

such was the nature of the manufactory, and the hazard of carrying it on, that workmen could not be procured to carry it on, if subjected to the increased hazard, consequent upon such a thoroughfare as a public rail road running near or through the works; that the construction of the road as located, would be destructive, and in violation of the plaintiffs' chartered rights; that it might be located in a different way, so as to avoid any collision with the works of the plaintiffs, and at very little, if any, additional expense to the defendants; that the Legislature of Maryland had no right or power, of themselves and for the use of the public, to interfere, in any way, with the chartered rights of the plaintiffs, much less to authorize any subsequent private corporation to take, for their private benefit, any portion of the rights to which the plaintiffs were entitled, under their prior incorporation; but that no such authority was, in fact, conferred, or designed to be conferred upon the defendants by their act of incorporation; their whole power to take lands for their use, against the will of the proprietors, being limited to the case of individual proprietors, and not embracing the case of lands held by any previously incorporated companies, such as those belonging to the plaintiffs. Whereupon the plaintiffs prayed, that the defendants might be enjoined from making their road as located over the lands of the plaintiffs.

25th August, 1831.—KELL, Associate Judge.—Let injunction issue as prayed; to be dissolved on the 5th of September on motion therefor; unless the complainants satisfy the court, by affidavits, which they are hereby authorized to take before a justice of the peace, that the rail road can be located as suggested by complainants, or the same be admitted by the answers of the defendants. The affidavits to be taken upon two days notice to the opposite party or their solicitor.

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Under this order the depositions of several witnesses were taken, returned, and filed. And on the 14th of September, 1831, the defendants put in their answer, in which they admit, that the acts for incorporating such a company, as the plaintiffs claim to be, were passed by the Legislature, as set forth in the bill; but they do not admit, that the actual incorporation of the plaintiffs ever did follow from those acts; or if it did, that they now have any existence as a body politic; on the contrary, they aver and believe, that *James Beatty*, of the city of Baltimore, is the sole, and only proprietor of the property known as the *Bellona Gunpowder Com-*