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Agreements to Repurchase

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CONTRACTS

AGREEMENTS TO REPURCHASE

The plaintiffs purchased at par value six shares of preferred stock in a lumber company. Contemporaneous with the purchase, an agreement was signed in which defendants agreed to repurchase the stock at par value plus any earned and unpaid dividends, "at any

time" after six months' notice. Five years later plaintiffs attempted to exercise their option, but defendants refused to repurchase the stock. Held, for the defendant. *Haworth v. Hubbard*, — Ind. — 44 N.E. 967 (1942).

The words of a contract should be given their common ordinary meaning unless it is repugnant to the intent of the parties. *New York Trust Co. v. Island Oil & Transport Corporation*, 34 F. (2d) 655, 656 (C.C.A. 2nd, 1929). Generally, courts hold against the theory that a contract confers a perpetuity of right or imposes a perpetuity of obligations. *Holt v. St. Louis Union Tr. Co.*, 52 F. (2d) 1068 (C.C.A. 4th, 1931); *Hess v. Iowa Heat & Powers Co.*, 207 Iowa 820, 221 N. W. 194 (1928).

In a contract for the return of shirts, *Ive v. Brody*, 156 Ill. App. 479 (1910); a friendly offer to purchase stock, *Park v. Whitney*, 148 Mass. 278, 19 N. E. 161 (1889); a right to remove property, *Perry v. Acme Oil Company*, 44 Ind. App. 207, 88 N. E. 859 (1909); a lease for cutting timber, *Fletcher v. Lyon*, 93 Ark. 5, 123 S.W. 801 (1909); a right to certain oil casings and rods, *Terry v. Crosswy*, Tex. Civ. App., 264 S.W. 718 (1924); insurance contracts for reporting losses, *Pickels v. Phoenix Ins. Co.*, 119 Ind. 291, 21 N.E. 898 (1889); oral agreement to repurchase stock, *Armstrong v. Orler*, 220 Mass. 112, 107 N.E. 392 (1915); the courts have held the words "at any time" to mean "any reasonable time."

In the principal case the defendant was in a private enterprise subject to all the dangers of competition; the business was constantly threatened with radical changes in management; the plaintiffs were located in the same community as the corporation and able to watch its trends closely. It seems improbable that the parties had in mind entering into an unending obligation. "Any other theory than this would subject incautious persons—a class, it may be remarked, which includes the majority of mankind—into life long servitudes, and greatly fetter and embarrass the commerce of the world." *Dover Copper Mining Company v. Doenzes*, 40 Ariz. 349, 12 P. (2d) 288, 292 (1932).