

County Bonds—Validity of.

BALLS COUNTY v. DOUGLASS, U. S. Sup. Ct., Oct. Term, 1881. Error to the circuit court of the United States for the eastern district of Missouri. The decision of the supreme court of the United States was rendered on March 6, 1882. Mr. Chief Justice *Waite* declared the opinion of the court affirming the decree of the circuit court.

County bonds issued in Missouri by a *de facto* court, sealed with the seal of the court, and signed by the *de facto* president, cannot be impeached in the hands of an innocent holder by showing that the acting president was not *de jure* one of the justices of the court. It cannot be shown as a defense to bonds issued by counties in Missouri, in payment of subscriptions to the capital stock of a company, and in the hands of innocent holders, that the company to whose stock the subscription was made was not organized within the time limited by its charter. Bonds issued by counties in Missouri during the years 1870 and 1871, in payment of subscriptions to the stock of railroad companies, without a vote of the people, are valid, if the subscription was made under authority of charters granted in 1857, which did not require such a vote to be taken. Such bonds and coupons issued in those years were admissible in evidence, in an action against the county for the recovery of the amount due thereon, without being stamped as obligations for the payment of money, under the provisions of the internal revenue law. It was not necessary to prove the order of the county court authorizing the president of the court to countersign the bonds, where there was no plea or answer sworn to, denying their execution. Where there was no averment in the petition to that effect, testimony was admissible to prove that plaintiff was a *bona fide* holder and owner.

H. A. Cunningham, for plaintiff in error.

John H. Overall, for defendant in error.

Cases cited in the opinion: *State v. Douglass*, 50 Mo. 596; *Harbaugh v. Winsor*, 38 Mo. 327; *Bank of Missouri v. Merchants' Bank*, 10 Mo. 130; *Kayser v. Trustees*, 16 Mo. 90; *Smith v. Clark Co.* 54 Mo. 81; *St. Louis v. Shields*, 62 Mo. 247; *Macon Co. v. Shores*, 97 U. S. 277; *State v. Macon Co. Ct.* 41 Mo. 453; *Kansas City, etc., R. Co. v. Justices*, 47 Mo. 349; *State v. County Court*, 51 Mo. 531; *State v. Greene Co.* 54 Mo. 550; *Callaway Co. v. Foster*, 93 U. S. 570; *Scotland Co. v. Thomas*, 94 U. S. 688; *Henry Co. v. Nicolay*, 95 U. S. 624; *Cass Co. v. Gillett*, 100 U. S. 592; *State v. Garroutte*, 67 Mo. 455; *State v. Dallas Co. Ct.* 72 Mo. 330; *Douglass v. Pike Co.* 101 U. S. 687.

Commerce—Bridging Navigable Waters.

NEWPORT & CINCINNATI BRIDGE CO. v. UNITED STATES, U. S. Sup. Ct., Oct. Term, 1881. Appeal from the circuit court of the United States for the southern district of Ohio. This case was decided in the supreme court of the United States in April, 1882. Mr. Chief Justice *Waite* delivered the opinion of the court affirming the decree of the circuit court; *Miller, Field, and Bradley, JJ.*, dissenting.

The paramount power of regulating bridges that affect the navigation of the navigable waters of the United States is in congress. It comes from the power to regulate commerce with foreign nations and among the states. The

withdrawal by congress of its assent to the maintenance of a bridge, when properly made, is equivalent to a positive enactment that from the time of such withdrawal the further maintenance of the bridge shall be unlawful, notwithstanding the legislation of the several states upon the subject. If modifications are directed, assent is in legal effect withdrawn unless the required changes are made. Where congress licensed the erection of a bridge over a navigable stream, and in express terms reserved to itself the power to revoke the franchise or require alterations in case experience proved that the structure which was to be erected substantially and materially interfered with navigation, it may withdraw its assent, or direct such modification or alterations in the structure in its own discretion, and the United States will not be liable for the expenses incurred in making such modifications or alterations.

William M. Ramsey, for appellant.

S. F. Phelps, Solicitor General, for the United States.

Cases cited in opinion: As to the power of congress over bridges, *Wilson v. Blackbird Creek Marsh Co.* 2 Pet. 252; *The Wheeling Bridge Case*, 18 How. 421; *Gilman v. Philadelphia*, 3 Wall. 729; *The Clinton Bridge Case*, 10 Wall. 462; *Railroad Co. v. Fuller*, 17 Wall. 569; *Pound v. Turck*, 95 U. S. 464; *Wisconsin v. Duluth*, 96 U. S. 387.

City Bonds in Aid of Manufacturing Company.

CITY OF OTTAWA v. NATIONAL BANK, U. S. Sup. Ct., Oct. Term, 1881. The decision in this case was rendered by the supreme court of the United States on April 24, 1882. Mr. Justice *Harlan* delivered the opinion of the court affirming the judgment of the circuit court.

Where a city council had power, the voters consenting, to issue negotiable securities for certain municipal purposes, if the purchaser, under some circumstances, would have been bound to take notice of the provisions of the ordinances whose titles were recited in the bonds, he was relieved from any responsibility or duty in that regard by reason of the representation upon the face of the bonds that the ordinances provided for a loan for municipal purposes. Such a representation by the municipal authorities of the city would estop the city, as against *bona fide* holders for value, to say that the bonds were not issued for legitimate or proper municipal or corporate purposes. By the decisions of the supreme court of Illinois, municipal bonds, payable to bearer or to some named person or bearer, were excepted from the rule that notes payable to a person or bearer could not be transferred or assigned by delivery only, so as to authorize the holder to sue in his own name.

C. B. Lawrence, for plaintiff in error.

G. S. Eldredge, for defendant in error.

Cases cited in the opinion: *Roberts v. Bolles*, 101 U. S. 120; *Hilborn v. Artus*, 4 Ill. 344; *Roosa v. Crist*, 17 Ill. 450; *Garvin v. Wiswell*, 83 Ill. 217; *Turner v. Railroad Co.* 95 Ill. 143; *Wall v. Monroe Co.* 103 U. S. 77; *Johnson v. Stark Co.* 24 Ill. 75; *Brush v. Reeves*, 3 Johns. 439; *Dean v. Hall*, 17 Wend. 214; *Cox v. United States*, 6 Pet. 200; *Andrews v. Pond*, 13 Pet. 77; *Bell v.*