

Case No. 2,020.

BROWN v. MEMPHIS.

[11 Chi. Leg. News (1879) 138.]

Circuit Court, D. Tennessee.

MANDAMUS—TO MUNICIPAL CORPORATION—LEVY OF TAX.

[Where a writ of mandamus has issued to a city to compel the levy of a tax to pay a judgment, it is the duty of the city not only to make the levy, but also to collect the tax, and pay it to the judgment creditor.]

[Petition by T. E. Brown for a writ of mandamus to compel the city of Memphis to levy a tax to pay certain judgments recovered by the petitioner. For decision as to the validity of the bonds issued by the city, and which formed the subject matter of the actions upon which the judgments were recovered, see *Memphis v. Brown*, Case No. 9,415.]

BAXTER, Circuit Judge, decided in the *Brown* mandamus case that under the former judgments of the court, the plaintiff was entitled to have a tax levied sufficient to realize the sum of one hundred and twenty-five thousand dollars per annum, and that it was the duty of the city to have not only levied, but to have collected that amount each year, and paid it over to the plaintiff until his judgment was paid. That it now appearing that there was an amount still due and unpaid, he would direct an additional levy, but that he would not compel this levy before the next annual levy of taxes, and the writ should direct the city to levy a tax sufficient to cover any deficit existing on or before the first day of next July, and certify the rate for collection to the proper officer on or before that day. In the meantime the city could collect and pay over whatever it was able to collect on the levies already made.

HAMMOND, District Judge, having been of counsel, did not sit in this case.

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