

defendant, the judge of the police court of the city of Louisville. The city of Louisville, though not a party in name, was in reality the party defendant, and appeared by counsel. Indeed, the proceedings were taken for the purpose of testing the validity of the license ordinance by agreement between the city attorney and the complainant bank. The Jefferson circuit court found the issues in favor of the defendant, and entered a decree dismissing the petition. Thereupon the complainant banking company caused an appeal to be taken in its name from the judgment of the Jefferson circuit court to the court of appeals, and to that appeal it made the city of Louisville and R. H. Thompson, the police judge, parties. In the court of appeals the cause was argued by the counsel for the city of Louisville. The court of appeals reversed the judgment of the Jefferson county circuit court (31 S. W. 1013), and in its opinion held that the ordinance of the city of Louisville was void, for the reason that the Louisville Banking Company had an irrevocable contract with the commonwealth upon its due acceptance of the terms of the Hewitt act, limiting the amount of taxes to which it was subject to those imposed by that act during its corporate existence. For the reasons already stated in the case of *Bank of Kentucky v. Same Defendants*, we think it conclusively established, as between the parties, by a former adjudication, that the complainant had an irrevocable contract, under the Hewitt act, with the commonwealth of Kentucky, by which no greater taxes than therein provided could be imposed upon it by the commonwealth, or under its authority. For the reasons stated in the same opinion, we think the complainant entitled to equitable relief to prevent a violation of that contract by the taxes assessed under the revenue act of 1892. An order for a preliminary injunction therefore must issue in these cases, and the demurrers to the bills must be overruled.

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**LOUISVILLE CITY NAT. BANK v. STONE et al. SAME v. CITY OF LOUISVILLE.** (Circuit Court, D. Kentucky. June 4, 1898.) Nos. 6,565 and 6,566. Helm & Bruce, for complainant. W. S. Taylor, Atty. Gen., for Samuel H. Stone and others. Henry L. Stone, for city of Louisville. Before HARLAN, Circuit Justice, and TAFT and LURTON, Circuit Judges.

TAFT, Circuit Judge. These cases are controlled by the case of *Bank of Commerce v. City of Louisville*, 88 Fed. 398. On the principle of privity and res judicata laid down in that case, we grant the motion for a preliminary injunction, and overrule the demurrers to the bill.

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**LYONS v. OTERI.** (Circuit Court of Appeals, Fifth Circuit. May 17, 1897.) No. 579. Appeal from the District Court of the United States for the Eastern District of Louisiana. Dismissed, pursuant to the twenty-third rule, for failure to print record.

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**PERRIS IRR. DIST. v. SAVINGS & TRUST CO. OF CLEVELAND, OHIO, et al.** (Circuit Court, S. D. California. June 29, 1898.) No. 659. Wm. J. Hunsaker, for Savings & Trust Co. and others. Works & Lee, for Ferris Irr. Dist.

ROSS, Circuit Judge. The cross bill in this case is substantially similar to that in the case of *Alessandro Irr. Dist. v. Savings & Trust Co. of Cleveland* (just decided) 88 Fed. 928. For the reasons given by the court for overruling the demurrer to the cross bill in that case, an order will be entered herein overruling the demurrer, with leave to the defendants to answer within 20 days.

**RIVER MACHINE & BOILER CO. v. DUFFY et al.** (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. O. C. Pinney, for plaintiff in error. Dismissed for want of jurisdiction.

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**SOUTHERN RY. CO. v. AVERA.** (Circuit Court of Appeals, Fifth Circuit. April 22, 1897.) No. 586. In Error to the Circuit Court of the United States for the Northern District of Georgia. R. T. Dorsey and Sanders McDaniel, for plaintiff in error. Dismissed pursuant to the twentieth rule.

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**THIRD NAT. BANK v. STONE et al. SAME v. CITY OF LOUISVILLE.** (Circuit Court, D. Kentucky. June 4, 1898.) Nos. 6,573 and 6,574. Helm & Bruce, for complainant. W. S. Taylor, Atty. Gen., for Samuel H. Stone and others. Henry L. Stone, for city of Louisville. Before HARLAN, Circuit Justice, and TAFT and LURTON, Circuit Judges.

TAFT, Circuit Judge. These cases present the same question which arose in the case of Louisville Banking Co. v. Same Defendants (already decided) 88 Fed. 988. The suit against the city of Louisville relates to the taxes under the revenue act of 1892 for the years 1893 and 1894, and the suit against Stone and others and the city of Louisville relates to the taxes for 1895, 1896, 1897, and 1898. In the prohibition suit brought by the Third National Bank against the judge of the police court, to which the city of Louisville became a party on appeal, it was held by the court of appeals of Kentucky (31 S. W. 1013) that the Third National Bank, by its formal acceptance of the provisions of the Hewitt act, had acquired a contract right, irrevocable by the state, exempting it from all taxes except those provided under the Hewitt act, and that the license tax imposed by the city of Louisville under a statute of the state was therefore a violation of the contract, and void under the constitution of the United States. The demurrers to the bills are therefore overruled, and the motions for preliminary injunction against the defendants are granted.

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**THE THREE FRIENDS.** (Circuit Court of Appeals, Fifth Circuit. February 1, 1897.) No. 563. Appeal from the District Court of the United States for the Southern District of Florida. No opinion. Taken to the supreme court of the United States before argument by writ of certiorari, and by that court reversed, and remanded to the district court. See 166 U. S. 1, 17 Sup. Ct. 495.

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**UNITED STATES v. BOWERSOCK et al.** (Circuit Court of Appeals, Eighth Circuit. December 11, 1893.) No. 306. In Error to the Circuit Court of the United States for the District of Kansas. Solon O. Thatcher, for defendants in error. Dismissed for failure to print record, pursuant to the twenty-third rule.

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**UNITED STATES v. SALAMBIER.** (Circuit Court of Appeals, Second Circuit.) Questions of law certified to the supreme court of the United States. See 18 Sup. Ct. 771.