

—*Validity of bonds wrongly charging land grant.*—The president of a Railway Company purporting to act on behalf of the Company, entered into a contract with certain contractors for the construction of forty miles of road. By the contract, bonds to double the amount of money to be secured, were to be deposited in a bank to secure to the contractors payment of a portion of the price of the construction of the railroad.

The president afterwards agreed that, in default of payment within a limited time, the contractors should take the bonds in payment at fifty cents on the dollar.

Two years after the bonds were delivered to the contractors, the Company filed a bill repudiating the contract and asking that the bonds be declared null and void.

It appeared that the defendants had obtained a judgment at law against plaintiffs for a large amount on the contract, in which action the Company had set up as a defence that the contractors had accepted the bonds in payment, that the plaintiffs had begun an action then pending on the contract against defendants, claiming damages for non-completion of work, that an Act of Parliament had been passed in the interest of the Company, which recited the construction and completion of the work, and that during two years no steps had been taken to repudiate the contract or to question the president's authority, and that the Company had taken possession of and the benefit of the work.

*Held* (1) That the Company must be taken to have ratified the contract.

(2) That the Company could

not take the benefit of a part of the contract and repudiate it as to another part.

The Act of Incorporation gave the directors power to "issue and sell or pledge all or any of the said bonds for the purpose of raising money for the prosecution of the said undertaking."

*Held*, that the expression "raising money," should be given a liberal construction, and that using the bonds in the way above mentioned was really a raising money for the prosecution of the undertaking.

A by-law of the Company authorized the president of the Company to "sell or pledge the same at such price or prices, and upon such terms and considerations as he shall see fit."

*Held*, that, in the absence of evidence that more favorable terms could have been made, the president in thus agreeing to give the contractors bonds at fifty cents on the dollar instead of cash, was only disposing of them at such price and on such terms as he could.

The Company, by its Act of Incorporation, had power to issue bonds which should "constitute a first mortgage and preferential lien, charge, claim and privilege upon the said railway constructed, and upon its Government land grant to be earned, and the undertaking." By an amending Act the words, "and upon its Government land grant to be earned," were struck out. Subsequently the Company issued bonds which purported to charge the land grant of the Company.

*Seemle*, that the Company had no power to charge the land grant