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ALIENS.

1. The power to exclude or expel aliens is vested in the political departments of the Government, to be regulated by treaty or by act of Congress, and to be executed by the executive authority according to such regulations, except so far as the judicial department is authorized by treaty or by statute, or is required by the Constitution, to intervene. And this is true of the privilege of transit. *Fok Yung Yo v. United States*, 296.
2. By the treaty between the United States and China, of 1894, the privilege of transit across the territory of the United States could only be enjoyed subject to such regulations of the Government of the United States as might be necessary to prevent the privilege from being abused. *Ib.*
3. The treaty, in recognizing the privilege and providing that it should continue, proceeded on the ground of its existence and continuance under governmental regulations, and no act of Congress was required to carry it into effect. *Ib.*
4. Under existing regulations the action of the collector of customs in refusing transit cannot be interfered with by the courts. *Ib.*
5. *Fok Yung Yo ante*, 296, followed. *Lee Gon Yung v. United States*, 306.

APPEAL.

Where the decree of a Circuit Court and the order allowing an appeal both state that the bill was dismissed for want of jurisdiction, no separate certificate is necessary, and the appeal may be taken at any time within two years. *Excelsior Pipe Company v. Pacific Bridge Co.*, 282.

CASES DISTINGUISHED.

See CONSTITUTIONAL LAW, 3.

CLAIMS AGAINST THE UNITED STATES.

1. The facts and law of this case were so fully and satisfactorily discussed in the Court of Claims that its opinion might well be adopted as that of this court. *United States v. Borchering*, 223.
2. That court held that the claimant Borchering was entitled, on the facts shown, to recover from the United States the sum of seven thousand and nine hundred dollars, and this court holds that the conclusions of that court were correct and affirms the judgment. *Ib.*
3. Section 19 of the act of May 28, 1896, c. 252, providing that "the terms of office of all commissioners of the Circuit Courts heretofore appointed shall expire on the thirtieth day of June, 1897, . . . and said com-

missioners shall then deposit all the records and other official papers appertaining to their offices in the office of the clerk of the Circuit Court, by which they were appointed," not having authorized the filing of the writings in question, and no provision having been made for compensating the clerk for the service of receiving them and retaining them in his custody, the Court of Claims erred in awarding judgment in favor of the claimant. *United States v. Van Duzee*, 278.

COAL MINES.

1. It is within the power of a state legislature to provide for the appointment of inspectors of mines and the payment of their fees by the owners of the mines. *St. Louis Coal Company v. Illinois*, 203.
2. A law providing for the inspection of coal mines is not unconstitutional by reason of its limitation to mines where more than five men are employed at any one time. *Ib.*
3. Where the law provided for an inspection of coal mines at least four times a year, it was held not to be objectionable by reason of the fact that a discretion was invested in the inspectors to cause the mines to be inspected more than four times a year, and as often as they might deem it necessary and proper. *Ib.*
4. A law providing that the fees for each inspection shall not be less than six nor more than ten dollars is not rendered unconstitutional by the fact that, within these limits, the fees for each inspection are fixed by the inspector. *Ib.*
5. The act of Congress, approved June 28, 1898, known as the Curtis Act, did not operate to deprive the lessors of coal mines in the Choctaw Nation of royalties due and owing to them for coal mined under valid leases, prior to that date. *Southwestern Coal Company v. McBride*, 499.

CONSTITUTIONAL LAW.

1. Giving to the statute of Tennessee the same meaning that was given to it by the Supreme Court of that State, which this court is bound to do, it is *held* that it violates the interstate commerce clause of the Constitution of the United States. *Stockard v. Morgan*, 27.
2. All the cases cited in the opinion of the court deny the right of a State to tax people representing owners of property outside the State for the privilege of soliciting orders within it, as agents of such owners, for property to be shipped to persons within the State. *Ib.*
3. *Ficklen v. Shelby County Taxing District*, 145 U. S. 1, distinguished from this case. *Ib.*
4. Although a State has general power to tax individuals and property within its jurisdiction, yet it has no power to tax interstate commerce, even in the person of a resident of the State. *Ib.*
5. The seventh section of the act of Pennsylvania of April 27, 1855, is as follows: "That in all cases where no payment, claim, or demand shall have been made on account of or for any ground rent, annuity, or other charge upon real estate for twenty-one years, or no declaration or acknowledgment of the existence thereof shall have been made within

that period by the owner of the premises, subject to such ground rent, annuity, or charge, a release or extinguishment thereof shall be presumed, and such ground rent, annuity, or charge shall thereafter be irrecoverable: *Provided*, That the evidence of such payment may be perpetuated by recording in the recorder of deeds' office of the proper county the duplicate of any receipt therefor, proved by oath or affirmation to be a true copy of that signed and delivered in the presence of the payer and witnessed at the time by this deponent, which recorded duplicate or the exemplification of the record thereof shall be evidence until disproved; and the evidence of any such claim or demand may be perpetuated by the record of any judgment recovered for such rent, annuity, or charge in any court of record, or the transcript therein filed of any recovery thereof by judgment before any alderman or justice of the peace, which record and judgment shall be duly indexed: *Provided*, That this section shall not go into effect until three years from the passage of this act." *Held*, that this was not an act or law impairing the obligation of contracts within the meaning of the Constitution of the United States. *Wilson v. Iseminger*, 55.

6. By the act of March 18, 1886, the city of Vicksburg was authorized to provide for the erection and maintenance of a system of waterworks and the contract made in accordance with its provision was within the power of the city to make, and the subsequent legislation, state and municipal, set forth in the bill, impair the contract rights of the water company, within the protection of the Constitution of the United States unless the city can point to some inherent want of legal validity in the contract. *Vicksburg Waterworks Co. v. Vicksburg*, 65.
7. It is one of the most valuable features of equity jurisdiction, to anticipate and prevent a threatened injury, where the damages would be insufficient or irreparable; and the exercise of such jurisdiction is for the benefit of both parties, in disclosing to the defendant that he is proceeding without warrant of law, and in protecting the complainant from injuries which, if inflicted, would be wholly destructive of his rights. *Ib.*
8. This cause presents a controversy so arising under the laws and Constitution of the United States as to give the Circuit Court jurisdiction. *Ib.*
9. As the remedies resorted to by independent States for the determination of controversies raised by collision between them were withdrawn from the States by the Constitution, a wide range of matters, susceptible of adjustment, and not purely political in their nature, was made justiciable by that instrument. *Kansas v. Colorado*, 125.
10. Where a State on behalf of her citizens and in vindication of her alleged rights as an individual owner files a bill against another State to obtain relief in respect of being wholly deprived by the direct action of the latter of the water of a river accustomed to flow through and across her territory, and the consequent destruction of her property, and of the property of her citizens and injury to their health and comfort, the original jurisdiction of this court may be exercised. *Ib.*
11. If it is a case of circumstances in which a variation between them as

- stated by the bill and those established by the evidence, might either incline the court to modify the relief or to grant no relief at all, the court, even though it sees that the granting or modified relief would be attended with considerable difficulty, will not support a demurrer. *Ib.*
12. The general rule is that the truth of material and relevant matters, set forth with requisite precision, are admitted by demurrer, but in a case of great magnitude, involving questions of grave and far-reaching importance, that rule will not be applied, and the case will be sent to issue and proofs. *Ib.*
 13. The legislation of the State of Connecticut, in respect to the taxation of shares of stock in a local corporation, held by non-residents, which is set forth in the statement of facts, is not in conflict with paragraph 1 of section 2 of article IV of the Federal Constitution, or the Fourteenth Amendment to that Constitution. *Travellers' Insurance Co. v. Connecticut*, 364.
 14. The court below erred in dismissing this action, for want of jurisdiction, as the right which it was claimed had been unlawfully invaded, was one arising under the Constitution and laws of the United States; and although it has been held that, on error from a state court to this court, where the Federal question asserted to be contained in the record, is manifestly lacking all color of merit, the writ of error should be dismissed, that doctrine relates to questions arising on writs of error from state courts, where, aside from the Federal status of the parties to the action, on the inherent nature of the Federal right which is sought to be vindicated, jurisdiction is to be determined by ascertaining whether the record raises a *bona fide* Federal question. *Swafford v. Templeton*, 487.

See COAL MINES;
INSURANCE, 1.

CORPORATION.

1. The Tulare irrigation district, in California, issued and sold its bonds for the purpose of constructing its irrigation works. The proceeds were used for that purpose by the corporation, and the works were by means thereof constructed. The corporation then refused to pay the bonds, and denied its liability on them upon the ground that it was never legally organized as a corporation, and hence had no legal right to issue any bonds. *Held*, on the authority of *Douglas County Commissioners v. Bolles*, 94 U. S. 104, that common honesty demanded that a debt thus incurred should be paid; and that there was nothing in the facts in this case to set aside the application of that principle; that if anything could constitute a *de facto* corporation the defendant is one and that, being thus a *de facto* corporation, none but the State can question its existence. *Tulare Irrigation District v. Shepard*, 1.
2. Under the circumstances stated in the opinion of the court, the landowner is estopped from setting up the defence of the want of notice, as against the plaintiff in this case. *Ib.*
3. That the State has power to forfeit the charter of a corporation for an

abuse of its privileges, is recognized as law in Louisiana. *New Orleans Waterworks Co. v. Louisiana*, 336.

4. In Louisiana a corporation is liable to be proceeded against for taking illegal rates by *quo warranto* to the suit of the State. *Ib.*

COURTS OF THE UNITED STATES.

1. The District and Circuit Courts of the United States are always open for the transaction of some business which may be transacted under the orders of the judge in his absence, and on such transaction rest the plaintiff's claims in this case, which the court sustain as business which could be transacted by the clerk in the absence of the judge, following the departmental construction of the statutes. *United States v. Finnell*, 236.
2. Of course if that construction were obviously or clearly wrong it would be the duty of the court to so adjudge; but if there simply be doubt as to the soundness of that construction, the action of the Government in conformity with it for many years should not be overruled except for cogent reasons. *Ib.*

DAMAGES.

The obligee in a bond which supersedes an order confirming a sale of real estate, and directing the immediate execution of a deed and delivery of possession thereof to the purchaser, is entitled, after that order has been affirmed on the appeal, to recover as damages for the breach of the obligation of the bond the value of the use and possession, that is to say in this case, the rents and profits of the real estate during the time the purchaser is kept out of the possession and use of the real estate by the supersedeas bond, and the appeal in which it was allowed. *Woodworth v. Northwestern Life Ins. Co.*, 354.

EQUITY.

1. The time at which a party appeals to a court of equity for relief affects largely the character of the relief which will be granted. *New York City v. Pine*, 93.
2. A failure to pursue statutory remedies is not always fatal to the rights of a party in possession, and if full and adequate compensation is made to the plaintiff, sometimes the possession of the defendant will not be disturbed. *Ib.*
3. A court of equity may take possession and finally end a controversy like the present by securing the payment of adequate compensation in lieu of a cessation of the trespass. *Ib.*

See CONSTITUTIONAL LAW, 7.

EVIDENCE.

In this case there is nothing whatever in the bill of exceptions to show that the evidence contained therein is all the evidence that was given on the trial, and the court cannot presume, for the purpose of reversing the judgment, that there was no evidence given upon which the jury might

rightfully have found the verdict which they did. *United States v. Coffee Queen Mining Company*, 495.

INSURANCE.

1. The classification of life and health insurance companies separately from fire, marine and inland insurance companies, and mutual benefit and relief organizations doing business through lodges and mutual benefit associations, made by the State of Texas in respect of insurance, is not so arbitrary and destitute of reasonable basis as to be obnoxious to constitutional objection. *Fidelity Mutual Life Insurance Co. v. Mettler*, 308.
2. In an action on a life insurance policy it is not necessary to prove the fact of death beyond a reasonable doubt. A verdict for the party in whose favor the weight of evidence preponderates will be sustained. *Ib.*
3. The inference of death may arise from disappearance under circumstances inconsistent with a continuation of life. *Ib.*
4. The belief of the family of an assured that he is dead is not admissible on the trial of an action on a policy of insurance on his life as independent evidence of the fact of his death, but the entertainment of such belief may be proven as tending to show innocence of fraud. And, in this case, the evidence which was admitted cannot be presumed, the entire record considered, to have had any influence whatever on the verdict except from the point of view in which it was admissible. *Ib.*
5. No other objection urged constituted reversible error or requires particular mention. *Ib.*

JURISDICTION.

1. The question involved in this case upon the merits is, in substance, whether the plaintiff is entitled to the alluvion caused by the recession of the Mississippi River to the extent of many hundred feet east of the point where it flowed in 1852, at the time when the plaintiff's predecessor took title to the property by virtue of a patent from the United States. The trial court held she was, and the Supreme Court of the State of Missouri held she was not. In the opinion of this court the case involves no Federal question, and it is dismissed on the ground of lack of jurisdiction. *Sweringen v. St. Louis*, 38.
2. In an action of ejectment against private individuals, the jurisdiction of the Circuit Court cannot be maintained on the ground that by averments that plaintiffs were ousted in violation of the treaty of October 21, 1803, and of the Fifth Amendment, the provisions of which it was the duty of the Federal Government to observe, it appeared that the case arose under the Constitution, or laws, or treaties of the United States. *Filhiol v. Maurice*, 108.
3. The rule reiterated that this court has no jurisdiction under the third division of section 709 of the Revised Statutes unless the party seeking the writ of error has unmistakably invoked for the protection of an asserted right, title, privilege or immunity, the Constitution, or some treaty, statute, commission, or authority, of the United States. *Michigan Sugar Company v. Michigan*, 112.
4. Where a party, drawing in question in this court a state enactment as

invalid under the Constitution of the United States, or asserting that the final judgment of the highest court of a State denied to him a right or immunity under the Constitution of the United States, did not raise such question or specially set up or claim such right or immunity in the trial court, this court cannot review such final judgment and hold that the state judgment was unconstitutional, or that the right or immunity so claimed had been denied by the highest court of the State, if that court did nothing more than decline to pass upon the Federal question because not raised in the trial court, as required by the state practice. *Erie Railroad Company v. Purdy*, 148.

5. If, upon examining the record, this court had found that a Federal question was properly raised, or that a Federal right or immunity was specially claimed in the trial court, then the jurisdiction of this court would not have been defeated by the mere failure of the highest court of the State to dispose of the question so raised, or to pass upon the right or immunity so claimed. *Ib.*
6. The defendant in error moved to dismiss the action on the ground that no Federal question was decided by the Supreme Court of Iowa. *Held*, that the motion should be overruled, as the plaintiff explicitly based his right of action on Rev. Stat. §§ 5197, 5198, and as the judgment of the trial court, and that of the Supreme Court of the State, denied such right, this court therefore has jurisdiction. *Talbot v. Sioux City First National Bank*, 172.
7. In these statutes relating to illegal interest, it is the interest charged, and not the interest to which a forfeiture might be enforced that the statute regards as illegal, and if interest greater than the legal rate is charged, it may be relinquished, and recovery had at the legal rate. *Ib.*
8. Matters within the pleadings in this case having been left undetermined by the court below, and the cause having been detained for the purpose of thereafter passing upon them, and for the entry of a further decree, the decree entered below was not final, and this court is without jurisdiction to pass upon it. *Covington v. Covington First National Bank*, 270.
9. If a bill be brought to enforce or set aside a contract, though such contract be connected with a patent, it is not a suit under the patent laws, and the jurisdiction of the Circuit Court can only be maintained upon the ground of diversity of citizenship. *Excelsior Pipe Co. v. Pacific Bridge Co.*, 282.
10. Although the bill be an ordinary bill for the infringement of a patent, of which the Circuit Court would have jurisdiction, if the answer show that it is really a suit upon a contract the court should dismiss the bill. *Ib.*
11. Where a bill is filed by a licensee (the license being set up merely to show the title of the plaintiff to the patent) against the patentee and another party to whom the patentee has granted a conflicting license, the jurisdiction of the court is not ousted by reason of allegations in the answer that the plaintiff had forfeited all his rights under the license by failure to comply with its terms and conditions, by reason of which the license had been revoked by the patentee. *Ib.*

12. The authority of the Government in prescribing regulations in respect of transit being unqualified, and the existing regulations not open to constitutional objection, the court below could not interfere by *habeas corpus* with the collector's orders, and its ruling on an offer of evidence, the entire record considered, was not erroneous. *Lee Gon Yung v. United States*, 306.
13. In order to warrant the exercise by this court of jurisdiction over the judgments of state courts, there must be some fairground for asserting the existence of a Federal question, and in the absence thereof a writ of error will be dismissed, although the claim of a Federal question was plainly set up; and where by the record it appears that such a claim, although set up, had no substance or foundation, the fact that it was raised was not sufficient to give this court jurisdiction. *New Orleans Waterworks Co. v. Louisiana*, 336.
14. Upon a careful review of all questions, the court is of opinion that no Federal question exists in this record, and that the court is without jurisdiction in this case. *Ib.*
15. The original jurisdiction, vested by the Constitution in this court over controversies in which a State is a party, is not affected by the question whether the State is a party plaintiff or party defendant. *Minnesota v. Hitchcock*, 373.
16. A dispute as to the title to real estate is a question of a justiciable nature, and can properly be determined in a judicial proceeding. *Ib.*
17. The United States are to be taken, for the purposes of this case, as the real party in interest adverse to the State. *Ib.*
18. This court has jurisdiction of this controversy, and is called upon to determine the case on its merits. *Ib.*
19. Not only the technical rules of statutory construction, but also the general scope of the legislation in these matters, and the policy of the United States in respect to public schools, and also to Indians, concur in sustaining the contention of the Government that none of these ceded lands passed under the school grant to the State. *Ib.*
20. The court is of opinion that the claim of Minnesota to these lands cannot be sustained, and that the bill should be dismissed. *Ib.*

See CONSTITUTIONAL LAW, 8.

MORTGAGE.

1. The judgment of the Circuit Court of Appeals, sustaining the act of February 3, 1897, which provided that "section 4742 of Mansfield's Digest of the Laws of Arkansas, heretofore put in force in the Indian Territory, is hereby amended by adding to said section the following: "Provided that if the mortgagor is a non-resident of the Indian Territory, the mortgage shall be recorded in the judicial district in which the property is situated at the time the mortgage is executed. All mortgages of personal property in the Indian Territory heretofore executed and recorded in the judicial district thereof in which the property was situated at the time they were executed are hereby validated," is sound as applicable to this case. *McFaddin v. Evans-Snider-Buel Co.*, 505.

2. The plain purpose of Congress was to give effect to mortgages of non-residents, which had been, before the passage of the act, recorded in the judicial district in which the property was situated at the time the mortgages were executed. *Ib.*
3. The act as so construed and applied was a valid exercise of Congressional power, and in circumstances like those of the present case, cannot be justly impugned as depriving the attaching creditor of property within the meaning of the Constitution. *Ib.*
4. The power of a legislature to pass laws giving validity which were before ineffectual, is well settled. *Ib.*

NAVY.

1. Section 7 of the act of March 3, 1899, c. 413, 30 Stat. 1004, in effect abolishes the rank of Commodore, at least as far as respects the active list of the line of the Navy, and lifts those in that rank to that of Rear Admiral. Clearly that was a special provision in respect to which the attention of Congress was at the time directed, and when in section 13 Congress prescribed a general rule for the salaries of naval officers, such general rule cannot be understood as repealing that special provision. *Rodgers v. United States*, 83.
2. That section fixed the amount of the salary but did not affect any general provisions of law affecting a difference between salary while at sea and while on shore. *Ib.*

PATENT FOR INVENTION.

1. Patent No. 404,414, issued June 4, 1889, to William R. Jones, for a "method of melting molten pig metal," is a good and valid patent, and was infringed by the defendant. *Carnegie Steel Company v. Cambria Iron Company*, 403.
2. The process described in the patent consisted of a large reservoir between the blast furnaces and the converters, in which should always be maintained a large quantity of metal, which should be drawn off in small quantities at a time and replenished by a like quantity of metal from the blast furnaces. *Ib.*
3. A process patent can only be anticipated by a similar process. A process patent is not anticipated by mechanism which might, with slight alterations, have been adapted to carry out that process, unless at least such use of it would have occurred to one whose duty it was to make practical use of the mechanism described. *Ib.*
4. A disclaimer may extend to a part of the specification as well as to a claim or one feature of a claim, though it would be otherwise if the purpose of the disclaimer had been to alter the description of the invention, or convert the claim from one thing into something else. *Ib.*
5. A stipulation of counsel entered into for the purpose of saving time may be repudiated where the facts subsequently developed show that with respect to a particular matter it was inadvertently signed, provided that notice be given in sufficient time to prevent prejudice to the opposite party. *Ib.*

See JURISDICTION, 11, 12, 13.

PENSIONS.

Section 4747 of the Revised Statutes, which provides that no sum of money due, or to become due, to any pensioner shall be liable to attachment, levy or seizure, by or under any legal or equitable process whatever, whether the same remains with the Pension Office, or any officer or agent thereof, or is in course of transmission to the pensioner entitled thereto, but shall inure wholly to the benefit of such pensioner, protects the fund only while in the course of transmission to the pensioner; but, when the money has been paid to him, it has enured wholly to his benefit, and is liable to seizure as opportunity presents itself. *McIntosh v. Aubrey*, 122.

PRACTICE.

1. In the exercise of original jurisdiction by this court the usual practice in equity cases is to hear applications for leave to file bills, *ex parte*, and, ordinarily, leave is granted as of course. *Washington v. Northern Securities Company*, 254.
2. But this is not an invariable rule, and where it is apparent on the face of the proposed bill that there is a defect of parties, which cannot be supplied without ousting the jurisdiction, leave will be denied. *Ib.*
3. Where the objection is one of jurisdiction over the subject-matter, and the case is of grave importance, leave to file will be granted that the fullest argument may be had. *Ib.*

PUBLIC LAND.

1. A Federal question was presented by the contentions of the plaintiff in error, and this court is of opinion, that while there was a lake abutting on or to the north of the lots, the plaintiff would take all land between the meander line and the water, and all accretions, it was competent for the defendant to show that there was not, at the time of the survey, nor since, any such lake, and to contend that, in such a state of facts there could be no intervening land, and no accretion by reliction. *French-Glenn Live Stock Co. v. Springer*, 47. *Same v. Colwell*, 54.
2. This was an appeal from a decree of the Court of Private Land Claims, confirming the title of the appellees to a tract of land in New Mexico. *Held*, that in the absence of any sufficient attack upon the record, or of any evidence on the part of the Government going to disprove or discredit the averments therein, it formed enough of a basis for the finding of the court below that there was a grant made as stated in its findings, and that such grant and the record thereof in the archives had been destroyed under the circumstances stated. *United States v. Pendell*, 189.
3. The treaty of December 30, 1853, between the United States and Mexico, and the act of Congress in support of it, were not intended to debar parol proof of the existence and of the contents of a grant which had been destroyed under the circumstances detailed, or that, under such circumstances, a presumption that the grant had been recorded could not be indulged. *Ib.*

4. In this case the evidence of possession was sufficient, in connection with the other evidence, upon which to base a presumption that the petitioner had a title to the land, which should be confirmed. *Ib.*
5. The terms of the act of March 3, 1891, 26 Stat. 854, (establishing the Court of Private Land Claims,) with reference to a proceeding like this, leave no room for doubt that it was the intent of Congress to require that, before a decision of the court in the premises, all those asserting claims in the land, adverse to the United States, should be made parties, and should be heard in support of their validity. *United States v. Green*, 256.
6. By the law in force at the time of the sale under consideration, a grant initiated in the manner in which the one in question is claimed to have been, could not exceed in the aggregate four sitios. *Ib.*
7. In its essential feature this case is like *Ely's Administrator v. United States*, 171 U. S. 220. *Ib.*
8. It may be presumed that the Mexican officials duly performed the duty imposed upon them of registering the fact of the making of a grant of public lands. *Ib.*
9. In *Cameron v. United States*, 148 U. S. 301, the matter passed upon was not the same as that which is present in the case at bar. *Ib.*

See JURISDICTION, 18 to 22.

STATUTE.

1. Where there are two statutes, the earlier special and the later general, (the terms of the general being broad enough to include the matter provided for in the special,) the fact that the one is special and the other is general creates a presumption that the special is to be considered as remaining an exception to the general, and the general will not be understood as repealing the special, unless a repeal is expressly named, or unless the provisions of the general are manifestly inconsistent with those of the special. *Rodgers v. United States*, 83.
2. In case statutes are alleged to be inconsistent with each other, effect must be given to both, if by any reasonable interpretation, that can be done; and like principles must control when the question is whether an act of Congress has been superseded in whole or in part by a subsequent treaty with a foreign nation. *United States v. Lee Yen Tai*, 213.

TRUST.

The property involved in this suit is improved real estate in the city of Washington; and the controlling question presented is, whether the sale of it under a deed of trust stands in the way of its redemption by Mrs. Hitz upon her paying the debt secured by the deed of trust. *Held*: As between the parties to the original cause the title to the real estate in question was bound by the filing of the cross-bill by Mrs. Hitz. The deeds which Mrs. Hitz sought to have set aside are valid and enforceable instruments. The sale by Tyler as trustee conferred no title as against Mrs. Hitz. Mrs. Hitz is entitled in this suit to redeem the property by paying such sum as may be due on account of the debt to secure which the deed to Tyler was made. *Hitz v. Jenks*, 155.









