NOTES OF CURRENT DECISIONS OF THE UNITED STATES SUPREME COURT.

Constitutional Law—Rule of Construction—Decisions of State Courts.

TAYLOR *v.* CITY OF YPSILANTI, 4 Morr. Trans. 326. Error to the circuit court of the United States for the eastern district of Michigan. This action was brought by a citizen of New York to recover from the city of Ypsilanti the amount of certain coupons on bonds issued by that city in aid of the construction of a railroad. Among other questions, the proposition was advanced on behalf of the city that the act of the legislature under which the bonds were issued is repugnant to the constitution of Michigan as expounded by the highest judicial tribunal of that state in People v. Salem, 20 Mich. 452; Bay City v. State Treasurer, 23 Mich. 499, and several other cases decided in the same court at a subsequent period, and that these cases constitute the law of the case and should be followed, as of obligation, without reference to the time when they were made, or to any opinion as to the soundness of the principles announced. The case was decided on appeal before the supreme court of the United States, on March 20, 1882, Mr. Justice *Harlan* delivering the opinion of the court: The legislature of a state, in the absence of constitutional prohibition, may authorize municipal corporations to aid in the construction of railroads, and a statute authorizing certain municipalities to aid in such construction is not in conflict with sections of the state constitution forbidding the credit of the state from being loaned to private persons or corporations, and forbidding the state from subscribing to the stock of any corporation, or from being interested in any work of internal improvement, and forbidding any person from being deprived of his property without

due process of law. Where a resolution of a city voting aid to a railroad on condition that if any of its citizens subscribe and pay for any stock in the railroad, the latter should deliver to such persons the bonds of the city to that amount, is a loan or donation within the meaning of the statute which authorizes municipal corporations to pledge their aid to a railroad "by loan or donation, with or without conditions." Federal courts, in all cases within their jurisdiction depending on local law, administer that law, so far as it affects contract obligations and rights, as judicially expounded in the state courts, at the time such obligations 926 were incurred or such rights accrued; but they are not bound to follow later decisions of such courts, modifying the rule previously announced by them.

E. W. Meddaugh and Geo. F. Edmunds, for plaintiff in error.

H. J. Beakes, for defendant in error.

The cases cited in opinion were: Swan v. Williams, 2 Mich. 427; People v. State Auditors, 9 Mich. 327; East Saginaw Manuf'g Co. v. East Saginaw, 19 Mich. 274; Township of Pine Grove v. Talcott, 19 Wall. 666; Railroad Co. v. County of Otoe, 16 Wall. 667; Olcott v. Supervisors, 16 Wall. 678; Ohio L. Ins. Co. v. Debolt, 16 How. 432; City v. Lamson, 9 Wall. 485; Douglas v. County of Pike, 101 U. S. 687.

Trusts—Estate Granted by Married Woman.

HEWITT *v.* PHELPS, 4 Morr. Trans. 455. Appeal from the circuit court of the United States for the southern district of Mississippi. The question presented on trial on the merits was whether the trustee of an estate had power to charge the estate with a debt contracted for supplies furnished for the use of the estate. A decision was rendered in the supreme court on April 10, 1882, the opinion being delivered by Mr. Justice *Matthews,* affirming the judgment of the circuit court: Where a married woman grants an estate to a trustee upon trust for her sole and

separate use, with remainder to her surviving children, by the terms of which the trustee takes merely the title, without any active duties in regard to the estate, reserving to herself, during her own life-time, the power to sell or exchange the property; and, after her death, that such power shall be exercised solely by her husband surviving her, and all powers to superintend, possess, manage, and control the property are conferred exclusively upon her husband as agent for said trustee, and as agent and truste for the grantor during her life, and as agent and trustee for her children after her death; but to be regarded, for the purposes of the deed, not merely as an agent, but also as a co-trustee, the trustee not in any manner to be responsible for the acts and conduct of her said husband; and the deed gives neither the trustee nor the husband a right to charge the trust estate for the expense of running it,—creditors of the estate have no claim of subrogation, nor any ground for enforcing against the estate the payment of their demand for supplies furnished to the husband for the estate, though used by the trustee after the husband's death, and although both the husband and trustee were insolvent, and although the trustee admitted a liability for them; as neither his admissions, nor the admissions of the legal heirs, could, in contemplation of law, create any charge on the estate.

William L. Nugent, for appellants.

E. Jeffords, J. Z. George, and Charles W. Clarke, for appellees.

The cases cited in the opinion as to this point were: Clopton v. Gholson, 53 Miss. 466; Norton v. Phelps, 54 Miss. 471.

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Municipal Aid to Railroads—Curative Acts.

TOWN OF THOMPSON *v.* PERRINE. Error to the circuit court of the United States for the southern district of New York. The case was decided in the

supreme court of the United States, at the October term, 1880, and the opinion was delivered by Mr. Justice *Harlan,* affirming the decision of the circuit court: Where the state constitution does not in terms, or by necessary intendment, restrain the legislature from conferring upon municipal authorities the power to subscribe to the stock of a railroad corporation, and by taxation to raise the necessary funds for the payment thereof, it may authorize or require a municipal corporation, by subscription to the stock, to aid in constructing a railroad connected with public interests of the municipality, and to provide for payment by issuing bonds or by taxation. That when the authority was made to depend upon the consent of the town, it is in the discretion of the legislature to prescribe how such consent shall be given, and it might remit a part of the conditions imposed, or heal any defects which may have occurred in the performance by the town of those conditions.

T. F. Bush, for plaintiff in error.

William M. Evarts, for defendant in error.

The cases cited in the opinion were: Scipio v. Wright, 101 U. S. 676; Bank of Rome v. Village of Rome, 18 N. Y. 38; S. C. 19 N. Y. 20; People v. Mitchell, 35 N. Y. 552; Thompson v. Lee County, 3 Wall. 330; People v. Batchellor, 53 N. Y. 131; Town of Duanesburgh v. Jenkins, 57 N. Y. 188; Williams v. Town of Duanesburgh, 66 N. Y. 129; Gelpcke v. Dubuque, 1 Wall. 175; Beloit v. Morgan, 7 Wall. 619; St. Joseph Township v. Rogers, 16 Wall 663; Clark v. City of Rochester, 13 How. Pr. 204; Horton v. Town of Thompson, 71 N. Y. 520; Cooper v. Town of Thompson, 13 Blatchf. 434; County of Warren v. Marcy, 97 U. S. 105; Murray v. Lylburn, 2 Johns. Ch. 441; Leitch v. Wells, 48 N. Y. 585.

State Constitution—Construction.

WADE *v.* TOWN OF WALNUT, 4 Morr. Trans. 398. Error to the circuit court of the United States

for the northern district of Illinois. The decision of the supreme court was rendered on April 3, 1882, Mr. Chief Justice *Waite* delivering the opinion of the court affirming the judgment of the circuit court. The question decided was whether a certain section of the Illinois constitution, relating to "municipal subscriptions to railroads or private corporations," was in force on a particular date. It was *held* that where, in numerous cases, the supreme court has assumed that the section in question took effect on the day fixed by the supreme court of the state, the question will not be considered as an open one while the supreme court of the state adheres to its present rulings.

George A. Sanders and Thomas S. McClelland, for plaintiff in error.

W. C. Goudy and Allan C. Story, for defendant in error.

The cases cited in opinion were: Town of Concord v. Portsmouth Sav. Bank, 92 U. S. 625; County of Moultrie v. Rockingham Ten-cent Sav. Bank. Id. 631; County of Randolph v. Post, 93 U. S. 502; Fairfield v. Gallatin Co. 100 U. S. 51; Walnut v. Wade, 103 U. S. 683; Town of Louisville v. Portsmouth Sav. Bank, 13 Law Rep. 193. See *ante,* 765, note.

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Collision—Mutual Fault.

STEAM TOW-BOAT LINE *v.* CALEB; CALEB *v.* THE S. A. STEVENS; THE OTHELLO *v.* CALEB. Appeals from the circuit court of the United States for the eastern district of New York, decided in the supreme court of the United States at the October term, 1880, Mr. Chief Justice *Waite* delivering the opinion of the court affirming the decree of the lower court, to the effect that two steamers are mutually in fault for a collision where one failed to give timely notice by whistles of a change of course, and the other neglected to slow down and take proper precautions to avoid the collision after it was seen to be imminent.

Henry T. Wing, for libellant.

A. Van Santvoord, for the Stevens.

C. Van Santvoord, for the Tow-boat Line.

Beebe, Wilcox & Hobbs, for the Othello.

Admiralty—Practice—Remanding Cause to District Court.

STEAM-SHIP CO. *v.* MOUNT; THE BENEFACTOR *v.* SAME. These were appeals from the circuit court of the United States for the eastern district of New York, and were heard and decided in the supreme court at the October term, 1880, the decision being rendered by Mr. Justice *Bradley.* Under a question of practice, it appears that section 636 of the Revised Statutes extends to admiralty proceedings, and gives the United States courts power, after hearing a cause on appeal, to remand with directions. Where rules are already established regulating proceedings, to obtain the benefit of a limited liability, until the determination of such proceedings, proceedings for the condemnation of the vessel in fault in a case of collision ought to be stayed.