

the act of assembly are, "that unless good cause be shown against the inquisition, it shall be affirmed by the court and recorded." And, therefore, assuming the inquisition, when thus affirmed and recorded, to constitute a debt, it is a debt of record, and consequently not merged by the judgment, which is of no higher dignity.

But, according to my view of this case, the question of merger does not arise. The legislature, by the act of 1824, provided a mode by which, in certain specified contingencies, this company was authorized to appropriate to its use the land of individuals without their consent, upon the condition, that they, the company, should pay therefor such a valuation as a jury should put upon it. This valuation, by the letter of the law, is made conclusive upon all persons, and is to be paid by the company, and it is only on payment thereof that the title passes.

Now, it seems to me very clear, no matter what arrangements are made between the parties for the payment of the money, or what securities may be given for it, the owner has a right at any time upon failure of the securities, to call upon the court to protect his property from injury until the money is paid. It does not appear to me to be material, whether the owner is bound in any active measures he may adopt to recover the money, to proceed exclusively upon his judgment or not. If he can show, as is shown here, that the judgment was rendered for the money which the jury fixed as the value of the land; that it has not been paid; and that there is serious danger of irreparable injury to the owner, unless this court will interpose to hinder the company from using the property, I cannot see how his request for the aid of the court can be refused. The law says, (except during the pendency of the proceedings provided for in the 19th section,) that the owner's property shall not be taken from him, and used for the purposes of the company, until the valuation put upon it by the jury is first paid. And I cannot see how this right can depend upon the character or form of the security given by the company for the payment. If the owner has a right to insist upon the payment of the money before his property is wrested from him, (and