

nation. Therefore, even if the plaintiff has his natural mill-site taken from him by these defendants for their canal, he has a legal and proper remedy, and cannot be relieved in this way. Besides, it is declared by that act of Assembly, 'that the *pendency* of any proceedings in any suit, in the nature of a writ of *ad quod damnum*, or any other proceedings, shall not hinder, or delay the progress of the work.' (e) And, consequently, this court would not interpose, in any way, further than to compel these defendants to institute and prosecute with reasonable diligence proceedings, in the nature of a writ of *ad quod damnum*, under this law, so as to enable the plaintiff to obtain the redress specially provided for him; unless there were some fraudulent circumstances; or some deviation from the line prescribed, or going beyond the authority given. (f)

From all these considerations and views of the subject, it is certain, that it has not been distinctly shewn, that the plaintiff is the owner of any natural mill-site; between the point where the defendants are erecting their dam, and the tide water of the river—and even if he is the owner of any such mill-site, the acts imputed to the defendants, being either denied as untrue to the extent set forth; or being in themselves legal, are not of such a nature as to form the foundation of any complaint against them by this plaintiff, as the owner of such natural mill-site.

The next stand taken by this plaintiff is upon the privileges, which, he alleges, have been secured to him by the act of assembly incorporating *The Potomac Company*, upon whose estate these alleged privileges were charged; (g) which company were, for certain considerations, authorised to convey to *The Chesapeake and Ohio Canal Company*, all the property, rights and privileges by them owned, possessed, and enjoyed; and the new company were enabled to accept such transfer, and to hold, possess, use and occupy all the property, rights and privileges in the same manner, and to the same effect as *The Potomac Company* had held, and occupied the same by law. (h) And, upon this conveyance being made, *The Potomac Company* was to be vacated, annulled, and dissolved. This last solemn testamentary act of *The Potomac Company*, it is admitted, has been properly made, and that body politic has expired

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(e) 1824, ch. 79, s. 19.—(f) *Vernon v. Blackerby*, 2 Atk. 145; *Ex parte Vennor*, 3 Atk. 770; *Rex v. Inhabitants of Flecknow*, 1 Burr. 465; *Hughes v. Trustees of Modern College*, 1 Ves. 188; *Agar v. The Regents Canal Company*, Coop. Rep. 78. (g) 1784, ch. 33, s. 13.—(h) 1824, ch. 79, s. 13.