

would have no legal cause of complaint, on the ground of the depreciating effect thereof upon his mill-site. If the State grants a patent and induces people to lay out a great fund, it would, as has been said, be wrong to grant a rival patent wantonly. *Ex parte O'Reilly*, 1 *Ves. Jr.* 114; *The Vauxhall Bridge Company v. Spencer*, 2 *Mad. Rep.* 355; *S. C.* 4 *Cond. Chan. Rep.* 28. But it would be bad policy, unjust and unconstitutional, as having the effect of a monopoly, to prevent any one from making any use whatever of his own property, because of its operating as an injurious rivalry of another who was not thereby in any way hindered from making a similar or any other use of his property.

But, supposing all that has been said, in relation to the plaintiff's legal rights to certain natural mill-sites, to be entirely erroneous; and, that those claims are in all respects valid; then it follows, from what he himself has stated, that the land, or a portion of it, which is necessary to constitute those mill-sites, lies in the route of the proposed canal, and is about to be occupied by it. If so, it is certain, that it may be condemned for that purpose in the manner prescribed by the Act of Assembly. 1824, ch. 79, s. 15. And in the valuation, so directed to be made, all its worth, whether inherent, or incidental; its value arising from its fertility and mineralogical contents, as its value arising from its affording mill-sites or its peculiar suitability for any other purpose, should, and no doubt would be duly considered and estimated under the inquisition and condemnation. *Therefore, even if the

120 plaintiff has his natural mill-site taken from him by these defendants for their canal, he has a legal and proper remedy, and cannot be relieved in this way. Besides, it is declared by that Act of Assembly, "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." 1824, ch. 79, s. 19. And, consequently, this Court would not interpose, in any way, further than to compel these defendants to institute and prosecute with reasonable diligence proceedings, in the nature of a writ of *ad quod damnum*, under this law, so as to enable the plaintiff to obtain the redress specially provided for him; unless there were some fraudulent circumstances; or some deviation from the line prescribed, or going beyond the authority given. *Vernon v. Blackerby*, 2 *Atk.* 145; *Ex parte Vennor*, 3 *Atk.* 770; *Rex v. Inhabitants of Flecknow*, 1 *Burr.* 465; *Hughes v. Trustees of Modern College*, 1 *Ves.* 188; *Agar v. The Regents Canal Company*, *Coop. Rep.* 78.

From all these considerations and views of the subject, it is certain, that it has not been distinctly shewn, that the plaintiff is the owner of any natural mill-site; between the point where the defendants are erecting their dam, and the tide-water of the river—and even if he is the owner of any such mill-site, the acts imputed