake and Ohio Canal Company, in conformity to the provisions of the charter of the said company, and to receive therefor the necessary acquittances; or, in case it shall be deemed more beneficial to the interest of the state, in the estimation of the said treasurer, with the approbation and concurrence of the governor and council, the said treasurer shall be, and he hereby is, authorized and directed, whensoever and as often as any instalment on the said subscription of the state shall be demanded, and become due, in conformity to the provisions of the said charter, to issue certificates of stock of the state, at par, irredeemable for fifteen years, bearing interest at the rate of five per centum per annum; the said interest upon such certificates, to commence at the end of one year after the same shall have been issued, in succession, and to be paid quarterly thereafter; and the said treasurer is authorized and directed to cause the said certificates to be delivered to the person or persons authorized to receive the said instalments, as they shall severally become due, and to demand and receive, from such person or persons, upon the delivery of the said certificates, a full acquittance and discharge for and on behalf of the state, for the instalment for which the said certificates were issued: provided, always, that, in case a premium of five per centum, or exceeding five per centum, may be obtained upon any loan required for any instalment as aforesaid, that then, and in that case, it shall be the duty of the said treasurer, with the advice and consent of the governor and council, as aforesaid, to elect the first alternative, as hereinbefore provided: *And provided furthermore, and it is hereby enacted*, That, upon the adoption of either alternative, a capital equal to ten per centum, at the least, on the gross amount of each loan, shall be made from any unappropriated money in the treasury, and the same shall be invested in some safe and productive stock, as aforesaid; and the interest, dividends, or profits, arising therefrom, shall be reinvested, as aforesaid, for the eventual redemption of each of the said loans, to be negotiated for as aforesaid.

SEC. 3. *And be it enacted*, That any act or acts, repugnant to, or inconsistent herewith, be, and the same are hereby, repealed.

We hereby certify the foregoing to be a true copy from the original act, which passed both branches of the legislature of Maryland at their December session, eighteen hundred and twenty-seven.

Given under our hands, at the city of Annapolis, this third day of March, eighteen hundred and twenty-eight.

WILLIAM H. MARRIOT,
President of the Senate of Maryland.
J. G. CHAPMAN,
Speaker of the House of Delegates.