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In this view of the subject, the court do not deem it proper to express any opinion as to the right of this creditor, in some other form of judicial proceeding, to compel the sale of the whole property of the corporation, including the franchise, for the payment of his debt. Nor do we mean to express any opinion as to the validity or operation of the deeds of trust and acts of Assembly of the State of Maryland, referred to in the proceedings. If the appellant has a right to enforce the sale of the whole property, including the franchise, his remedy is in a court of chancery, where the rights and priorities of all the creditors may be considered and protected, and the property of the corporation disposed of to the best advantage, for the benefit of all concerned. A court of common law, from the nature of its jurisdiction and modes of proceeding, is incapable of accomplishing this object; and the Circuit Court was right in granting the injunction, and its decree is therefore affirmed.

THOMAS M. LEAGUE, PLAINTIFF IN ERROR, *v.* CYRUS W. EGERY, JOSEPH F. SMITH, AND SARAH A. SMITH, ADMINISTRATRIX.

By the colonization laws of Mexico passed in 1824 and 1828, the consent of the federal Executive of Mexico was essential to the validity of a grant of lands within ten leagues of the coast.

The Supreme Court of Texas has repeatedly so decided, and this court adopts their decision.

THIS case was brought up by writ of error from the District Court of the United States for the eastern district of Texas.

The case is stated in the opinion of the court.

It was argued by *Mr. Hughes* for the plaintiff in error, and *Mr. Phillips* for the defendants.

Mr. Hughes tried to avoid the effect of the case of *Smith v. Power*, 14 Texas, 147, which decided that the grant was within

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the littoral leagues, and therefore void, by referring to a statute of Texas, (Hartley's Digest, article 3, p. 221,) by virtue of which the record of that case could not have been maintained if it had been pleaded in bar in the present case.

The arguments upon the merits of the case are omitted.

Mr. Justice CAMPBELL delivered the opinion of the court.

The plaintiff sued in the District Court for a parcel of land containing two and one-half leagues in the county of Refugio, in the State of Texas. The answer and amended answer of the defendants contain some twenty pleas, and a number of questions are presented by the record; but as the decision of the cause will be complete by the opinion the court have formed of the original grant from the State of Coahuila and Texas, from which the claim of the plaintiff is derived, and on which it depends, a statement of that grant will be sufficient. In the year 1826, Power and Hewetson proposed to the Government of Mexico to establish a colony on the seacoast of Texas, within what is termed in their law of colonization the littoral leagues. This proposal was accepted, and the partners entered upon the fulfillment of that enterprise. In December, 1829, they respectively applied to the Governor of the State of Coahuila and Texas for the purchase of eleven leagues of land each, within the limits of the colony. This offer was accepted; the petitioners were authorized to locate their grant upon any lands in the colony that were vacant, or elsewhere, if there was not a sufficiency of vacant land for that purpose; and the general commissioner of the colony was directed to deliver possession of the land selected, and to perfect the corresponding titles. In November, 1834, Power represented to this general commissioner that the partners had selected only seventeen and one-quarter leagues, and requested him to issue grants for two tracts, one containing two and a half leagues, and the other, two and one-quarter leagues, to complete this contract, at a place designated. This request of the petitioner was complied with, and one of these grants is that which was introduced to support the plaintiff's title, and with which he connected himself by mesne conveyances.

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The location is within the littoral or coast leagues described in the fourth sections of the colonization laws of Mexico, of 1824 and 1828.

The litigation between the grantees and their assigns and the defendants for this land has been protracted in the courts of Texas, and the opinion of the Supreme Court of that State has been very definitely expressed upon the validity of their titles on two several occasions.

Smith v. Power, 14 Tex. R., 146.

Smith v. Power, 23 Tex. R., 29.

In the latter case the Supreme Court said: "No question is more authoritatively settled by the repeated decisions of this court, than that the consent of the federal Executive of Mexico was essential to the validity of a grant of lands of the character of the present within the border and coast leagues. *Edwards v. Davis*, 3 Tex. R., 321; 10 Id., 316; *Republic v. Thorn*, 3 Id., 499; 5 Id., 410; 9 Id., 410, 556. In the case of *Smith v. Power*, (14 Texas R.) the parties to this appeal, it was held, that the grant here in question, under which the defendant claims, could not be distinguished from those which had been passed upon in former cases; and upon the authority of those cases, it was decided, that the grant wanting such consent was void. That question, therefore, cannot be considered as now an open one. A series of decisions continued almost from the organization of this court down to the present time, thus settling the construction of the old local law, upon which the titles to real property in the oldest and most densely peopled portions of the State so largely depend, must be regarded as emphatically the law of the State." In accordance with well-established principles in this court, we accept this uniform and stable body of judicial decision from the court of last resort of the State in which the property is situated, and in which the transactions that form the subject of this litigation took place, as conclusive testimony of the rule of action prescribed by the authorities of the State, as applicable to their interpretation and adjustment. We do not inquire whether a more suitable rule might not have been adopted, nor whether the arguments which led to its adoption were forcible or just. We receive

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the decisions having the character that are mentioned in the extract we have made from the opinion of the Supreme Court of Texas as having a binding force almost equivalent to positive law. Such being our conclusion in respect to this grant, we must sanction the judgment of the District Court that denies to it validity.

Judgment affirmed.

**HENRY S. FOOTE, PLAINTIFF IN ERROR, v. CYRUS W. EGERY
AND JOSEPH F. SMITH.**

The decision in the preceding case of *League v. Egery* and others concludes this also.

THIS case was brought up by writ of error from the District Court of the United States for the eastern district of Texas.

It was similar to the preceding case with respect to the principal question involved, and was argued by the same counsel.

Mr. Justice CAMPBELL delivered the opinion of the court.

The plaintiff claimed in the District Court two leagues and one-half of land in the county of Refugio, in the State of Texas, which were in the possession of the defendants. The defendant answered the claim by asserting title under grants from the State of Texas, and by the operation of the statutes of limitation.

The plaintiff maintained his claim by producing a grant to James Power and James Hewetson, issued under the authority of the State of Coahuila and Texas, in the year 1834, upon a contract of sale of a certain quantity of lands in the colony of Power and Hewetson, situate within the littoral or coast leagues. In deriving his title under these grantees, the plaintiff produced a deed, or an agreement for a conveyance, from Hewetson to Power and Walker; this paper was rejected as testimony by the court. Walker, this vendee, died in 1836,