

THE BELLONA COMPANY'S CASE.

On a motion to dissolve an injunction no *ex parte* affidavits can be read.—A motion to dissolve an injunction is confined to the consideration of the statements of the bill, and the answer responsive thereto.

A corporation constituted of many stockholders may be virtually extinguished by all the stock being owned by one.—A gunpowder manufactory not a nuisance, because of the loose manner in which the edifices have been constructed.

The clause of an act of incorporation which gives the power of *eminent domain* to be construed strictly, but fairly.—The property of a corporation, as well as that of an individual, is subject to be taken for public uses, under the power of *eminent domain*.—What is such a public use as authorizes the taking of private property to be so applied.—Where there are several public uses, the exercise of the power of *eminent domain* may be so limited as to preserve them all.—A corporation considered as a mere citizen owner, within the meaning of the authority to exercise the power of *eminent domain*.

THIS bill was filed in Baltimore County Court on the 25th of August, 1831, by *The Bellona Gunpowder Company of Maryland*, against *The Baltimore and Susquehanna Rail Road Company*. The bill states, that the plaintiffs are a body politic existing as such under the acts of 1814, ch. 78, and 1824, ch. 32; that the objects of their incorporation were the manufacturing and vending of gunpowder, and the carrying on of any other branches of manufacture in their discretion; for which purpose they were authorized to purchase and hold lands, in fee simple or otherwise, not exceeding one thousand acres, and to erect thereon all needful buildings; under which authority they had purchased a tract of land in Baltimore county, containing less than one thousand acres, on which they had erected mills and buildings needful and convenient for the manufacture of gunpowder; that the plaintiffs had invested in this manufactory, in real and personal property, from seventy to eighty thousand dollars; that the defendants were incorporated by the act of 1827, ch. 72, by which they were authorized to construct a rail road from the city of Baltimore to some suitable point on the Susquehanna river; under which authority they had located their road nearly a mile over the land of the plaintiffs, so as to require the removal of one of their buildings used for the purposes of their gunpowder manufactory; that if the defendants were permitted to construct their road as thus laid out, it would stop the works of the plaintiffs for a length of time, and not only prevent them from manufacturing the materials on hand, but oblige their present customers to form connexions with other establishments; and that