

"Unless specific authority has been given by the legislature to the municipal corporation to grant pecuniary aid to railroads, all bonds purporting on their face to be for such purposes are void. In this case no such power has been granted, and there is nothing in the charter of Shreveport from which any such power can be inferred."

This decision of the supreme court cannot be limited to the view that it merely declares the want of authority to issue the bonds, which are only evidences of a debt; but it reaches further, and, in the absence of this expressed power, denies that a municipal corporation incurs any binding obligation when its authorities raise or borrow money in the name of the city for the purpose of donating pecuniary aid to a railway company. If the authorities of the city could not incur a debt for the purpose mentioned, it follows that no action or effort on their part, however repeatedly or persistently made, to ratify, settle, or compromise a debt, unlawfully incurred as this was, can result in imposing any obligation on the city which the law will enforce.

The proof shows that the notes given by the city's agent in 1873 are the evidences of a loan made to the city for the purpose of enabling the city to donate pecuniary aid to a railway company; and the three notes now sued on were given in compromise of the debt evidenced by the said note. All these transactions were without legal effect against the defendant, and no recovery can be had on this cause against the corporation.

OREGON & TRANSCONTINENTAL CO. v. HILMERS and others.

(Circuit Court, S. D. New York. June 21, 1884.)

PLEDGE—SECURITIES—REHYPOTHECATION BY BROKER.

Where the owner of securities pledges them with a stock-broker as collateral to a loan, the latter has no right to rehypothecate them in such a way that they cannot be restored to the owner upon payment of the loan, although both parties understood that the broker would have to use the securities to obtain the loan. Usage is inadmissible to destroy a contract.

Order of Arrest.

Holmes & Adams, for complainant.

Chamberlain, Carter & Hornblower, for defendants.

WALLACE, J. By the contract of pledge entered into between the plaintiff's assignor and the defendants, the former deposited with the latter certain shares of stock as collateral security for the payment of \$1,000,000 in one year, with interest, with authority to the defendants to sell, assign, and deliver the collaterals on the failure of the pledgor to fulfill his agreement. It is probably true, as alleged by the defendants, that the pledgor understood that the defendants, who were stock brokers, could not advance this large loan out of their own funds, but would be obliged to hypothecate the collaterals to ob-

tain the money. Upon this theory, if they had hypothecated the collaterals as his agents, or in such a way that they could be restored to him upon payment of the sum loaned on them, the defendants would not be liable for conversion. Such a use of the stock might not be inconsistent with the intention of the parties, and would not subvert the ultimate rights of the pledgeor, and, if sanctioned by usage, or if within the contemplation of the parties, would not be a conversion. But the defendants assert that, according to the understanding between them and the pledgeor, they were to be at liberty to mingle the securities with their own, and raise money on them generally as though they were their own. Such a use is utterly inconsistent with the contract of pledge. No evidence of usage is admissible which would destroy the contract. If the defendants have used the collaterals in such manner that they could not at once regain them and restore them to the pledgeor, when the obligation of the latter is discharged, they are liable for conversion. As this seems to be the case, the order of arrest is granted.

UNITED STATES *v.* HOWELL.¹

Circuit Court, W. D. Louisiana. May Term, 1884.

1. REVENUE LAWS—LIQUOR LICENSE—PURCHASE FOR ANOTHER WITHOUT RECEIVING PROFIT.

A grocer who, without obtaining a license for selling liquor, purchases a barrel of whisky for a customer, and enters on his books a charge against the customer for the price at which it was actually obtained from the liquor dealer, does not transgress the spirit of the revenue laws.

2. SAME—ONE NOT PRESUMED TO OFFEND ON ACCOUNT OF BEING A "GROCCER."

The fact that one is a grocer, rather than in any other line of business, should not raise a presumption of wrong-doing against him, in case of his purchasing a barrel of whisky to oblige a customer, and his entering on his books a charge therefor.

3. SAME—NOT INTENDED TO BE ODISIOUS OR OPPRESSIVE.

The revenue laws are for the purpose of aiding the collection of the government revenue and taxes, and they should not be construed by the courts so as to become odious or oppressive to the people.

Violation of Section 3242, Rev. St.

M. Elstner, U. S. Dist. Atty., for the United States.

BOARMAN, J., (*charging jury orally.*) The facts admitted in this case preclude a dispute on any matter of importance on this trial. The defendant, a member of a large commercial firm in this city, makes the admissions, and the government submits the case on his admissions.

¹ We are indebted to Talbot Stillman, Esq., of the Monroe, Louisiana, bar, for this opinion.