

These provisions of this Act of incorporation are similar to those of almost all other laws authorizing land to be taken for the making of roads and canals; and they have been introduced into this and all similar Acts of the Legislature, as a substitute for the ancient writ of *ad quod damnum*; and therefore, so far as the Legislature have been silent as to the mode of proceeding, or the nature of things require it, they must be governed by the general principles of law applicable to the proceedings under a writ of *ad quod damnum*; since the object to be accomplished by both is the same. *Rex v. Inhabitants of Flecknow*, 1 Burr. 465. According to the common law the inquisition under a writ of *ad quod damnum* is, in all cases, required to be taken before the property can be entered upon, unless it should be specially dispensed with by statute, or the grant itself; *Jacob Law Dict. v. Ad Quod damnum*; (b) but in this *instance, it is obvious, that the taking
391 of the inquisition, as a preliminary to the property's being

(b) PRESSLY'S CASE.—Charles, absolute Lord and Proprietary of the Province of Maryland and Avalon, Lord Baron of Baltimore, &c.

To the Sheriff of St. Mary's County, greeting: we command you, that by the oaths of twelve honest and lawful men of the county by whom the truth of the matter may be better known, you diligently inquire if it be to the damage of us or others, if we grant unto Col. Peter Pressly, of the Colony of Virginia, twenty acres of land lying upon the head of St. Mary's River, in Saint Mary's County, aforesaid, being the place where Thomas Waughop formerly had built a water-mill upon, viz: ten acres on one side of the head of said river, and ten acres on the other side thereof, together with liberty to take, fell, cut down and carry away, either by land or water, any wood or timber wood fit for building a mill, other than timber fit to split into clapboards, next adjoining to the said twenty acres of land lying on each side of the said river in the county aforesaid. And if it be to the damage and prejudice of us, and to what damage and prejudice of others, and of whom, and in what manner, and how; and of what value they are by the year, according to the true value thereof now, before any further improvement of the said twenty acres of land, and who are the present possessors of the said twenty acres of land, and what land and tenements remain to the said present possessors, over the said twenty acres, will suffice to uphold their manor, viz: the sixth part of their manor allotted them by the conditions of plantations for the demesne as before the alienation; so as the county, by the alienation aforesaid, in default of the present possession, more than was wont, be not charged and grieved. And the inquisition therein openly and distinctly made to us in our Chancery under the seal and seals of them by whom it was made, without delay, you send. Witness ourself, at the City of Annapolis, this twenty-fourth day of October, in the seventh year of our dominion, Annoque Domini 1722.

E. GRIFFITH, *Reg. in Chan.*

Maryland, st.

An inquisition indented and taken, by virtue of the writ which is hereunto annexed, at the head of St. Mary's River, in Saint George's and Saint Mary's hundred, in the County of Saint Mary's, by the oath of Richard Forrest, William Coombs, Timothy Tolle, Henry Taylor, Thomas Price, William Price, John Hilton, Clement Cheverill, John Cole, John Green, Alexander