

three-fourths, then, in stating the authority was given, the answer, in substance, does not undertake to allege, that the consent of the three-fourths was obtained. That is, in other words, the defendants would not, or could not state how the authority was given.

The act of incorporation is explicit, that the property shall not be mortgaged or sold without the assent of three-fourths of the stockholders holding three-fourths of the stock. The complainants assert, they did not consent, and they represent an interest larger than one-fourth. The defendants, in their answer, do not assert, that they, the complainants, ever did assent; or that they had any knowledge of the transactions between them and *Caton*, who undertook to pledge the funds; an undertaking beyond his power; and, which the defendants would have discovered, had they examined the charter. They were bound, in regard to their own interests, to have examined it, and having done so, and perceived the guarded manner in which the affairs of the corporation were to be conducted, and the restrictions imposed against selling or pledging, before they advanced their money to *Caton*, they should have seen the authority under which they acted. It was useless in the extreme to guard against mortgages and sales, if the president of the corporation, at his will and pleasure, had power to go into a court of justice and confess judgment to any amount. The judgments themselves bound the property; and a sale might be effected under a *feri facias* issued thereon, and of course a mortgage or pledge, and consequent sale obtained.

On the part of the defendants it is said the want of an answer by *Caton* should not affect their interests; the complainants, and not them, should compel him to answer. What effect *Caton's* answer may have, it is impossible to say; nor must the complainants, from this time forward, cease to use the necessary process of the court to compel an answer; should unnecessary delay take place, an order, perhaps, different from the one about to be passed, may be made. On the whole the injunction is continued until final hearing or further order.

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*Robert and John Oliver*, by their petition, stated, that the injunction had been issued without requiring the plaintiffs to give bond to abide the final decision on the bill, which ought to have been required before the injunction issued. They therefore prayed, that these plaintiffs might be ordered to give bond by an appointed time, or that the injunction be dissolved, &c. Whereupon it was,