

when the court shall be called on for its judgment upon such a case. In the preamble of the act of 1824, ch. 32, which is one of the acts under which the plaintiffs claim to be a body politic, it is said to have been represented, that in consequence of the decrease in their number, it is impracticable, at present, to choose from their body five directors, the number prescribed by their original incorporating act of 1814, ch. 78; and therefore, it is declared, that three directors only shall be chosen to manage all the concerns of the company. Hence it would seem, that prior to the passage of the last of these acts, the body politic had actually become extinct, by reason of this impracticability of choosing five directors.

It is certainly within the constitutional scope of the powers of the General Assembly to constitute a body politic of one, or of a plurality of individuals; but if a corporate capacity be given to a plurality, and the stock of the company, by the owning of which alone any individual can be considered as a corporator, is all purchased up, and held by one, it would seem, that the body politic would be thereby virtually dissolved. And as it would seem, it might be considered as a fraudulent evasion of the law, for any one individual, who had purchased all the stock of such corporation; to attempt to claim the benefit of the irrevocable nature of such an act of incorporation, by allowing a part of the stock to be held by one or more other persons; and so, under the disguise of being a body politic, to protect himself from a personal responsibility for his debts; and also to prevent the Legislature from altering the act of incorporation under the notion, the good sense or constitutionality of which I have never been able distinctly to understand, that it was a contract, the obligation of which they could not impair. It has always seemed to me to be very clear, that no enactment of the General Assembly, whatever might be its character, whether considered as a mere law, or as substantially a contract, should be permitted to be made an instrument of fraud; or should have its operation continued in opposition to the interests of the people, as declared by the General Assembly, at the pleasure of any one man or set of men.

The defendants in their answer lay some stress upon the peculiar character of the buildings of the plaintiffs, with which the proposed road is to interfere. Admitting this to be one of those allegations in the answer which must be considered as directly responsive to the bill; yet I do not see how the nature of the buildings, or, in other words, the mere amount of the injury likely