

State Department

Washington 5th July 1849

My Dear Sir:

Herewith enclosed, you will receive a copy of the opinion of the Attorney General of this State, in reference to the right claimed by the Chesapeake & Ohio Canal Company to issue its bonds in anticipation of revenue, to raise money for the purpose of repairs and improvements. The several topics discussed in the paper, were submitted to the Attorney General on the 28th of May last, and immediately after the receipt of your letter of the 25th of the same month. The opinion, although dated 28th of June, was not received here until yesterday, and I hasten to enclose you the accompanying copy.

I am with great respect
Your obt. serv^t
Philip F. Thomas

James M. Cook Esq. 3

Copy of the opinion of the Attorney General referred to in the foregoing letter.

Washington June 28th 1849

Sir:

I had the honor to receive from you some time ago a communication covering certain papers, from the examination of all of which I perceive that it is the intention of the President and Directors of the Chesapeake and Ohio Canal Company to borrow on their own bonds, endorsed by the State of Virginia and secured by a pledge of the revenues of the Company, the sum of two hundred thousand dollars for the purpose of repairing the Canal below dam No. 1; and the questions to which I understand you desire an answer, are 1st Whether considering the relations which exist between the State and that Company, the President and directors have the right claimed; 2^d If they have the right to borrow, whether they can effect the loan under the conditions of the law of Virginia proposing to guarantee their bonds; The third question is whether the President and directors can reduce the tolls of the Canal since the act of 1844 Chapter 281.

I have examined these questions with all the care their importance demands and am of the opinion 1st That the President and directors have the right to borrow money for the purpose mentioned; that they can issue their bonds for the same; and further that they can pledge the revenues of the Company for the payment of the bonds with the interest.

In the original Charter of the Company no specific power to borrow money is given. But by the third section of the act of 1843 Chapter 124 it is provided that "The President and directors of the Chesapeake and Ohio Canal Company or a majority of them assembled, shall have full power and authority to borrow money, from time to time, to carry into effect the objects authorized by the Charter of said Company, to issue bonds, or other evidences of such loans and to pledge the property and revenues of the said Company, for the payment of the same and the interest to accrue thereon, in such form and to such extent as they may deem expedient". It is understood that this act has been assented to by all the necessary parties. Here then we find full power and authority given to borrow money, issue bonds, pledge property &c. "to carry into effect the objects authorized by the Charter of the Company". One of the objects mentioned in the fourth section of the original Charter is "to repair and keep in order the said Canal". There can then be no doubt
(Independent)