

him from the proofs and proceedings now in the case, and such other proofs as may be laid before him, shewing the amount of the rents and profits with which each of the said defendants is chargeable from the 17th of February, 1831, to the time when that portion of the said chattel real called the ten acre lot held by them, or any or either of them, shall have been delivered up as herein directed to the plaintiff James Neale.

And it is further decreed, that the petition filed in this case by Charles Frenour, be and the same is hereby dismissed with costs, to be taxed by the register.

And it is further decreed, that the defendants as against whom the bill of complaint has not been dismissed, pay unto the plaintiff his costs in this suit, to be taxed by the register.

As to the manner in which this case was finally disposed of by the Court of Appeals, see 7 *G. & J.* 13.

THE CAPE SABLE COMPANY'S CASE. **606**

SUITS AGAINST CORPORATIONS.—ASSENT OF STOCKHOLDERS TO INCUMBRANCERS.—CREDITOR'S BILL AGAINST INSOLVENT CORPORATION.—ESTABLISHMENT OF CLAIMS.—INJUNCTION TO STAY EXECUTION.—SHERIFF'S FEES.—LIEN OF JUDGMENT.

An action of assumpsit may be sustained against a corporation founded on its acts done within the legitimate purposes of its institution.

No authority to appear to an action against a body politic can be given unless it appears to have been given by the president as under its proper corporate name. (a)

Where the incorporating legislative enactment requires the assent of three-fourths of the stockholders to make a contract or mortgage, it will be deemed void unless such assent be shewn; and the confession of a judgment to secure a debt is an incumbrance which requires such an assent within the meaning of such a provision in the incorporating enactment.

Where, on a bill filed against a corporation, it is admitted to be in a condition of absolute insolvency, it may be thenceforward proceeded on as a creditor's suit, a decree passed, directing all the property of the body politic to be sold, and notice to be given to its creditors to bring in their claims.

A body politic may have a local habitation; and should be sued in the county in which it is located. (b)

Although by declaring, that the property of a corporation shall be held as real estate, and descend as such, its personalty must be so treated as regards the stockholders, it does not follow that it must be so considered in all other respects.

A co-partnership may be dissolved by some of its members becoming, as to the same purposes as the partnership, a body politic under an Act of incorporation.

(a) See *Elysville Co. v. Okisko Co.* 1 Md. Ch. 392.

(b) But see *Turapike Road v. Crouther*, 63 Md. 558.