

THE AFRICAN METHODIST
BETHEL CHURCH OF THE CITY
OF BALTIMORE

vs.

JOEL P. CARMACK ET AL.

MARCH TERM, 1849.

[CHURCH CORPORATIONS—CHANCERY PRACTICE—ACTS OF ATTORNEY.]

UNDER the act of 1802, ch. 111, authorizing the incorporation of churches, the persons elected according to the provisions of the 2d section of that act and not the congregation, constitute the corporation of the church.

Nine persons were elected trustees of a church, in accordance with the above act. A bill was filed in the name of the corporation against five of these trustees in their individual capacities. Before answering this bill the defendants filed a petition contesting the authority of the solicitor who filed it, upon the ground that a minority only of the board of trustees of the corporation authorized it to be filed, and for this reason prayed that the bill might be dismissed. *HELD—*

That notwithstanding the apparent anomaly of a corporation in its artificial capacity suing a majority of the individuals composing it in their natural capacity, such a state of things may very properly occur. In this case the three members authorizing the suit, would, by the charter, constitute a majority of a quorum for the transaction of business, and at a meeting thus held, the present proceedings might have been ordered.

The bill might have been filed in conformity with the charter, and it would therefore, be improper to dismiss it, upon this summary proceeding, before answer, without evidence, and merely upon allegations proceeding from the defendants themselves.

Where the appearance of an attorney is entered on the record, it is considered as done by the authority of the party, and whatever is done in the progress of the cause, is regarded as done by, and binding on the party himself—the fidelity of the attorney in the discharge of his trust being a question between him and the party for whom he undertakes to act.

[The nature of the question decided in this case as well as the facts are stated in the opinion.]

THE CHANCELLOR:

On the 21st of December last, a bill was filed in this court by the complainant, as a corporate body, against Joel P. Carmack, Thomas Cook, Daniel Brooks, Aaron Richfield, Frederick Harris and four other persons, in which it was alleged, that