

bond to be approved by the Court conditioned for the refunding of all tolls collected after the expiration of ten days from the return of inquisition, if the same be affirmed, after such motion or trial by jury.

At any time during the progress of these proceedings the corporation against which said petition is filed, may show to the Court in which such petition is filed, by affidavit or otherwise, that the defects complained of in such petition have been remedied, and if said Court be satisfied, either by affidavits, the testimony of witnesses or by the return of a commission of three free-holders appointed by said Court, that the defects complained of in such petition have been repaired and remedied, then said petition shall be dismissed with costs, in the discretion of the Court as aforesaid.

Either the petitioners or the corporation against which said petition is filed have the right to appeal to the Court of Appeals of Maryland from any final order of such judge or Court.

The provisions of this section shall not apply to Frederick County.

Act of 1894, ch. 607, held constitutional and valid. It did not provide for the taking of private property, but simply adopted a method for compelling the corporation to comply with its obligations and the law. While the statute did not provide in terms for notice to company, it clearly contemplated a notice being given before inquisition. Since act of 1894 did not provide for an appeal, no appeal lay (prior to the act of 1908, ch. 451). *Back River Co. v. Homberg*, 96 Md. 435 (decided in 1903).

Act of 1894, ch. 607, held to be more favorable to a turnpike company than the provisions of its charter, and that said act was not so at variance with proceedings contemplated by company's charter as to make them onerous, oppressive or unconstitutional. This section applied. *Williamsport, etc., Turnpike Co. v. Startzman*, 86 Md. 364 (decided in 1897).

An. Code, sec. 393. 1904, sec. 354. 1888, sec. 243. 1868, ch. 471, sec. 116.

325. If the inquisition shall be finally confirmed, and the said road shall not be put in good order and repair within thirty days thereafter, the said court may order that the right of the corporation to charge tolls on any part of said road within the limits of said county be forfeited, until it shall be made to appear to said court by said corporation that the whole of said road within said county has been put in good order and repair, when said order of forfeiture may be rescinded by the said court.

Cited but not construed in *Williamsport, etc., Co. v. Startzman*, 86 Md. 369.

An. Code, sec. 394. 1904, sec. 355. 1888, sec. 244. 1868, ch. 471, sec. 117. 1906, ch. 503. 1908, ch. 240, sec. 355.

326. If, within six months after the date of an order of the court forfeiting the right of the corporation to charge tolls, the said road shall not have been put in good order and repair within the limits of the county in which said order may have been passed, the said road within said county shall be forfeited by the corporation, and shall vest in the county commissioners, who shall cause the same to be put and kept in good order or repair, and collect tolls sufficient for that purpose, or may transfer the same to another corporation in their discretion, in which case the new corporation shall have the same rights and franchises and be subject to the same conditions and forfeitures as the original corporation constructing said road; provided, however, that whenever proceedings as aforesaid have been instituted against the turnpike company incorporated under any special act of