

is brought to have these stocks and bonds brought into the assets of the estate, so that the orator may have his share of them. The orator's interest in them depends wholly upon whether they were a part of the estate of the testator at the time of his death. If they were, his share in them goes to him by the will; if they were not, nothing of them would pass by the will to him, or any one. There is no question as to mental capacity, nor as to the rights of creditors, nor in any way as to the right and power of the testator to give or dispose of these securities to Loomis, or the beneficiaries, or any one else, in any manner he might see fit. The sole inquiry is as to the effect of what he did do. He could control the disposition of his estate after his death only by will, executed according to the statute of wills; but he could divest himself of this property during life by mere delivery and transfer, such as he fully accomplished. Had there been no reservations, there could have been no question. But these reservations were all optional and personal to himself. If he did not exercise his right to them, they were gone. He died without exercising the right, and it expired with him, leaving the property absolutely gone out of his estate, and wholly beyond the orator's rights. The transaction was in Vermont, (governed by Vermont laws,) which fully uphold it in this view. *Blanchard v. Sheldon*, 43 Vt. 512. Upon the case made, there is no relief to which the orator is entitled.

Let there be a decree dismissing the bill, with costs.

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SPINK *v.* FRANCIS and others.<sup>1</sup>

BROWN *v.* SAME.<sup>1</sup>

(Circuit Court, E. D. Louisiana. February 20, 1884.)

CONTEMPT.

Where the acts of the defendants were violations of the orders of the court, when strictly considered and construed, and where the defendants in their sworn answers purge themselves of any intentional violation of the court's orders, and may have misconceived the responsibility for the acts committed, the court reserved for future consideration, in connection with subsequent conduct, the doings of the defendants as presented by the evidence, and taxed against them the costs of the rules.

On Rule for Contempt.

*A. G. Brice, Joseph P. Hornor, and F. W. Baker*, for complainants.  
*James R. Beckwith*, for defendants.

BILLINGS, J. These causes are before us on rules for contempt. The cases show the issuance of the injunctions and the defendants' knowledge of them by service or otherwise. It also appears that the

<sup>1</sup> Reported by Joseph P. Hornor, Esq., of the New Orleans bar.

defendants were connected with prosecutions which were prohibited by the injunctions, and aided such procedures after the existence of the prohibitory orders. We think the acts of the defendants were violations of the orders of the court when strictly considered and construed. On the other hand, the defendants, in their sworn answers, purge themselves of any intentional violation of the court's orders; and the nature of the things done rendered it possible that the defendants, in advance of any judicial interpretation of the orders, might have misconceived the responsibility for the acts committed. On the whole, we are inclined, for the present, to suspend the imposition of any punishment for what we must adjudge to be acts of disobedience, and therefore of contempt. The authority of the court and the rights of the parties will be sufficiently maintained if we reserve for future consideration, in connection with subsequent conduct, the doings of the defendants as presented by the evidence now before us. The costs of these rules will be taxed against the defendants in the rules; those in each rule against the defendant in that rule.

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LOUISVILLE & N. R. Co. v. RAILROAD COMMISSION OF TENNESSEE.

EAST TENNESSEE, V. & G. R. Co. v. SAME.

(Circuit Court, M. D. Tennessee. February 29, 1884.)

1. RAILROADS—LEGISLATIVE CONTROL.

Railroads having been created mainly for the accommodation of the public, and to facilitate the business of the country, and being indispensable to the rapid and cheap transportation of commodities, are subject to legislative control within the limits of state and federal constitutional restrictions, and may be required by law to refrain from so using their property as to injure others, and by appropriate pains and penalties may be restrained from unjust discrimination and extortionate charges, compelled to observe precautionary measures against accident, and in other ways regulated for the public welfare.

2. SAME—VESTED RIGHTS.

But the legislation adopted must observe the contract rights of corporations under their charters; must be confined to the exercise of the *police power*, and not interfere with the vested rights of the companies in their property or franchises; must not inflict punishment or take property otherwise than by due process of law nor without compensation; must not deny to them the equal protection of the law; and must in all respects observe the constitutional guaranties prescribed for the protection of all citizens—railroad companies being for such purposes as much citizens as natural persons.

3. SAME—TENNESSEE ACT OF MARCH 30, 1883—UNCERTAINTY OF THE ACT—CONSTITUTIONAL LAW.

The act of the general assembly of Tennessee of March 30, 1883, to establish a railroad commission analyzed, and *held* to be invalid because its provisions are too indefinite, vague, and uncertain to sustain a suit for the penalties imposed, and do not sufficiently define the offenses therein declared. It leaves to the jury to say whether, upon the proof, the difference in rates amounted to discrimination, or whether the charges were unjust and unreasonable, thus making the guilt or innocence of the accused depend upon the finding of a jury,