

As pointed out by the attorney general of the United States in 1858, (9 Op. 161,) "the business of carrying letters and other mail matter belongs exclusively to the government; and in cities and the large towns letter carriers are as much part of the system as the transportation of the mails from one office to another." If private agencies can be established, the income of the government may be so reduced that economy might demand a discontinuance of the system; and thus the business which it is the right and duty of the government to conduct for the interest of all, and on such terms that all may avail themselves of it with advantage, may be handed over to individuals or corporations who will conduct it with the sole view of making money, and who may find it for their profit to exclude localities or classes from the benefit of the service.

It has also been insisted for the plaintiff that the statutes which authorize the searches and seizures apprehended by her are unconstitutional. It is hardly to be expected that a court of equity, which requires suitors to present themselves with clean hands, will lend its aid to protect the plaintiff in the prosecution of a criminal undertaking, or will be zealous, upon a motion for a preliminary injunction, to attempt the grave and delicate responsibility of pronouncing these statutes void which have twice been approved by congress. Provisions for searches and seizures to enforce revenue laws have long been familiar to the legislation of congress; and, as Judge COOLEY remarks, (Const. Lim. 304, note,) "the federal decisions go very far to establish the doctrine that in matters of revenue the regulations congress sees fit to establish, however unreasonable they may seem, must prevail."

The motion is denied.

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GREENWALT v. DUNCAN and others.\*

(Circuit Court, E. D. Missouri. June 4, 1883.)

**1. EQUITY—SUIT TO QUIET TITLE—CROSS-BILL—RIGHTS OF DEFENDANT.**

The defendant in a suit in equity to remove a cloud from a title has a right to file a cross-bill, urging a superior title in himself; and, if his title is found to be better than the plaintiff's, he is entitled to a decree in his favor settling the whole controversy.

In Equity. Demurrer to amended cross-bill.

\*Reported by B. F. Rex, Esq., of the St. Louis bar.

A demurrer having been sustained to the original cross-bill herein, (see 16 FED. REP. 35,) on the ground that it did not contain adequate averments to show title in the defendants, an amended cross-bill was filed in which the proper averments were made. Thereupon the plaintiff demurred to the amended cross-bill on the following grounds, viz. :

*“First.* It does not appear from said bill, or from any fact therein stated, that the complainant, or any person to her use or in her behalf, is now, or ever was, in possession of the land or premises in question, or of any part thereof. *Second.* Said bill, in case the same were true, contains no matters of equity whereon this court can ground any decree, or give complainant any relief, as against these defendants.”

*E. Cunningham, Jr.*, for complainant.

*E. R. Monk*, for defendant.

TREAT, J. This court has, in this case, expressed heretofore its views as to the proper practice to be pursued, and stated the grounds on which alone it has jurisdiction in equity. The defendant is brought into court for the purpose of having a cloud upon title removed. The defendant appears and asks to settle the controversy, whereby, if the plaintiff has not the title, she may have a decree in her favor, thus avoiding multiplicity of suits. The question is, obviously, as to the validity of a tax title, and the pleadings, it seems, might have been briefly framed to raise what must ultimately be decisive. The pleaders have chosen a different course, involving, it may be, unnecessary costs and delay. Of that the court can know nothing. The case must be taken, so far as this demurrer is concerned, just as it stands.

The defendant, who has been brought into court to have a deed standing in her name set aside as a cloud upon plaintiff's title, has a right to have the whole controversy between her and the plaintiff determined, and, if it so happen that her title is the real one, and the plaintiff's invalid, to obtain a decree accordingly.

The demurrer to the amended cross-bill is overruled, and leave to next rule-day to file replication.

DAHLMAN *v.* JACOBS and another.\*

*Circuit Court, E. D. Missouri. June 4, 1883.*)

1. EQUITY—JURISDICTION—MARRIED WOMEN—SUIT BY CREDITOR AT LARGE TO SET ASIDE A MORTGAGE EXECUTED BY AN INSOLVENT DEBTOR, OR HAVE IT DECREED TO STAND AS A GENERAL ASSIGNMENT.

Where a married woman doing business in her own name became insolvent, and together with her husband executed to A., one of her creditors, an instrument purporting to be a mortgage, of all her separate property, to secure the payment of a debt she owed him, and B., another of her creditors, whose demand had not been established at law, brought suit in equity to have the instrument set aside, or decreed to stand for a general assignment for the benefit of all the creditors, *held*, that B. could maintain his bill, and that the court had jurisdiction.

In Equity. Motion to vacate order sustaining a demurrer to the bill.

A demurrer to the bill in this case having been sustained,† the plaintiff filed a motion to vacate the order sustaining the demurrer, upon the following grounds, viz.:

“(1) It appears by the bill that plaintiff cannot proceed at law to reduce his claim to judgment, as the debtor is a married woman; (2) it appears by the bill that the object is the assertion of a trust, the protection of a trust fund, and ratable distribution of the same; (3) it appears that the debtor is insolvent by the bill itself, and a judgment would be useless, and equity does not require that to be done which is unavailing.”

The section of the Revised Statutes of Missouri of 1879, governing the operation of assignments for the benefit of creditors, is as follows:

Sec. 534. “Every voluntary assignment of lands, tenements, goods, chattels, effects, and credits made by a debtor to any person in trust for his creditors, shall be for the benefit of all the creditors of the assignor, in proportion to their respective claims, and every such assignment shall be proved or acknowledged, and certified and recorded in the same manner as is prescribed by law in cases wherein real estate is conveyed.”

*Patrick & Frank*, for complainant.

*D. Goldsmith*, for defendants.

TREAT, J. The order heretofore entered dismissing this case is vacated. From the rulings of the supreme court of Missouri in like cases a suit in equity is proper, a principal defendant being a married woman. The question presented by the demurrer to the bill

\*Reported by B. F. Rex, Esq., of the St. Louis bar.

†See 15 FED. REP. 863, for statement of facts and opinion.