

the places and the character of such places in such road, if any, which are not in good order and repair or in the condition required by the terms of the law under and by which such company was incorporated, shall be signed and sealed by such jurors and returned by the Sheriff to the Clerk's Office of the Circuit Court for the county or the Clerk's Office of the Superior Court of Baltimore City; and if said inquisition shall find said road is not in good order and repair, or not of the width required by its Charter, any Judge of said Court may, within ten days after the return thereof, confirm the same and order that tolls shall not be charged by such company at the gates next to on either side of the place or places in said road so out of order, repair or of such insufficient width, until said road shall be put in good order and repair and properly widened, and until the further order of said Court.

The petitioners or the company may, before the confirmation of such inquisition, demand a trial by jury in Court whether said road is in good condition or repair, or of the proper width, or may move to quash the proceedings for matter of law, and the Court adjudge, on the finding of the jury, or otherwise, as may be just, in accordance with the principles of law, and may give judgment for costs against the petitioner or petitioners, county or city, or against the corporation, or apportion the costs in its discretion; provided, however, that the confirmation of the inquisition shall not be delayed more than fifteen days by the filing of any motion to quash or for a jury trial by the corporation, unless such corporation shall give a 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, 1924, sec. 325. 1912, sec. 393. 1904, sec. 354. 1888, sec. 243. 1868, ch. 471, sec. 116.

323. 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