

be had until an inquisition in reference to said condemnation shall be confirmed.

Since no appeal is provided by statute from the judgment of the circuit or superior court confirming or rejecting the inquisition, no appeal lies, provided such court has jurisdiction. The objections that there was no necessity for the condemnation of the land in question, and that the siding to be constructed is not such a railroad as is authorized to be built by a mining company under section 246, *et seq.*, and will be of no public use, do not raise jurisdictional questions. Railroad held to be for a purpose authorized by section 246, *et seq.*, and for a public use. *New York Mining Co. v. Midland Mining Co.*, 99 Md. 508. And see *Webster v. Susquehanna Pole Line Co.*, 112 Md. 433; *Textor v. B. & O. R. R. Co.*, 107 Md. 221; *Dolfield v. Western Md. R. R. Co.*, 107 Md. 584; *Arnsperger v. Crawford*, 101 Md. 250; *Moores v. Bel Air Water Co.*, 79 Md. 392.

The fact that a water company has been diverting the water of a certain spring from its channel, does not deprive it of the right to condemn the interest of the owner of such water right. The failure of the return of the sheriff to show that the jurors were not related to the parties, or in any wise interested in the subject of the condemnation, or stockholders in the corporation, there being however no suggestion that any of the jurors were disqualified, does not justify a refusal to ratify the proceedings. *Moores v. Bel Air Water Co.*, 79 Md. 397.

See sections 269 and 405, and notes.

1904, art. 23, sec. 364. 1888, art. 23, sec. 252. 1868, ch. 471, sec. 174.

**403.** Every such inquisition shall describe the property taken, or the bounds of the land condemned, and the quantity or duration of interest in the same valued for the corporation; and such valuation, when paid or tendered to the owner of said property, or his legal representative, after confirmation thereof, or when the same shall be paid into court, under such regulations as the court by which the said inquisition shall have been confirmed shall prescribe, shall entitle the said company to the estate and interest in the same thus valued, as fully as if it had been conveyed by the owner of the same; and the valuation, if not received when tendered, may at any time thereafter be received from said corporation without costs by the said owner or his legal representatives; and all fees or per diem to which any sheriff, clerk, juror or other officer shall be entitled for any service required of him under the aforesaid proceedings for condemnation shall be paid by the corporation causing the same to be instituted.

See notes to sections 399, 402, and 405.

*Ibid.* sec. 365. 1888, art. 23, sec. 253. 1868, ch. 471, sec. 175.

**404.** Nothing herein contained shall authorize any incorporated company to take or use property without just compensation, as agreed upon with the owner, or awarded by a jury, having been first paid or tendered to the parties entitled thereto, or paid into a court, after inquisition confirmed, as provided for in the preceding section; and nothing herein contained shall authorize the location of any public road on private property without consent of the owners or the decision of the county commissioners, upon due hearing as now prescribed by law for opening or altering public roads.

Cited but not construed in *Susquehanna Co. v. St. Clair*, 113 Md. 672.

See notes to sections 399, 402 and 405.

See the constitution of Maryland, art. 3, sec. 40.