

An Act to enable the Mayor and City Council of Baltimore to introduce Water into the said City. Lib. JG. No. 3, fol. 475.

Passed Dec. 18.

Preamble.

WHEREAS the conveying of water into the city of Baltimore, from the neighbouring springs or streams, will greatly contribute to the security of the said city from fire, and to the health and convenience of the inhabitants thereof;

2. BE IT ENACTED, by the General Assembly of Maryland, That the mayor and city council of Baltimore may, from time to time, and at all times hereafter, contract for, purchase, lease and hold, to them and their successors, in fee-simple, or for term of years, any land, real estate, spring, brook, water and water-course, and also the right to use and occupy for ever, or for term of years, any land, real estate, spring, brook, water and water-course, which they may conceive expedient and necessary for the purpose of conveying water into the said city, for the use of the said city, and the health and convenience of the inhabitants thereof, and also the right to enter and pass through, from time to time, as occasion may require, to dig canals in, lay pipes, and cleanse and repair the same, and to use and occupy the lands or grounds through which they may deem it necessary to convey the said water into the said city.

Mayor and city council may hold real estate, &c.

3. AND BE IT ENACTED, That upon the application of the mayor or of the said city, (he being duly authorised by the city council of said city to make applications of such nature,) it shall and may be lawful for any justice of the peace for the county of Baltimore, from time to time, to issue his warrant to any surveyor of said county, to survey and plot any such land or parcel of ground, and any such spring, brook, water or water course, and every such tract or way through any lands or grounds for the conveying of any stream or streams of water into the said city, as shall be shewn to him by the said mayor, and it shall be thereupon the duty of said surveyor to proceed to make a correct survey and plot thereof, and the same, when finished, to deliver to the mayor of the said city, with a certificate and explanation thereof.

Land to be surveyed on application of mayor.

4. AND BE IT ENACTED, That if the mayor and city council of Baltimore shall make any agreement, bargain or contract, with the owner or owners of, (as the case may be,) or the person or persons solely or jointly interested, in possession, remainder or reversion, in any such land, real estate, spring, brook, water or water course, which they may conceive expedient or necessary to purchase and hold for the purpose of introducing water into the said city, or with the owner or owners, (as the case may be,) or the person or persons solely or jointly interested in possession, reversion or remainder, in any such grounds through which they may be desirous of conveying the said water into the said city, and for any right to enter and pass through the same, dig canals in, and lay or repair pipes therein, touching or concerning the purchase money to be paid, or recompense to be made to him, them, or any of them, respectively, then and in such case, such agreement, bargain or contract, shall be reduced to writing, specifying and declaring that the said land or real estate, and the said spring, brook, water or water-course, thus purchased as aforesaid by the said mayor and city council, for the purpose of introducing water into the said city, and the said grounds through which a right as aforesaid shall by said mayor and

Agreement with owners to be in writing.

CHAP. 77. city council be purchased, to pass and dig canals in, and lay or repair pipes therein, for the purpose of conveying the said water into said city, shall be held, used, occupied and enjoyed, by the said mayor and city council of Baltimore, according to the true intent and meaning of this act, and such contract shall be annexed to the plot and certificate to which it refers, and with such plot and certificate shall be delivered to the clerk of Baltimore county court, whose duty it shall be to record the same, at the expense of the said corporation, and the same, or a true copy thereof, certified under the hand and seal of office of said clerk, shall be received as good evidence in any court of law or equity, to every intent and purpose to which the same may appertain or refer.

In case of disagreement with proprietors of land, a jury to be summoned.

5. **AND BE IT ENACTED,** That if the mayor and city council aforesaid shall not be able to agree with the proprietor or proprietors as aforesaid for the purchase or lease of such land, real estate, spring, brook, water or water-course as aforesaid, which they may deem expedient to purchase and hold as aforesaid, for the purpose of introducing water into the said city, or for the right to enter and pass through, to use and occupy, such other grounds as aforesaid, through which they may deem expedient to convey the said water into the said city, or if there be any incapacity or disability in the owner or owners of such lands, real estate, spring, brook, water or water-course as aforesaid, which the said mayor and city council may conceive expedient and necessary to purchase and hold as aforesaid, or in the owner or owners of such grounds through which the said mayor and city council may deem expedient to have a right of entry and passage as aforesaid, for the purpose of conveying the said water into the said city as aforesaid, or if such owner or owners shall be absent out of the state, or unknown, it shall and may be lawful, on the application of the said mayor, for the chief justice of that judiciary district of Maryland wherein the city of Baltimore is or may be hereafter situated, to issue his warrants to the sheriffs of Prince-George's and Frederick counties, commanding and directing them respectively to summon from each of their respective counties, a jury of fifteen freeholders, inhabitants of their respective counties, not related to the owner or owners, or persons interested as aforesaid in the said real estate, spring, brook, water or water course, which the said mayor and city council may deem expedient to purchase and hold for the purpose of introducing water as aforesaid into the said city, or to the owner or owners, or persons interested in the ground or grounds as aforesaid through which the said mayor and city council may be desirous to purchase a right of entry and way as aforesaid, for the purpose of conveying the said water into the said city, to meet and appear on the premises, which are to be valued, and such valuation shall be begun to be made by them on such day, as in such warrant shall be appointed, of which five days previous notice shall be given by the said mayor, to every owner or person interested as aforesaid, or if any infant or lunatic, or *feme-covert*, to his or her guardian or husband, or in either case left at his or her last place of abode, or if out of the state, or unknown, such notice shall be published not less than eight weeks successively, in some one or more of the Baltimore newspapers; and from the pannels of jurors so returned and attending, it shall be lawful for the persons, a condemnation of whose land may

be desired, for the mayor and city council, alternately to strike off a juror, until the number of jurors be reduced to twelve, the persons, a condemnation of whose land is claimed, beginning to strike off as aforesaid; and in case either party shall refuse or neglect to strike off the names of jurors, then it shall be lawful for the sheriff, or his deputy, who shall attend as hereafter directed, to strike off jurors for the party so refusing, until the number of jurors remaining be reduced to twelve as aforesaid; and it shall be the duty of the twelve jurors so remaining to inquire into, assess and ascertain, the sum or sums of money to be paid by the said mayor and city council for the land, real estate, spring, brook, water or water-course, which they may be desirous to purchase and hold for the purpose aforesaid, and also the sum or sums of money to be paid by the said mayor and city council for the right to enter and pass, dig canals, and lay pipes as aforesaid, in any other lands as aforesaid, through which the said mayor and city council may think expedient to conduct the said water into the said city as aforesaid, according to the marks, bounds, courses and distances, described in the plot aforesaid of the survey aforesaid, having regard to all circumstances of convenience, advantage and situation, attending the same; and it shall be the duty of the sheriff of Baltimore county, by himself or by deputy, on due notice given him by the mayor, to attend the meeting of the aforesaid persons at the time and place specified in such notice, and he or his deputy is hereby authorised and required to administer an oath, or affirmation, as the case may require, to every of the said jurymen, that he will justly, faithfully and impartially, discharge and perform the duties prescribed to him by this act, according to the best of his skill and judgment; and the same sheriff shall have power and authority to adjourn the said proceedings from day to day until the same shall be completed; and the inquisition thereupon taken, if signed by seven or more of the said jurymen, shall be also signed by the said sheriff, and shall then be binding and conclusive, to all intents and purposes whatsoever, upon the owner or owners, or persons interested as aforesaid, and upon the said mayor and city council; and the said inquisition, with the plot and certificate aforesaid, shall be returned, by the said sheriff, to the clerk of Baltimore county court, whose duty it shall be to record the same at the expense of the said corporation, and the same, or a true copy thereof, duly attested by the said clerk under his hand and seal of office, shall be good in evidence in all cases whatsoever to which it may relate, in any court of law or equity.

6. AND BE IT ENACTED, That if twelve jurymen summoned as aforesaid shall not appear at the time and place appointed as aforesaid, the sheriff of Baltimore county, or his deputy, as the case may be, shall summon other freeholders of his county from the by-standers, or who can be speedily procured to attend said service, not interested as aforesaid, and being qualified as aforesaid, to make up the said jury to the number of twelve.

If 12 jurymen shall not appear others may be summoned.

7. AND BE IT ENACTED, That the jury aforesaid, in ascertaining the value of the lands, real estate, springs, brooks, water or water-courses aforesaid, and the grounds through which the said mayor and city council may be desirous of having a right of entry and way as aforesaid, and the damage done to the owner or owners, or person or persons interested therein, by reason of the condem-

Jury to allow additional compensation to owners.

CHAP. 77. nation which said jury are hereby authorised and empowered to make, shall allow to every such owner or owners, or person or persons interested as aforesaid, an additional compensation of fifteen *per cent.* over and above the real value of the property which shall be taken from them in virtue of this act; *Provided*, that the mayor and city council of Baltimore shall not have the privilege of taking or using the waters, or any part of the waters, of Gwinn's Falls, Gwinn's Run, Jones's Falls or Herring Run, or of any other stream whereon a mill is erected, for the purposes aforesaid, without the permission and consent of all and every person who may have any lands or tenements adjoining the same, or who may have any benefit or advantage from the use of any of the said waters.

Proviso.

On payment of sum assessed right to land vested in mayor, &c.

8. **AND BE IT ENACTED**, That upon the payment of such sum or sums of money as shall or may be contracted or agreed for between the parties, or assessed by the jury aforesaid, for the land, real estate, spring, brook, water or water-course as aforesaid, or a legal tender thereof made by the said mayor to such owner or owners, as such other person or persons interested therein, at any time after the same shall have been so agreed for, or assessed, or if he, she or they, cannot be found, upon the payment thereof into one of the banks of Baltimore for his, her or their use, the right of such land, real estate, spring, brook, water or water-course, and the right of way and user in such grounds as aforesaid, in the manner as aforesaid, as shall be mentioned and specified in the agreement, bargain or contract, as aforesaid, or in the inquisitions aforesaid, shall thenceforth be vested in the mayor and city council of Baltimore, and their successors, for ever, or for term or term of years, according to the terms of said agreements or inquisition, and it shall and may then be lawful for the said mayor and city council of Baltimore, and their successors, their agents, workmen and servants, to enter at any and at all times hereafter upon the said premises, for the purpose of erecting necessary and convenient works and machines, cutting and opening trenches, laying and fixing or of repairing pipes, and covering the same, and finally, of doing all such matters and things as may be requisite for carrying the law into full and complete operation.

A pannel of persons summoned to be returned—allowance to jury-men.

9. **AND BE IT ENACTED**, That it shall be the duty of the several sheriffs who shall summon any person to attend as a jurymen in virtue of this act, to return a list or pannel of such persons so summoned by him, to the sheriff of Baltimore county, before the day on which they are to be impannelled, and every such person who shall attend as a jurymen aforesaid shall be allowed and paid by the mayor and city council of Baltimore the sum of four dollars *per diem* for their attendance, and also the amount of two days attendance for itinerant charges; and if any such jurymen shall neglect or refuse to attend according to the said summons, the sheriff of Baltimore county shall return a list of all such persons to the next county court of their respective counties, who are hereby authorised to inquire into the circumstances, and fine such delinquent, in their discretion, not exceeding the sum of fifty dollars current money; and the said respective sheriffs shall be allowed the same fees as they are entitled by law to receive in all other cases for summoning and impannelling juries, to be paid by the said mayor and city council of Baltimore.

10. AND BE IT ENACTED, That if any person or persons shall obstruct the said mayor and city council, or their successors, their agents, workmen or servants, in conveying the said water into the said city, or shall change, alter, remove, injure or destroy, any work or part of a work made by the said mayor and city council of Baltimore, or caused to be made by them, for the purpose of introducing water into the said city, under the authority of this act, or if any person shall alter, obstruct, change or pollute, by any tan-yard, hogsty, slaughter-house, dye-pot, or other ways, the fountains, springs, waters or streams, which the said mayor and city council shall hereafter introduce, or shall be preparing to introduce, into the said city of Baltimore, under the authority given them, and regulations prescribed to them by this act, such person or persons may be indicted in the Baltimore county court, and being thereof convicted shall be fined, at the discretion of the court, according to the nature of the offence, or imprisoned for any time not exceeding one month, such fine to be paid and applied to the use of the city of Baltimore.

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Penalty on persons obstructing the conveyance of water into city.

11. AND BE IT ENACTED, That the mayor and city council be authorised to arbitrate, in such manner as they may think proper, the damages to be paid by them to any person or persons by reason of the taking and introducing water into the city of Baltimore, and that in such case the award of the arbitrators shall be deemed as good and valid, and to all intents and purposes as available, as the inquisition of a jury as above directed, and recorded in the same manner.

Mayor and council to arbitrate damages.

12. AND BE IT ENACTED, That after the first day of January, eighteen hundred and three, all the provisions of this act for compelling the condemnation of the land, or other thing, of any individual, contrary to the will and consent of such individual, shall cease.

Certain provisions of this act, when to cease.

CHAP. LXXVIII.

An Act to enable the Trustees appointed by the last will and testament of Doctor John Purnell, of Worcester County, to sell and convey the Lands therein directed to be sold. Lib. JG. No. 3, fol. 482.
A Private Act.

Passed Dec. 19.

CHAP. LXXIX.

A Further Supplement to the act, entitled, An act for the relief of sundry Insolvent Debtors.* Lib. JG. No. 3, fol. 483.

Passed Dec. 19.
* Ch. 44.

See the note to ch. 44.

CHAP. LXXX.

A Supplement to an act,† entitled, An act for the relief of sundry Insolvent Debtors. Lib. JG. No. 3, fol. 484.

Passed Dec. 19.
† Ch. 44.

The following persons were petitioners for relief under this act, viz. Joseph Magruder, Nathan Hughes, Clement Chamberlain, Lewis Duvall, King English and Richard T. Cheseldine, of Montgomery county.

See the note under ch. 44.

CHAP. LXXXI.

An Act for the relief of James Colquhoun. Lib. JG. No. 3, fol. 484.

Passed Dec. 19.

See the note under chap. 44.