

instance, it is obvious, that the taking of the inquisition, as a preliminary to the property's being made use of by the company is only required in some few particularly specified cases. In the taking of an inquisition under this and similar statutory provisions, it must appear, that the authority so given has been pursued; and, as under a writ of *ad quod damnum*, there should be no unreasonable delay, much less could any fraudulent practice be allowed to pass without check or rebuke. (e)

In this case it is clear, from the answer, all the statements of which on this motion must be taken to be true, that the inquisition has been had before the property taken was covered up or obscured by admixture with other substances; and, at a time, and in a manner when the jury were enabled to form a correct estimate of the claim for damages; and, it is also manifest, that there has

*Maryland, Saint Mary's County, st.*

At the request of Peter Pressly, of the colony of Virginia, gentleman, in the presence of the sheriff and a jury of the vicinage, I have laid out twenty acres of land, viz: ten acres on each side of the main fresh run of Saint Mary's river, it being the place where formerly stood a mill belonging to Thomas Waughop, of Saint Mary's county, gentleman. The ten acres, on the east side of the said run, being part of a tract of land now in possession of Mr. Charles King, of the said county, the said ten acres being thus bounded; beginning at a Spanish oak marked with six notches, standing on the east side of the said run, and running thence north fifty-eight degrees, east forty perches, north twenty-eight degrees, west forty perches, south fifty-eight degrees, west forty perches, then by a straight line to the first beginning. And the ten acres on the west side of the aforesaid run, being part of his Lordship's mill manor, and heretofore taken up for the use of the said mill by the said Thomas Waughop, and bounded as follows; beginning by the run on the west side of the same, opposite to the end of the last line of the former ten acres, and running thence south fifty-eight degrees, west forty perches, then south twenty-eight degrees, east forty perches, then north fifty-eight degrees, east forty perches, then with a straight line to the beginning. Surveyed the 30th day of August, 1723,

*Chancery Proceedings, lib. No. 3, fol. 1052.*

Per me LAWRENCE LANT.

The above proceedings were had under the act of 1704, ch. 16, which in its preamble, among other things, stated, that 'as the most part of the places fit for setting up water-mills, are already in the hands of persons under age, or unable to be at the charge of building a water-mill, or else such as are wilfully obstinate in forbidding and hindering such persons as would purchase the said places fit for building water-mills, and set them up, to the increase of our trade and navigation; much to the public damage of this province.' And then enacts, that any person may acquire a title to a mill-site as therein prescribed; and gives the form of the writ of *ad quod damnum* under which such proceedings were to be had. But this act, except its sixth and seventh sections, was repealed by the act of 1766, ch. 10, with a saving of the rights of those who had previously taken out writs of *ad quod damnum*.

(e) *Ex parte Vennor*, 3 Atk. 766; *Rex v. Inhabitants of Flecknow*, 1 Burr, 465; *Rogers v. Bradshaw*, 20 Johns. Rep. 735; *Rex v. The Mayor of Liverpool*, 4 Burr, 2244; *The King v. Bagshaw*, 7 T. R. 363.