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1. A ship-owner who, on the trial of the issue as to the cause of collision, contests all liability whatever, is not thereby precluded from claiming the benefit of the limitation of liability provided by sect. 4283 of the Revised Statutes. *The "Benefactor,"* 239.
2. After such trial, a decree declaring his ship to be in fault, and fixing the damages which the respective libellants sustained, is *res judicata*, and, until reversed, must stand as the basis for determining their *pro rata* share of the fund substituted by stipulation for the ship and freight. On filing his petition for limited liability, the libellants, until final action shall be had thereon, should be restrained from enforcing the decree. *Id.*
3. *Semble*, that the stipulation on filing that petition should be for the value of the ship after the collision, with the addition thereto of the freight then pending, it not appearing that her value was subsequently diminished. *Id.*
4. Proceedings for a limitation of liability, if not instituted until after a party has obtained satisfaction of his demand, are ineffectual as to him. A return of the money should not be compelled, nor, in general, should relief be granted, except upon condition of compensating the party for any costs and expenses to which he may have been subjected by reason of the delay of the ship-owner in claiming the benefit of the statute. *Id.*
5. The court, in reversing the decree of the Circuit Court, directs that court to proceed upon the petition for limited liability, and promulgates a rule that such a petition shall be hereafter filed in the Circuit Court when the case is there pending. *Id.*
6. The rule requiring a steamer to keep out of the way of a sailing-vessel is equally imperative upon the latter to keep her course; and

CONSTITUTIONAL LAW (*continued*).

24. Under the Constitution of Illinois of 1848, a bill passed by both Houses of the legislature became a law when it was approved and signed by the governor of the State within ten days after its presentation to him; and this, notwithstanding the fact that, when the bill was so approved and signed, the legislature had adjourned *sine die*. *Seven Hickory* v. *Ellery*, 423.

25. A statute of Illinois, legalizing elections held by the voters of a county on the question of issuing negotiable bonds of the county, in aid of certain railroad companies, and authorizing, on conditions therein named, all the townships in counties where the township organization had been adopted, lying on or near to the line of a specified railroad, to subscribe to the stock of the railroad company, and issue negotiable bonds therefor, is a public act, and does not conflict with section 23 of article 3 of the Constitution of 1848, which provides that "no private or local law, which may be passed by the General Assembly, shall embrace more than one subject, and that shall be expressed in the title." *Unity* v. *Burrage*, 447.

26. A general statute of Tennessee required the county courts, when thereunto authorized by a popular vote at an election held for the purpose, to subscribe for stock in a railroad company. A special statute was subsequently passed, which, without requiring the submission of the question of subscription to a popular vote, conferred power on the county courts of the counties on the line of a particular railroad to make, and on the company to receive, a subscription for its stock. *Held*, that the special statute is not in violation of the provisions of sect. 8, art. 1, or of sect. 7, art. 11, of the Constitution of Tennessee of 1834, *supra*, p. 525. *County of Tipton* v. *Locomotive Works*, 523.

27. Neither the act of the legislature of Illinois, entitled "An Act to incorporate the Illinois Southeastern Railway Company," approved Feb. 25, 1867, authorizing townships to make donations to that company, nor the amendatory act of Feb. 24, 1869, authorizing the issue of township bonds, for the amount so donated, is in conflict with the Constitution of the State. *Harter* v. *Kernochan*, 562.

28. The statute of California, approved April 15, 1880, limiting to four years the terms of office of the commissioners required by the act of Congress of June 30, 1864, c. 184 (13 Stat. 325), "to be appointed by the executive of California," to manage the Yosemite Valley and Mariposa Big Tree Grove, is not repugnant to that act, and may be followed by him in making his appointments. *Ashburner* v. *California*, 575.

29. The act of the General Assembly of Missouri, approved March 18, 1871, which provides that "it shall be lawful for the council of any city, or the trustees of any incorporated town, to purchase lands, and to donate, lease, or sell the same to any railroad company upon such terms and conditions as such board may deem proper, and for the purposes of assisting and inducing such railroad company to locate and build machine-shops or other improvements upon such lands,

FLORIDA.

1. The circumstances stated under which bonds of Florida, payable to bearer, issued in aid of certain railroad companies, signed by her governor and her treasurer, and sealed with her seal, were sold by the active efforts of the governor and came into the hands of subjects of Holland. Most of the sales were in that country. *Held*, that inasmuch as the bonds, though fraudulent in their inception, were put upon the market and sold in a foreign country to a people largely unacquainted with the English language, a case is presented which justifies the court in treating the owners of them as purchasers for value and in good faith, and entitled to relief accordingly. *Railroad Companies* v. *Schutte*, 118.
2. One S., having money in his hands belonging to a corporation, W., fraudulently diverted it from the use to which the company had appropriated it, and purchased therewith bonds of the P. & G. and of the T. railroads. S. subsequently handed over the bonds to D and others, purchasers of the railroads from the trustees of the State internal improvement fund, that D. and his associates might use them in payment, it being the understanding that they were to raise money by mortgage and pay S. what he had advanced on the bonds, with commissions and fees in addition; and S., besides taking stock in the new company to be formed, was to have certain privileges in the election of directors. D. and his associates not being able to raise the balance of the purchase-money remaining after applying the bonds, S., by giving to the trustees a fraudulent check, got possession of the title-deeds, and caused them to be recorded. Thereupon D., for himself and his associates, executed a paper, purporting to convey the railroads to S., "in trust for the express purpose of enabling said S. — which he hereby agrees and binds himself to do — to convey the same to that incorporation, consisting or to consist as incorporators of said D. and his associates," as soon as the latter should be incorporated as a railroad company by the legislature. The legislature incorporated D. and his associates, and the company at once, without objection from S. or any one in his interest, took possession of the property and operated the railroad as owner. One L., who had succeeded to S. under his contracts, assumed control of the company, and was its principal stockholder. A new railroad company was then incorporated, which absorbed the other and took possession of its property. Both S. and L. were named as incorporators of the new company. The corporation W.,

1. A stipulation in writing, signed by the parties and filed with the clerk, that the cause shall be tried by the court, is equivalent to their waiver of a jury. *Bamberger* v. *Terry*, 40.
2. A stipulation, signed by the parties or their attorneys, and filed with the clerk of the Circuit Court, submitting a civil cause for trial on an agreed statement of facts, is "a stipulation in writing waiving a jury," within the meaning of sect. 649 of the Revised Statutes. *Supervisors* v. *Kennicott*, 554.

1. The grant of the right of way which the act of July 23, 1866, c. 212 (14 Stat. 210), makes to the St. Joseph and Denver City Railroad Company, "to the extent of one hundred feet in width on each side of said road where it may pass through the public domain," is absolute and *in præsenti*, and a party subsequently acquiring a parcel of such lands takes it subject to that right. *Railroad Company* v. *Baldwin*, 426.
2. *Quære*, Where Congress has conferred upon a railroad corporation, organized under the laws of a State, the right of way over the public lands in a Territory, can the State, subsequently created out of that Territory, prevent the corporation from enjoying that right. *Id.*
3. The grant made to Iowa by the act of May 15, 1856, c. 28 (11 Stat. 9), to aid in the construction of a railroad from Davenport to Council Bluffs, is *in præsenti*, and, with certain exceptions therein specified, it vested in the State the title to every section of public land designated by odd numbers for six miles in width on each side of the road, when the line thereof should be definitely fixed. *Grinnell* v. *Railroad Company*, 739.
4. The act authorized the State, subject to the approval of the Secretary of the Interior, to select, within the limit of fifteen miles of the road, land in alternate sections equal in amount to that which, within the six-mile limit, had been sold or otherwise appropriated by the United States. *Quære*, Does the right to any particular section or part of section, beyond the six-mile limit, vest in the State before the selection of it has been reported to and approved by the proper officer. *Id.*
5. After the lands had been duly certified to the State or to the railroad company, to which she transferred them, the legal title thereto was

1. The court is authorized by sect. 954 of the Revised Statutes to allow, at any time during the trial, amendments in the pleadings; and where it has done so, it must, in its discretion, determine whether the submission of the cause ought to be vacated. *Bamberger* v. *Terry*, 40.
2. Where the plaintiff is permitted to amend his declaration so as to avoid a variance between it and the proofs, and it appears that neither the nature nor the merits of the issue are thereby changed, the defendant is not entitled to an order setting aside the submission of the cause for trial. *Id.*
3. Where the complainant dies after the term at which the cause on its submission for final hearing upon the pleadings and proofs was continued by an order of *curia advisare vult*, the decree in his favor entered as of that term cannot be impeached by the defendants upon the ground that it was rendered subsequently to his death. *Mitchell* v. *Overman*, 62.
4. A prayer for instructions which are presented as a whole, is properly refused if any of them is erroneous. *United States* v. *Hough*, 71.
5. It is error to instruct touching the law applicable to facts of which there is no evidence. *Jones* v. *Van Benthuysen*, 87.
6. *Quœre*, Does the act of June 1, 1872, c. 255 (17 Stat. 196; Rev. Stat., sect. 914), authorize the review here of an action at law, wherein, pursuant to the practice of the courts of the State in which the Circuit Court was held, the facts were found by a referee. *Boogher* v. *Insurance Company*, 90.
7. Sect. 700 of the Revised Statutes is the only enactment providing for the review here of a civil cause where an issue of fact has been tried in the Circuit Court otherwise than by a jury. *Id.*
8. The Practice Act of Missouri declares that an issue of fact in any action may, upon the written consent of the parties, be referred. Where, therefore, the record states that, after a case was called for trial and a jury sworn to try the issue joined, a juror was, by "consent of parties," withdrawn, and the case referred to A., this court must assume that such consent, as well as that to waive a jury, was in writing. *Id.*
9. In order to give this court jurisdiction to determine whether the facts found by the referee, and confirmed by the court below, are sufficient to support the judgment, they must be treated as the finding of the court. Otherwise, there has not been such a judicial determination of them as to make them conclusive here. *Id.*
10. The ruling that, where any portion of the charge to the jury is correct, an exception to the entire charge will not be sustained, reaf-