

The facilities of the Herald Steam Printing House for doing job work are not surpassed in California outside of San Francisco and Sacramento.

SPECIAL NOTICE.

Hereafter notices of companies, societies, churches, etc., will only be inserted in the Herald as paid advertisements.

WATER DEPARTMENT, SIGNAL SERVICE, U. S. ARMY.

Division of Telegrams and Reports for the Benefit of Commerce and Agriculture.

Report of observations taken at Los Angeles, Cal., Oct. 23, 1878.

Table with columns: Time, Barometer, Thermometer, Humidity, Direction of Wind, Velocity, Weather.

LOCAL BREVIETTES.

The steamer Ancon is due from San Francisco this morning.

A first class dressmaker advertises for a situation in our New Today.

Mr. Sam A. Tuttle got back from San Francisco by Sunday's overland train.

Judge S. Heydenfeldt, of San Francisco, arrived in Los Angeles by Sunday's overland train.

No Western mail arrived yesterday, owing to some obstruction on the railroad east of San Francisco.

Music at Gus' saloon, corner First and Los Angeles streets, every night. Best beer five cents a glass.

Mr. J. S. Stauson, President of the Los Angeles County Bank, returned from San Francisco overland Sunday.

The Grand Army of the Republic have rented Union Hall and the next meeting of the society will be held at that place.

A lady who is capable of teaching music and understands dress-making advertises for a situation, in this morning's HERALD.

Henry Koch, convicted of arson for burning the Central Hotel, near the depot, some months ago, was yesterday sentenced to five years in the State's Prison.

A girl to cook and do general housework can hear of a good situation by applying at the Quincy Hall clothing store, corner of Main and Los Angeles streets.

Arrived at Wilmington, Oct. 23, schooner Barbara, Higgins master, from Russian Gulch, with 2730 railroad ties and 300 posts for Western Development Company.

In the Supreme Court yesterday the decision of Judge Sepulveda in the Board of Public Works case was affirmed from the bench, Judge McKinstry announcing that the act of the Legislature was of itself unconstitutional and, consequently, void.

Do not forget the auction sale of lots, by E. W. Noyes, at the Washington Gardens, at 11 o'clock this morning. They are among the most desirable in the city, and to persons seeking a beautiful home site, the opportunity is the best ever offered.

The case of the city vs. the owners of the Feliz Ranch will be argued in the Supreme Court to-day. City Attorney Godfrey will appear for the city and Judge Heydenfeldt, Messrs. Howard, Broussard & Howard and F. Ganahl for the ranch owners.

Mr. R. L. Collins has fitted up a market at No. 37, Spring street, and will open this morning with a stock of fine beef, mutton, sausage, etc. Residents of this neighborhood will find the shop a great convenience and Mr. Collins a most obliging dealer.

Officer Ketter yesterday received the congratulations of his friends on being the father of boy twins, a pair of bouncers, which Mrs. Ketter had presented him in the morning. We join with Charley's friends in wishing the boys a long and prosperous career.

A fire broke out at San Diego at 4 o'clock on Sunday morning and destroyed the following buildings: New England Restaurant, Young & Gray's furniture store, Bob Bailey's saloon, A. H. Julian's store, W. A. Brewer's store, Fisher and Snyder's saloon and barber shop, and Fisher's house in the rear.

We would ask why it is that pedestrians on Main street, when they reach a portion of that thoroughfare between the places of Mr. Charles R. Johnston and Councilman Jones, are obliged to bend nearly double to save faces, hats, bonnets and body from being abraded, municipal ordinances to the contrary notwithstanding. Why not trim these trees, as the law directs?

Between 12 and 1 o'clock this morning officers Tribalet and Benites arrested four of the gang of San Francisco hoodlums, who were up before Judge Peel the other day, for creating a disturbance in a barn on Alameda street. When locked up in jail one of them announced that he could whip any man in town. The boast and the loud noise excited the ire of the sleeping inmates of the Hotel Thompson, and they turned out nearly by force and gave the new comers such a drubbing as soon made them change their boasting into a supplication for mercy. They will be examined before Judge Peel this morning, when, if to be hoped, he will not again turn them loose.

We confess that we were not proud of the fruit exhibit of Los Angeles county at the late Fair.

Los Angeles last year produced and sold nearly ten millions of oranges and more grapes than any other county of the State outside of the Napa valley, and yet here is what the San Diego News has to say of the fruit exhibits of our Pavilion, under the caption of "Fanny!"

"Our San Diego people went to Los Angeles with the expectation of seeing loads of oranges and grapes on exhibition at the Fair, from the great orange and grape county—Los Angeles. There was not exceeding ten pounds of grapes on exhibition, and not a single orange. One gentleman took up here for the first time, thinking they had not entered them, but he had done so."

Yesterday morning Sheriff Mitchell and Deputy Cells arrested Miguel Coramato and José Alviso on the charge of murder.

About three weeks ago these two men, in company with José Valenzuela, were driving from town to the Jabonera, when it is alleged that a fracas arose between them and the last named man was killed. The other two took the body to Mr. Ray's place and reported that he had laid out of the wagon and, striking upon his head, had thus been killed.

A double team broke loose somewhere on Main street yesterday afternoon and ran along that thoroughfare at a furious rate. On Upper Main street the horses ran into the horse of Mr. Strohm, who, accompanied by a couple of ladies, was coming over from East Los Angeles, in the collision the runaways tried to separate and go one on each side of Mr. Strohm's horse, but were unable to do so, the bar of the end of the pole striking his animal on the head and knocking it down. The shock threw the ladies out of the wagon, one of whom was seriously hurt and the other received a number of severe bruises.

The McFadden Brothers have sold their steamer Newport to the Pacific Coast Steamship Company. We are told that there is an agreement by which the grain of about three-fourths of the farmers of Santa Ana is to be carried at four dollars a ton to San Francisco, and this contract has about two years longer to run.

We had the pleasure of meeting Capt. Roberts, of the Los Angeles Company's wells in the Sespe, yesterday. He informs us that the new machinery of the company will arrive in a week at the utmost. In two weeks from date the new rigs will be in place and a considerable oil outcome may be looked for in view of the fact that petroleum has risen to the height of seven hundred feet in the well.

We learn that there have been several flattering offers to purchase the property of the Los Angeles Company from San Francisco parties.

Los Angeles lately is especially favored by tramps. In addition to the gang of 19 which arrived last week, several detachments are now on route to this city. The conductor of Sunday's overland train from San Francisco informed Chief Harris that he had ejected from his train on the way down 44 tramps, as follows: At Tulare, 13; Santa Ana, 12; Newhall, 7; Tramps put off at the last named station are probably already in the city and it would behoove the owners of chickens and other property to keep a bright lookout, as these gentry are generally hungry and not at all particular as to whose provisions they feed upon.

The incarceration of a brother chip in the State's Prison does not seem to have a deterrent influence on horse-thieves. It was only on Saturday that Tapia went up to San Quentin for a term of years; and yet, on the same evening, someone entered the corral of Mr. C. Clark, in East Los Angeles, and stole his horse, and Mr. Ward, of the same place, lost a saddle, bridle and horse-blanket, taken by the same thief, probably.

The second Unitarian Thursday entertainment will be given at Union Hall next Thursday evening. In addition to the usual programme the shadow pantomime of "The Babes in the Wood" will be given. From one who has been permitted to witness the rehearsal we learn that "The Babes in the Wood" will be represented with greater completeness than any thing of the kind ever before presented in this city. The entertainment will conclude with the usual dance.

The public will please take notice that the Mechanic's Store receives new goods nearly every day and we wish to state that the public will find our prices lower than elsewhere. We intend to give you low prices at all times, and it will be a great advantage to you to patronize the MECHANIC'S STORE, 41 MAIN STREET, opposite the Saint Charles Hotel.

THE LANKERSHIM FLOUR MILL.

The Inauguration of Flour Manufacture on a Large Scale in Los Angeles—A Railway Depot Transformed into a Warehouse With Mill Attached.

Pursuant to announcement, the new Lankershim flour mill was open to visitors yesterday. The Messrs. Lankershim & Co. have purchased the old depot and grounds of the Southern Pacific Railway, corner of Commercial and Alameda streets.

AS WE ENTERED.

We encountered Mr. Isaac Lankershim, the father of wheat growing on a large scale in Los Angeles and San Diego counties. He was superintending the sacking of the new made flour. He at once, with great politeness, proceeded to show us the mill, and we were accompanied with lively curiosity the freight cars, four run of which were grinding the wheat into peary flour, employed upon middlings.

These stones are massive and beautiful; and, covered with the white flour, they looked like marble. We next took a glance at the engine room, where we inspected a marvel of a Scott & Eckert cut-off engine, of one hundred and fifty horse power. We were led in turn over the whole three stories. A wonderful congeries of wheels and cogs regulate the bolting process.

THE CAPACITY OF THE MILL.

If worked during the whole twenty-four hours, is five hundred barrels of flour, which can be increased to six hundred. A twenty hour run would, of course, be half of that.

Mr. Lankershim informs us that the San Fernando valley this year yielded only a quarter of a wheat crop. Owing to the "rust" much of it was not cut. The thirty thousand sacks in store in the old depot building, with an ample reserve of seed for next year's crop, represents the total yield of the Lankershim ranch this season.

Mr. Lankershim is quite content with farming in Los Angeles county. From twelve to fourteen thousand barrels of flour as the yield of one acre will yield the grain and flour which lodged the great and caused it to "rust." When we consider the considerable area of wheat throughout the county at large which yielded what in the average year would be an average crop, we may be justified in assuming that our whole people will this year be fed on Los Angeles flour.

SUPREME COURT.

MONDAY, Oct. 23.

Court met pursuant to adjournment.

Present—Wm. T. Wallace, C. J.; J. B. Crockett, J. A. L. Rhodes, J. A. C. Niles, J. W. E. McKinstry, J. D. B. Wolf, Clerk.

6078—Babe vs Coyne—Judgment affirmed. 5079—McCoy vs Briant—Judgment and order reversed without costs.

McCoy vs Briant, and Wallace, C. J., expressed no opinion. 6080—Forsyth vs Wilson—Judgment reversed and cause remanded for a new trial, and the opinion heretofore delivered will stand as the opinion of the Court.

6078—Huston vs Leach—Judgment and order affirmed. 6247—Jackson vs Le Bar—Judgment reversed and cause remanded with an order to the Court below to vacate the order striking out portions of the complaint and the order of the Court below.

6095—Morgan vs Chester—Judgment and order affirmed. Remittitur forthwith.

6221—Donald vs McFarland et al—On motion of Chase & Leach for appellants and filing of a petition for rehearing, ordered that a stay of proceedings be granted until the same is determined.

6245—Parnell et al vs Yeakum et al—On motion of Clark and application on file, ordered that the order heretofore entered herein vacating cause for the term be vacated and set aside, and it is further ordered that the appeal be and the same is hereby dismissed.

6073 and 6151—Livermore et al vs Jewett et al—On motion of Godfrey, ordered that the remittitur herein issue forthwith.

6151—Livermore et al vs Green et al—On motion of Godfrey, ordered that the remittitur herein issue forthwith.

Vickery, et al vs Leal—On motion of Hazard for appellant and stipulation on file, ordered that this cause be placed at the foot of calendar of the present term for argument.

Perry et al vs Young, et al—Argued by Bloknell for respondents and Smith for appellants and cause submitted.

J. B. Griffin admitted to practice on motion of A. Brunson and license from Supreme Court of Illinois.

5856—Johnson vs Heilman—Argued by Johnson from appellant and Godfrey for respondent and judgment affirmed.

5857—De Celis vs Brunson—Argued by Ross and Smith for appellant and Easman and Graves for respondent and cause submitted.

Argued by Bishop for appellant Porter and further argument continued until to-morrow. Court adjourned until to-morrow at 10 o'clock A. M.

Supreme Court Opinions.

By the Court. Filed Oct. 23, 1878.

McCoy vs. BRIANT.

The bonds in controversy would have been void in the hands of an innocent holder for value and cannot be regarded as a means of disposing of a portion of a distinct count, when the rest thereof contains a statement of a cause of action.

Wallace, C. J., did not express an opinion. By the Court. Filed Oct. 23, 1878. BABE vs. Coyne. No. 6,078.

When the record and proceedings in the case of Patrick vs Horton, including the papers in the attachment proceedings in that case were offered in evidence the plaintiff objected on the ground, among others, that the affidavit on which the attachment was issued was insufficient; and that the amended affidavit, filed by leave of the Court, was filed after the levy of the attachment, and after the commencement of this action.

The first question, therefore, to be determined, is, whether the bonds were void in the hands of a bona fide holder for value. The authority to issue the bonds, is derived exclusively from ordinances numbered 7 and 22 of the Trustees of the city, which were adopted by the Board of Trustees of the city, and validated by the act of the Legislature of February 24, 1874. (Statutes 1873-4, p. 155.)

Ordinance No. 7 provides that the bonds are "to be issued at such times and in such manner as said Board of Trustees may direct," and ordinance No. 22 in the fourth section provides that the bonds are to be issued "to such person or persons and at such time or times as said Board of Trustees may direct," by resolution, after providing for the signing of the bonds, etc., then provides that the clerk shall then deliver said bonds, then signed and sealed, to such person or persons and at such time or times as said Board may resolve, direct, etc.

"It is a general and fundamental principle of law that all persons contracting with a municipal corporation must, at their own peril, acquire into the power of the corporation or its officers to make the contract; and a contract beyond the scope of the corporate power is void, and the seal of the corporation." (Dillon vs Municipal Corporations, Sec. 372.)

And where the mode of contracting "is specially and plainly prescribed and limited, that mode is exclusive, and does not remain open to the corporation, if the mode prescribed is not followed." (Dillon on mun. corp. Sec. 373.)

In Argenti vs San Francisco, 15 Cal., 283, Mr. Justice Field says: "A municipal corporation can only act in the cases and in the mode prescribed by its charter." In McCracken vs San Francisco, 10 Cal., 620, the same learned Judge, in delivering the opinion of the Court, says the Commission Council "are the managers of the corporation, and possess only such powers as were specially delegated to them by the charter, and when that instrument designates a power with a specific designation to wit, by resolution, it is restrictive—no other mode could be followed."

In Zottman vs San Francisco, 20 Cal., 102, the Court says: "The rule is general and applies to all municipal bodies, when the mode in which their power on any given subject can be exercised is prescribed by their charter, the mode must be followed. The mode in such cases cannot be a measure of the power." The same proposition was affirmed in Murphy vs Napa County, 20 Cal., 592; French vs Techemaker, 24 Cal., 550; Herzo vs San Francisco, 33 Cal., 143; People vs Tomlinson, 35 Cal., 507, and in later cases.

In this case, the ordinances, as ratified by the act of the legislature, prescribed definitely and precisely the mode and the only mode in which the bonds could be issued and delivered, to wit, by resolution of the Board of Trustees, directing when and to whom the bonds were to be issued and delivered. Nor can this requirement be regarded as a mere directory, a violation of which would not vitiate the validity of the bonds. On the contrary, it was intended as a precaution against an abuse of its power by the Board of Trustees and to prevent a fraudulent or unauthorized delivery by the clerk of any bonds not entitled to receive the bonds. Under the terms of the ordinance, no bond could be issued or delivered, except upon a resolution of the Board, appearing upon its minutes or the record of its proceedings, thus furnishing a most important safeguard against fraud and an abuse of power. Every person dealing in the bonds is bound to inquire whether they were issued in the mode prescribed; and as the mode is the measure of the power, the bonds would be void in the hands of a holder for value without actual notice if issued in any other mode. We are therefore of opinion that the bonds in controversy would be void in the hands of a bona fide holder, and would not be a valid charge against the city.

It results that the plaintiff as a tax-payer, can not enforce the payment of the bonds, if he is not a person not entitled to receive the bonds. Under the terms of the ordinance, no bond could be issued or delivered, except upon a resolution of the Board, appearing upon its minutes or the record of its proceedings, thus furnishing a most important safeguard against fraud and an abuse of power. Every person dealing in the bonds is bound to inquire whether they were issued in the mode prescribed; and as the mode is the measure of the power, the bonds would be void in the hands of a holder for value without actual notice if issued in any other mode. We are therefore of opinion that the bonds in controversy would be void in the hands of a bona fide holder, and would not be a valid charge against the city.

It results that the plaintiff as a tax-payer, can not enforce the payment of the bonds, if he is not a person not entitled to receive the bonds. Under the terms of the ordinance, no bond could be issued or delivered, except upon a resolution of the Board, appearing upon its minutes or the record of its proceedings, thus furnishing a most important safeguard against fraud and an abuse of power. Every person dealing in the bonds is bound to inquire whether they were issued in the mode prescribed; and as the mode is the measure of the power, the bonds would be void in the hands of a holder for value without actual notice if issued in any other mode. We are therefore of opinion that the bonds in controversy would be void in the hands of a bona fide holder, and would not be a valid charge against the city.

It results that the plaintiff as a tax-payer, can not enforce the payment of the bonds, if he is not a person not entitled to receive the bonds. Under the terms of the ordinance, no bond could be issued or delivered, except upon a resolution of the Board, appearing upon its minutes or the record of its proceedings, thus furnishing a most important safeguard against fraud and an abuse of power. Every person dealing in the bonds is bound to inquire whether they were issued in the mode prescribed; and as the mode is the measure of the power, the bonds would be void in the hands of a holder for value without actual notice if issued in any other mode. We are therefore of opinion that the bonds in controversy would be void in the hands of a bona fide holder, and would not be a valid charge against the city.

It results that the plaintiff as a tax-payer, can not enforce the payment of the bonds, if he is not a person not entitled to receive the bonds. Under the terms of the ordinance, no bond could be issued or delivered, except upon a resolution of the Board, appearing upon its minutes or the record of its proceedings, thus furnishing a most important safeguard against fraud and an abuse of power. Every person dealing in the bonds is bound to inquire whether they were issued in the mode prescribed; and as the mode is the measure of the power, the bonds would be void in the hands of a holder for value without actual notice if issued in any other mode. We are therefore of opinion that the bonds in controversy would be void in the hands of a bona fide holder, and would not be a valid charge against the city.

It results that the plaintiff as a tax-payer, can not enforce the payment of the bonds, if he is not a person not entitled to receive the bonds. Under the terms of the ordinance, no bond could be issued or delivered, except upon a resolution of the Board, appearing upon its minutes or the record of its proceedings, thus furnishing a most important safeguard against fraud and an abuse of power. Every person dealing in the bonds is bound to inquire whether they were issued in the mode prescribed; and as the mode is the measure of the power, the bonds would be void in the hands of a holder for value without actual notice if issued in any other mode. We are therefore of opinion that the bonds in controversy would be void in the hands of a bona fide holder, and would not be a valid charge against the city.

It results that the plaintiff as a tax-payer, can not enforce the payment of the bonds, if he is not a person not entitled to receive the bonds. Under the terms of the ordinance, no bond could be issued or delivered, except upon a resolution of the Board, appearing upon its minutes or the record of its proceedings, thus furnishing a most important safeguard against fraud and an abuse of power. Every person dealing in the bonds is bound to inquire whether they were issued in the mode prescribed; and as the mode is the measure of the power, the bonds would be void in the hands of a holder for value without actual notice if issued in any other mode. We are therefore of opinion that the bonds in controversy would be void in the hands of a bona fide holder, and would not be a valid charge against the city.

It results that the plaintiff as a tax-payer, can not enforce the payment of the bonds, if he is not a person not entitled to receive the bonds. Under the terms of the ordinance, no bond could be issued or delivered, except upon a resolution of the Board, appearing upon its minutes or the record of its proceedings, thus furnishing a most important safeguard against fraud and an abuse of power. Every person dealing in the bonds is bound to inquire whether they were issued in the mode prescribed; and as the mode is the measure of the power, the bonds would be void in the hands of a holder for value without actual notice if issued in any other mode. We are therefore of opinion that the bonds in controversy would be void in the hands of a bona fide holder, and would not be a valid charge against the city.

It results that the plaintiff as a tax-payer, can not enforce the payment of the bonds, if he is not a person not entitled to receive the bonds. Under the terms of the ordinance, no bond could be issued or delivered, except upon a resolution of the Board, appearing upon its minutes or the record of its proceedings, thus furnishing a most important safeguard against fraud and an abuse of power. Every person dealing in the bonds is bound to inquire whether they were issued in the mode prescribed; and as the mode is the measure of the power, the bonds would be void in the hands of a holder for value without actual notice if issued in any other mode. We are therefore of opinion that the bonds in controversy would be void in the hands of a bona fide holder, and would not be a valid charge against the city.

It results that the plaintiff as a tax-payer, can not enforce the payment of the bonds, if he is not a person not entitled to receive the bonds. Under the terms of the ordinance, no bond could be issued or delivered, except upon a resolution of the Board, appearing upon its minutes or the record of its proceedings, thus furnishing a most important safeguard against fraud and an abuse of power. Every person dealing in the bonds is bound to inquire whether they were issued in the mode prescribed; and as the mode is the measure of the power, the bonds would be void in the hands of a holder for value without actual notice if issued in any other mode. We are therefore of opinion that the bonds in controversy would be void in the hands of a bona fide holder, and would not be a valid charge against the city.

It results that the plaintiff as a tax-payer, can not enforce the payment of the bonds, if he is not a person not entitled to receive the bonds. Under the terms of the ordinance, no bond could be issued or delivered, except upon a resolution of the Board, appearing upon its minutes or the record of its proceedings, thus furnishing a most important safeguard against fraud and an abuse of power. Every person dealing in the bonds is bound to inquire whether they were issued in the mode prescribed; and as the mode is the measure of the power, the bonds would be void in the hands of a holder for value without actual notice if issued in any other mode. We are therefore of opinion that the bonds in controversy would be void in the hands of a bona fide holder, and would not be a valid charge against the city.

It results that the plaintiff as a tax-payer, can not enforce the payment of the bonds, if he is not a person not entitled to receive the bonds. Under the terms of the ordinance, no bond could be issued or delivered, except upon a resolution of the Board, appearing upon its minutes or the record of its proceedings, thus furnishing a most important safeguard against fraud and an abuse of power. Every person dealing in the bonds is bound to inquire whether they were issued in the mode prescribed; and as the mode is the measure of the power, the bonds would be void in the hands of a holder for value without actual notice if issued in any other mode. We are therefore of opinion that the bonds in controversy would be void in the hands of a bona fide holder, and would not be a valid charge against the city.

It results that the plaintiff as a tax-payer, can not enforce the payment of the bonds, if he is not a person not entitled to receive the bonds. Under the terms of the ordinance, no bond could be issued or delivered, except upon a resolution of the Board, appearing upon its minutes or the record of its proceedings, thus furnishing a most important safeguard against fraud and an abuse of power. Every person dealing in the bonds is bound to inquire whether they were issued in the mode prescribed; and as the mode is the measure of the power, the bonds would be void in the hands of a holder for value without actual notice if issued in any other mode. We are therefore of opinion that the bonds in controversy would be void in the hands of a bona fide holder, and would not be a valid charge against the city.

It results that the plaintiff as a tax-payer, can not enforce the payment of the bonds, if he is not a person not entitled to receive the bonds. Under the terms of the ordinance, no bond could be issued or delivered, except upon a resolution of the Board, appearing upon its minutes or the record of its proceedings, thus furnishing a most important safeguard against fraud and an abuse of power. Every person dealing in the bonds is bound to inquire whether they were issued in the mode prescribed; and as the mode is the measure of the power, the bonds would be void in the hands of a holder for value without actual notice if issued in any other mode. We are therefore of opinion that the bonds in controversy would be void in the hands of a bona fide holder, and would not be a valid charge against the city.

It results that the plaintiff as a tax-payer, can not enforce the payment of the bonds, if he is not a person not entitled to receive the bonds. Under the terms of the ordinance, no bond could be issued or delivered, except upon a resolution of the Board, appearing upon its minutes or the record of its proceedings, thus furnishing a most important safeguard against fraud and an abuse of power. Every person dealing in the bonds is bound to inquire whether they were issued in the mode prescribed; and as the mode is the measure of the power, the bonds would be void in the hands of a holder for value without actual notice if issued in any other mode. We are therefore of opinion that the bonds in controversy would be void in the hands of a bona fide holder, and would not be a valid charge against the city.

It results that the plaintiff as a tax-payer, can not enforce the payment of the bonds, if he is not a person not entitled to receive the bonds. Under the terms of the ordinance, no bond could be issued or delivered, except upon a resolution of the Board, appearing upon its minutes or the record of its proceedings, thus furnishing a most important safeguard against fraud and an abuse of power. Every person dealing in the bonds is bound to inquire whether they were issued in the mode prescribed; and as the mode is the measure of the power, the bonds would be void in the hands of a holder for value without actual notice if issued in any other mode. We are therefore of opinion that the bonds in controversy would be void in the hands of a bona fide holder, and would not be a valid charge against the city.

It results that the plaintiff as a tax-payer, can not enforce the payment of the bonds, if he is not a person not entitled to receive the bonds. Under the terms of the ordinance, no bond could be issued or delivered, except upon a resolution of the Board, appearing upon its minutes or the record of its proceedings, thus furnishing a most important safeguard against fraud and an abuse of power. Every person dealing in the bonds is bound to inquire whether they were issued in the mode prescribed; and as the mode is the measure of the power, the bonds would be void in the hands of a holder for value without actual notice if issued in any other mode. We are therefore of opinion that the bonds in controversy would be void in the hands of a bona fide holder, and would not be a valid charge against the city.

It results that the plaintiff as a tax-payer, can not enforce the payment of the bonds, if he is not a person not entitled to receive the bonds. Under the terms of the ordinance, no bond could be issued or delivered, except upon a resolution of the Board, appearing upon its minutes or the record of its proceedings, thus furnishing a most important safeguard against fraud and an abuse of power. Every person dealing in the bonds is bound to inquire whether they were issued in the mode prescribed; and as the mode is the measure of the power, the bonds would be void in the hands of a holder for value without actual notice if issued in any other mode. We are therefore of opinion that the bonds in controversy would be void in the hands of a bona fide holder, and would not be a valid charge against the city.

It results that the plaintiff as a tax-payer, can not enforce the payment of the bonds, if he is not a person not entitled to receive the bonds. Under the terms of the ordinance, no bond could be issued or delivered, except upon a resolution of the Board, appearing upon its minutes or the record of its proceedings, thus furnishing a most important safeguard against fraud and an abuse of power. Every person dealing in the bonds is bound to inquire whether they were issued in the mode prescribed; and as the mode is the measure of the power, the bonds would be void in the hands of a holder for value without actual notice if issued in any other mode. We are therefore of opinion that the bonds in controversy would be void in the hands of a bona fide holder, and would not be a valid charge against the city.

It results that the plaintiff as a tax-payer, can not enforce the payment of the bonds, if he is not a person not entitled to receive the bonds. Under the terms of the ordinance, no bond could be issued or delivered, except upon a resolution of the Board, appearing upon its minutes or the record of its proceedings, thus furnishing a most important safeguard against fraud and an abuse of power. Every person dealing in the bonds is bound to inquire whether they were issued in the mode prescribed; and as the mode is the measure of the power, the bonds would be void in the hands of a holder for value without actual notice if issued in any other mode. We are therefore of opinion that the bonds in controversy would be void in the hands of a bona fide holder, and would not be a valid charge against the city.

therefore, properly struck out. A demurrer being filed, and the Court, after a hearing, and cannot be resorted to a means of disposing of a portion of a distinct count, when the rest thereof contains a statement of a cause of action.

Wallace, C. J., did not express an opinion.

By the Court. Filed Oct. 23, 1878. BABE vs. Coyne. No. 6,078.

When the record and proceedings in the case of Patrick vs Horton, including the papers in the attachment proceedings in that case were offered in evidence the plaintiff objected on the ground, among others, that the affidavit on which the attachment was issued was insufficient; and that the amended affidavit, filed by leave of the Court, was filed after the levy of the attachment, and after the commencement of this action.

The first question, therefore, to be determined, is, whether the bonds were void in the hands of a bona fide holder for value. The authority to issue the bonds, is derived exclusively from ordinances numbered 7 and 22 of the Trustees of the city, which were adopted by the Board of Trustees of the city, and validated by the act of the Legislature of February 24, 1874. (Statutes 1873-4, p. 155.)

Ordinance No. 7 provides that the bonds are "to be issued at such times and in such manner as said Board of Trustees may direct," and ordinance No. 22 in the fourth section provides that the bonds are to be issued "to such person or persons and at such time or times as said Board of Trustees may direct," by resolution, after providing for the signing of the bonds, etc., then provides that the clerk shall then deliver said bonds, then signed and sealed, to such person or persons and at such time or times as said Board may resolve, direct, etc.

"It is a general and fundamental principle of law that all persons contracting with a municipal corporation must, at their own peril, acquire into the power of the corporation or its officers to make the contract; and a contract beyond the scope of the corporate power is void, and the seal of the corporation." (Dillon vs Municipal Corporations, Sec. 372.)

And where the mode of contracting "is specially and plainly prescribed and limited, that mode is exclusive, and does not remain open to the corporation, if the mode prescribed is not followed." (Dillon on mun. corp. Sec. 373.)

In Argenti vs San Francisco, 15 Cal., 283, Mr. Justice Field says: "A municipal corporation can only act in the cases and in the mode prescribed by its charter." In McCracken vs San Francisco, 10 Cal., 620, the same learned Judge, in delivering the opinion of the Court, says the Commission Council "are the managers of the corporation, and possess only such powers as were specially delegated to them by the charter, and when that instrument designates a power with a specific designation to wit, by resolution, it is restrictive—no other mode could be followed."

In Zottman vs San Francisco, 20 Cal., 102, the Court says: "The rule is general and applies to all municipal bodies, when the mode in which their power on any given subject can be exercised is prescribed by their charter, the mode must be followed. The mode in such cases cannot be a measure of the power." The same proposition was affirmed in Murphy vs Napa County, 20 Cal., 592; French vs Techemaker, 24 Cal., 550; Herzo vs San Francisco, 33 Cal., 143; People vs Tomlinson, 35 Cal., 507, and in later cases.

In this case, the ordinances, as ratified by the act of the legislature, prescribed definitely and precisely the mode and the only mode in which the bonds could be issued and delivered, to wit, by resolution of the Board of Trustees, directing when and to whom the bonds were to be issued and delivered. Nor can this requirement be regarded as a mere directory, a violation of which would not vitiate the validity of the bonds. On the contrary, it was intended as a precaution against an abuse of its power by the Board of Trustees and to prevent a fraudulent or unauthorized delivery by the clerk of any bonds not entitled to receive the bonds. Under the terms of the ordinance, no bond could be issued or delivered, except upon a resolution of the Board, appearing upon its minutes or the record of its proceedings, thus furnishing a most important safeguard against fraud and an abuse of power. Every person dealing in the bonds is bound to inquire whether they were issued in the mode prescribed; and as the mode is the measure of the power, the bonds would be void in the hands of a holder for value without actual notice if issued in any other mode. We are therefore of opinion that the bonds in controversy would be void in the hands of a bona fide holder, and would not be a valid charge against the city.

It results that the plaintiff as a tax-payer, can not enforce the payment of the bonds, if he is not a person not entitled to receive the bonds. Under the terms of the ordinance, no bond could be issued or delivered, except upon a resolution of the Board, appearing upon its minutes or the record of its proceedings, thus furnishing a most important safeguard against fraud and an abuse of power. Every person dealing in the bonds