

society and a school. It is not shewn, that this society ever obtained the leave of the Legislature, in any manner whatever, to take or hold this property. The Act of 1802, ch. 111, authorizes any religious society to form themselves into a body politic, and the 8th section of that Act, and the Act of 1815, ch. 222, authorizes such corporations to take and hold a certain amount of property. But it has not been shewn, that the Methodist society to whom this devise was made had formed themselves into a body politic, and thus became qualified to hold this property by virtue of this general leave of the Legislature. (b) Therefore I am of opinion, that this devise must be considered as absolutely null and void by virtue of the 34th Article of the Declaration of Rights; and upon that ground the claim of the society has been properly rejected.

530 *Whereupon it is ordered, that the foregoing statement as made and reported by the auditor be and the same is hereby ratified and confirmed; and the trustee is directed to apply the proceeds accordingly, making payment to the said claimants or to their respective solicitors, with a due proportion of interest that has been or may be received, except claims Nos. 3, 17 and 28, which are suspended until further order.

WATKINS v. DORSETT.

SUBSTITUTION.—FIERI FACIAS.

An executor or administrator who overpays takes the place of the creditor whose debt he pays, and is entitled to the benefit of his priority. (a)

The principle of the Statute of Limitation may be applied in favor of a plaintiff as well as of a defendant.

The Act of Assembly which gives the process of a judicial attachment applies only to Courts of common law. (b)

Choses in action, and several other kinds of property are beyond the reach of a *fieri facias*. (c)

(b) By the Act of 1791, ch. 17, it was enacted, "that the leave of the Legislature be hereby granted to the said religious society of people called Quakers, to enjoy forever the use of the said land in East Nottingham, and West Nottingham; provided the Chancellor, on examination, shall find the facts above stated to be true," &c. This appears to be the first Act of the kind, passed in pursuance of the 34th Article of the Declaration of Rights.

(a) See *Hanson v. Worthington*, 12 Md. 418; *Zollickoffer v. Seth*, 44 Md. 374.

(b) But see Rev. Code, Art. 67, sec. 31.

(c) Cited in *Keigler v. Nicholson*, 4 Md. Ch. 92, where the Chancellor said that the rule laid down in the case in the text must be taken with some qualification, for when the *choses in action* is in the hands of a third party who is willing to abide by the order of the Court, or who admits it to belong to the person against whom the sequestration has issued, the Court will consider it liable to sequestration, and will order it to be paid into Court. As to what may be taken under a *fi. fa.* see *Coombs v. Jordan*, 3 Bland, 284.