

MEMORANDUM DECISIONS.

ABILENE v. FOLEY. (Circuit Court of Appeals, Fifth Circuit. February 25, 1897.) No. 510. In Error to the Circuit Court of the United States for the Northern District of Texas. T. J. Freeman, Wm. Alexander, W. H. Clark, and W. L. Hall, for plaintiff in error. W. L. McDonald, for defendant in error. Dismissed pursuant to the twentieth rule.

ALABAMA G. S. R. CO. v. CARROLL. (Circuit Court of Appeals, Fifth Circuit. June 7, 1897.) No. 518. In Error to the Circuit Court of the United States for the Southern Division of the Northern District of Alabama. A. G. Smith and James Weatherly, for plaintiff in error. Sam. Will John and Richard L. Brooks, for defendant in error. Reversed and remanded, with directions to dismiss for want of jurisdiction. A petition for a rehearing having been allowed, the opinion was on June 7, 1897, withdrawn by order of the court. See 28 C. C. A. 207, 84 Fed. 772.

AMERICAN CONST. CO. v. PENNSYLVANIA CO. FOR INS. ON LIVES AND GRANTING ANNUITIES. (Circuit Court of Appeals, Fifth Circuit. April 20, 1897.) No. 520. Appeal from the Circuit Court of the United States for the Southern District of Florida. H. Bisbee and C. D. Rinehart, for appellant. J. C. Cooper, for appellee. Dismissed pursuant to the twentieth rule.

PRESIDENT, ETC., OF BANK OF KENTUCKY v. CITY OF LOUISVILLE.

(Circuit Court, D. Kentucky. June 4, 1898.)

No. 6,556.

RES JUDICATA.

Humphrey & Davie, for complainant.
Henry L. Stone, for defendant.

Before HARLAN, Circuit Justice, and TAFT and LURTON, Circuit Judges.

TAFT, Circuit Judge. The bill filed herein presents the same questions as those already considered in the case of Bank v. Stone, 88 Fed. 383; but it relates to the taxes for 1893-94, which were certified down by the state board of valuation and assessment to the city of Louisville for collection. We do not think that the questions differ in any respect from those already considered, and must therefore hold that the city of Louisville is estopped by the former judgment between the bank of Kentucky and it, in which it was held by the court of appeals of Kentucky that the Bank of Kentucky had an irrevocable contract under the Hewitt act (Act Ky. May 17, 1886) for the exemption of the property and franchise of the Bank of Kentucky from any other taxation than as therein imposed; and therefore that the bank is entitled to the preliminary injunction against the collection by the city of Louisville and its agents of the taxes provided in the revenue act of November, 1892. The demurrer to the bill is overruled, and the motion for an injunction granted.

CITY OF CLEVELAND v. HAWGOOD & AVERY TRANSIT CO. (Circuit Court of Appeals, Sixth Circuit. May 5, 1898.) No. 544. Error to the Circuit Court of the United States for the Eastern Division of the Northern District of Ohio. George L. Phillips and Miner G. Norton, for plaintiff in error. Harvey D. Goulder, for defendant in error. No opinion. Judgment affirmed.

CITY OF WABASHA v. CHICAGO, M. & ST. P. RY. CO. (Circuit Court of Appeals, Eighth Circuit. May 4, 1896.) No. 760. In Error to the Circuit Court of the United States for the District of Minnesota. A. H. Young and Daniel Fish, for plaintiff in error. H. H. Field and W. H. Norris, for defendant in error. Dismissed for want of jurisdiction, with costs.

CUYLER & WOODBURN R. CO. v. ANNISTON NAT. BANK. (Circuit Court of Appeals, Fifth Circuit. November 23, 1896.) No. 548. Appeal from the Circuit Court of the United States for the Southern District of Georgia. Docketed and dismissed pursuant to the sixteenth rule on motion of W. K. Miller, for appellees.

DEL MONTE MINING & MILLING CO. v. LAST CHANCE MINING & MILLING CO. (Circuit Court of Appeals, Eighth Circuit.) Questions of law certified to the supreme court of the United States. See 18 Sup. Ct. 895.

DEPOSIT BANK OF FRANKFORT v. STONE et al. (Circuit Court, D. Kentucky. June 4, 1898.) No. 275. Frank Chinn, for complainant. W. S. Taylor, Atty. Gen., for Samuel H. Stone and others. Ira & W. H. Julian, for city of Frankfort. James H. Polsgrove, for county of Franklin. Before HARLAN, Circuit Justice, and TAFT and LURTON, Circuit Judges.

TAFT, Circuit Judge. In an Injunction suit brought by the Deposit Bank of Frankfort against the county of Franklin, in the Franklin circuit court, to prevent the collection of any taxes under the revenue act of 1892 in excess of those imposed by the Hewitt act (Act Ky. May 17, 1886), it was expressly adjudged on appeal by the court of appeals that the bank had, by its due acceptance of the terms of the Hewitt act, an irrevocable contract of exemption from taxation in excess of that imposed in the Hewitt act, and that the revenue act of 1892 violated this contract. In a similar injunction suit brought by the bank against the city of Frankfort, a decree in all respects similar was entered on the same ground. In accordance with our decision in the case of Bank of Kentucky v. Stone (just decided) 88 Fed. 383, we must therefore grant the motion for a preliminary Injunction, and overrule the demurrer to the bill.

THE FAVORITE. (Circuit Court of Appeals, Sixth Circuit. May 12, 1898.) No. 576. In Error to the District Court of the United States for the Northern District of Ohio. Orestes C. Pinney, for plaintiff in error. Goulder & Holding, on brief for defendants in error. Dismissed for want of jurisdiction.