

so advised, he instituted a suit in Baltimore County Court, upon which he obtained that judgment on which he now relies; the proceedings upon which have been stayed by the injunction in this case.

This last judgment of the 26th of May, 1824, was also assailed by these plaintiffs upon the ground of its having been illegally and fraudulently confessed, with an intention, that it should operate as a lien, or mortgage upon the property of the company; and of its being about to be used as a means of having their whole property taken in execution and sold, so as to sacrifice the interests of the plaintiffs; and thus, indirectly to thrust them out from all connection or concern with the body politic. These allegations of the plaintiffs, on the motion to dissolve the injunction, appeared to be sufficiently sustained to have that restriction continued until the final hearing or further order.

But since the passing of that order, continuing the injunction, much testimony has been taken; and the result has been, that the plaintiffs have totally abandoned the original cause of their complaint. And first, by the decree of the 8th of March, allowed their bill to be dismissed; and then, by the decree of the 5th of April, consented, that all the estate of the Cape Sable Company, the protection of their interests in which was the sole object of their suit, should be sold for the satisfaction of this claim of Oliver's, among others, against that company. Hence, although, it may be true, that this last judgment may have been confessed with an intention that it should operate as a mortgage; and without the consent of three-fourths of the stockholders owning three-fourths of the shares; yet the assent to the decree in this case amounts to a virtual and clear relinquishment of that objection, and to an admission, that this judgment, upon which Oliver now *relies, is entirely correct. But as this provision of the Act of incorporation, requiring the assent of three-fourths of the **659** stockholders owning three-fourths of the shares, was intended exclusively for the benefit of stockholders, there are no other persons than these plaintiffs, or some other stockholders, competent to make such an objection. Here, however, all parties have consented to this decree; and, consequently, this judgment of Robert Oliver, of the 26th of May, 1824, must now be considered as altogether well founded and conclusive.

Charles Carroll also claims as a judgment creditor of the Cape Sable Company; and his claims, as No. 2, 3, 4 and 5, have been opposed by objections similar to those directed against that of Robert Oliver. But as Carroll's claim as a judgment creditor has been, in like manner, put in issue, as fully investigated, and as effectually established by the decree of the 5th of April, as that of Oliver, it cannot be now again made the subject of litigation