ties, in cases like this, is in the nature of a trust.* The jurisdiction of a court of equity to interfere in all cases involving such an ingredient, is too clear to require any citation of authorities. It rests upon an elementary principle of equity jurisprudence.

"The power is reserved to a court of equity to act upon a principle often above-mentioned, namely, that whenever there is a right it ought to be made effectual."† Where there is a right which the common law, from any imperfection, cannot enforce, it is the province and duty of a court of equity to supply the defect and furnish the remedy.‡

The decree is REVERSED. A mandate will be sent to the Circuit Court directing that the demurrer be overruled, and the cause proceeded in according to the principles of equity and the rules of equity practice.

BELOIT *v.* MORGAN.

1. A judgment in favor of a bondholder upon certain municipal bonds, part of a larger issue, against the town issuing them, is conclusive on a question of the validity of the issue on a suit brought by the same creditor against the same town, on other bonds, another part of the same issue; the parties being identical, and all objections taken by the town in the second suit having been open to be taken by it in the former one.
2. A legislative enactment created the city of Beloit, carving it out of territory previously covered by the town of Beloit only. The statute enacted thus:

> "All principal and interest upon all bonds which have heretofore been issued by the town of Beloit, for railroad stock or other purposes, shall be paid when the same, or any portion of the same, shall fall due, by the city and town of Beloit, in the same proportions as if said town and city were not dissolved, such proportions to be apportioned," &c.

Held, that this made bonds issued by the town valid, assuming that previously to the act they were not so.

APPEAL from the Circuit Court for Wisconsin.

The legislature of Wisconsin, by act of 1853, authorized

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* Von Hoffman *v.* The City of Quincy, 4 Wallace, 555.

† 1 Kaime's Principles of Equity, 3.

‡ Quick *v.* Stuyvesant, 2 Paige, 92.

the supervisors of the town of Beloit to subscribe to the capital stock of a certain railroad company, and to pay for the same in the bonds of the town, payable at the expiration of a term named, and with a rate of interest specified.

The supervisors, professing to execute the authority so conferred, did subscribe to the stock of a certain railroad company and issued bonds; of many of which one Morgan became the holder, *bonâ fide*.

Whether the bonds were issued pursuant to the authority which the statute gave to the supervisors, soon became a matter of controversy between the holders of them and the authorities of Beloit. These last asserted that they were not so issued, but were made without any legal authority; were in violation of the act of the legislature, and constituted a corrupt and usurious contract. They would accordingly pay nothing on the bonds.

In this state of things the legislature of Wisconsin, in 1856, created the city of Beloit; carving it out of territory which constituted the former *town* of Beloit. The charter of the new city provided thus:

"All principal and interest upon all bonds which have heretofore been issued by the town of Beloit for railroad stock or other purposes, when the same or any portion thereof shall fall due, SHALL be paid by the city and town of Beloit in the same proportions as if said town and city were not dissolved."

This provision was re-enacted in 1857, in an act amending the charter of the city.

With this act in force, Morgan brought suit at law for the interest of some of his bonds, against the town of Beloit, and on the 9th of January, 1861, obtained judgment against it.

He now also brought other suits against the town, on other of the bonds, not the same specific instruments, of course, as those on which he had obtained judgment, but part of the same issue, and a suit on which involved the same questions as did the suit on those on which he had already recovered.

Thereupon the town of Beloit filed a bill, the bill below, in the Circuit Court for Wisconsin, to enjoin the proceedings at law, and to compel a surrender of the bonds. The answer set up,

1. By way of estoppel, the judgment of 9th January, 1861, on certain of the bonds, as conclusive of the validity of the whole issue, and

2. The act of 1856 and its re-enactment of 1857, and alleged that it was the intention of the legislature to provide by those acts that the bonds in question should be paid; and that they were a legislative ratification of the bonds, with effect to cure any irregularity or want of authority.

The court below dismissed the bill. Appeal accordingly.

Messrs. Palmer and Ryan, for the appellant; Mr. Carpenter, contra.

Mr. Justice SWAYNE delivered the opinion of the court.

The bonds and coupons to which this litigation relates were issued under the same statute of Wisconsin, and for the same purpose, as those involved in the preceding case, just decided. The object of the bill is to enjoin the appellee from proceeding in the suits at law which he has instituted upon a part of the securities in his hands; and to have those and all others belonging to him, delivered up and cancelled. The court below heard and dismissed the case. It is brought here by this appeal for re-examination.

Numerous objections have been made to the validity of the bonds.

The argument on both sides has been learned and elaborate. The view which we have taken of the case will render it necessary to consider but two of the points to which our attention has been called.

I. On the 9th of January, 1861, the appellee recovered a judgment at law against the appellant upon another portion of these securities—though not the same with those in question in this case. The parties were identical, and the title involved was the same. All the objections taken in this

case might have been taken in that. The judgment of the court could have been invoked upon each of them, and if it were adverse to the appellant, he might have brought the decision here by a writ of error for review. The court had full jurisdiction over the parties and the subject. Under such circumstances, a judgment is conclusive, not only as to the *res* of that case, but as to all further litigation between same parties touching the same subject-matter, though the *res* itself may be different.

An apt illustration of this principle is found in *Gardner* v. *Buckbee*.* Gardner bought a vessel from Buckbee, and gave two notes for the purchase-money. Buckbee sued him upon one of the notes in the Marine Court. Gardner set up as a defence, fraud in the sale and a want of consideration. A verdict and judgment were rendered in his favor. In a suit upon the other note, in the Common Pleas of the City of New York, the judgment in the Marine Court was held to be an estoppel upon the subject of fraud in the sale. *Bouchaud* v. *Dias*,† *Doty* v. *Brown*,‡ and *Babcock* v. *Camp*,§ are to the same effect and equally cogent. Such has been the rule of the common law from an early period of its history down to the present time.‖ But the principle reaches further. It extends not only to the questions of fact and of law, which were decided in the former suit, but also to the grounds of recovery or defence which might have been, but were not, presented.

In *Henderson* v. *Henderson*,¶ the Vice-Chancellor said: "In trying this question, I believe I state the rule of the court correctly, that where a given matter becomes the subject of litigation in, and of adjudication by, a court of competent jurisdiction, the court requires the parties to bring forward their whole case, and will not, except under special

* 3 Cowen, 120.

† 3 Denio, 238.

‡ 4 Comstock, 71.

§ 12 Ohio State, 11.

‖ Ferrer's Case, 6 Reports, 8; Hutchin *v.* Campbell, 2 W. Blackstone, 831; Duchess of Kingston's Case, 2 Smith's Leading Cases, 656; Aurora City *v.* West, *supra*, 82.

¶ 3 Hare, 115. See also, Birckhead *v.* Brown, 5 Sandford's Superior Court, 135.

circumstances, permit the same parties to open the same subject of litigation in respect of a matter which might have been brought forward as a part of the subject in contest, but which was not brought forward, only because they have, from negligence, inadvertence, or even accident, omitted a part of their case. The plea of *res judicata* applies, except in special cases, not only to the points upon which the court was required by the parties to form an opinion and pronounce a judgment, but to every point which properly belonged to the subject of litigation, and which the parties, exercising reasonable diligence, might have brought forward at the time."

A party can no more split up defences than indivisible demands, and present them by piecemeal in successive suits growing out of the same transaction.* The judgment at law established conclusively the original validity of the securities described in the bill, and the liability of the town to pay them. Nothing is disclosed in the case which affects this condition of things.

II. *The city of Beloit* was chartered by the legislature of Wisconsin in 1856. It embraces a part of the territory which previously belonged to the *town of Beloit.* In the seventeenth section of the charter it is enacted that "all principal and interest upon all bonds which have heretofore been issued by the *town of Beloit for railroad stock or other purposes*, when the same or any portion thereof shall fall due, shall be paid by *the city and town of Beloit* in the same proportions as if said *town and city* were not dissolved," &c.

This provision was re-enacted in 1857 in an act amending the charter of the city. No bonds were issued in payment for railroad stock but those to a part of which this controversy relates. The language used by the legislature is clear and explicit. No gloss can raise a doubt as to its meaning. It distinctly affirms, and the affirmation is repeated, that the bonds shall be paid.

The only point to be considered is the effect of this pro-

* Bendernagle *v.* Cocks, 19 Wendell, 207.

vision. That is not an open question in this court. Whenever it has been presented, the ruling has been that, in cases of bonds issued by municipal corporations, under a statute upon the subject, ratification by the legislature is in all respects equivalent to original authority, and cures all defects of power, if such defects existed, and all irregularities in its execution.* The same principle has been applied in the courts of the States.† This court has repeatedly recognized the validity of private and curative statutes, and given them full effect, where the interests of private individuals were alone concerned, and were largely involved and affected.‡ The earlier and more important of these authorities are so well known to the profession and are so often referred to, that it would be waste of time to comment upon them. We hold this objection also fatal to the appellant's case.

Several other important propositions have been discussed by the learned counsel for the appellee. They have not been considered, and we express no opinion in regard to them.

DECREE AFFIRMED.

THE BELFAST.

1. In all cases where a maritime lien arises, the original jurisdiction to enforce it by a proceeding *in rem*, is exclusive in the District Courts of the United States, as provided by the ninth section of the Judiciary Act of 1789.
2. State legislatures have no authority to create maritime liens; nor can they confer jurisdiction upon a State court, to enforce such a lien by a suit or proceeding *in rem*, as practised in admiralty courts.
3. Upon an ordinary contract of affreightment, the lien of the shipper is a maritime lien; and a proceeding *in rem*, to enforce it, is within the ex-

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* Gelpcke *v.* Dubuque, 1 Wallace, 220; Thomson *v.* Lee County, 3 Id. 327.

† Wilson *v.* Hardesty, 1 Maryland Ch. Decisions, 66; Shaw *v.* Norfolk Co. R. R. Co., 5 Gray, 180.

‡ Satterlee *v.* Matthewson, 2 Peters, 380; Wilkinson *v.* Leland, Id. 627; Leland *v.* Wilkinson, 10 Id. 294; Watson *v.* Mercer, 8 Id. 88; Charles River Bridge *v.* Warren Bridge, 11 Id. 420; Stanley *v.* Colt, 5 Wallace, 119; Croxall *v.* Shererd, Id. 268.