

not surely be allowed in any way to cast off their liability and leave this sheriff's claim unsatisfied. To turn this sheriff over to his action at law against this company, grounded on their legal liability, would be to leave him without the least redress; since it is shewn, that he could not even compel them to answer his demand; as they have no property which could be taken under a *distingas* to enforce an answer. *Bac. Abr. tit. Corporation, E. 2; Adley v. The Whitstable Company, 17 Ves. 316; S. C. 1 Meriv. 107.* For it would seem, a corporation divested of the means of answering the ends of its institution is thereby dissolved. *The King and Queen v. The Mayor of London, 12 Mod. 17; S. Ca. 1 Show. 274; Com. Dig. tit. Franchises, (G. 5.)*

I am therefore of opinion, that the claim of this petitioner is a just and legal one; and that upon the equity arising out of the peculiar circumstances of this case, it is indispensably necessary, that this Court should take cognizance of it and grant to the petitioner the relief he asks; and that his claim should be paid in preference to the plaintiffs in the executions, and the Cape Sable Company, or any of its corporators.

According to the strict principles of the feudal system, the feudatory was not allowed to alien any land held by him of his superior; nor could land so held be sold under an execution for the payment of debts, lest such a sale might be resorted to as an indirect mode of alienation. But apart from those principles of feudal law; land, according to all law, at all times, and every where, appears to have been considered, in this respect, as a species of property deserving the most deliberate regard. Not being capable, like mere perishable movables, of being safely, and without disadvantage, passed at every season, and immediately from hand to hand; the alienation and transfer of land from one to another has been every where required to be made and authenticated with a higher degree of solemnity than mere personal estate. And as agriculture has always been regarded as the first of pursuits, and of the highest importance to the commonwealth. *Co. Litt. 85; Vattel, b. 1, c. 7;* no compulsory alienation has been allowed to be made, in any case, to the prejudice of husbandry, or so as to endanger the loss of any then growing crop. *Co. Litt. 55; Land Ho. Assis. 121.* For these reasons it seems to have been every where regarded as a general rule, that land should not be liable to be taken in execution and sold, where there was a sufficiency of movables to be found for the satisfaction of the debt. *2 Inst. 18, 394; Gilb. Execution, 3; Gilb. Co. Exch. 123; 7 Petersdorff's Abr. 527, note; Code Napoleon, by Barrett, Introd. 328; 3 Southern Review, 30, 31; Bowaman v. Reeve, Prec. Chan. 577; Anonymous, 9 Mod. 66. (m)* And, following out the reason of this

(m) The English Statute of 1285, (13 Ed. 1, c. 18,) which gave the *elegit*, by which all the debtor's personalty, or a moiety of his lands might be taken in