

GILBERT, Circuit Judge. This suit relates to the property which was the subject of the controversy in the case of *Montana Ore-Purchasing Co. v. Boston & M. C. C. & S. Min. Co.*, 93 Fed. 274. It is admitted that the allegations of the bill are identical with those of the bill in that case, and that the questions involved are the same. Upon the reasoning and the authorities cited in that case, the objection to the jurisdiction in the present case must be sustained. It is suggested that this court cannot go further than to order the dismissal of the appeal, since the question of the jurisdiction only is involved. The record shows, however, that the appeal was taken upon the merits also. The cause will be remanded, with instructions to dismiss the bill.

CITY OF LYNN v. GREEN. (Circuit Court of Appeals, First Circuit. May 12, 1899.) No. 220. Appeal from the Circuit Court of the United States for the District of Massachusetts. Dismissed per stipulation of counsel. See 81 Fed. 387.

THE ED. ROBERTS. (Circuit Court of Appeals, Third Circuit. April 23, 1899.) No. 17. Appeal from the District Court of the United States for the Western District of Pennsylvania. Albert York Smith, for appellant. D. F. Patterson, for appellee. Before **ACHESON** and **DALLAS**, Circuit Judges.

ACHESON, Circuit Judge. The question upon which this case turns is altogether one of fact. If the libelant sustained no substantial injury by reason of his fall, he was not entitled to recover substantial damages, under all the circumstances. Now, the learned district judge found that the libelant had not received any substantial injury from his fall, and that his stay at the Marine Hospital was occasioned by rheumatism, from which he suffered. This finding is well supported by the proofs. The clear weight of the evidence, we think, is with the respondent upon this question. The medical certificate which the libelant procured at the hospital, if admissible at all as against the respondent, was explained, and its effect greatly weakened, by the testimony of the physician whose signature it bears. The proofs, considered as a whole, fairly lead to the conclusion that the libelant's real trouble came from rheumatism, and that his fall had no connection with that ailment. After a most careful examination of this record, it is our judgment that the appellant has no just reason to complain of the action of the court below. Therefore the decree of the district court is affirmed.

E. T. BURROWES CO. v. ADAMS & WESTLAKE CO. et al. (Circuit Court of Appeals, First Circuit. April 27, 1899.) No. 288. Appeal from the Circuit Court of the United States for the District of Maine. Elmer P. Howe, for appellant. Dismissed. See 93 Fed. 462.

FARMERS' LOAN & TRUST CO. v. CITY OF CORINTH, MISS., et al. (Circuit Court of Appeals, Fifth Circuit. April 11, 1899.) No. 776. Appeal from the Circuit Court of the United States for the Northern District of Mississippi. Josiah Patterson and George Gillham, for appellant. J. M. Boone and E. S. Chandler, for appellees. Before **PARDEE**, **MCCORMICK**, and **SHELBY**, Circuit Judges.

MCCORMICK, Circuit Judge. In this case the material questions, both of law and fact, are substantially the same that were presented and considered in

the case between this appellant and the county of Alcorn, just decided (93 Fed. 579); and, in accordance with the views expressed in our opinion in that case, the decree of the circuit court in this case is affirmed.

POPE v. LOUISVILLE, N. A. & C. R. CO. (Circuit Court of Appeals, Seventh Circuit.) Appeal to the Supreme Court of the United States. Dismissed. See 19 Sup. Ct. 500.

SARRAZIN v. AUGUSTUS CRAFT CO., Limited. (Circuit Court of Appeals, Fifth Circuit. April 11, 1899.) No. 789. In Error to the Circuit Court of the United States for the Eastern District of Louisiana. W. R. Stringfellow and T. M. Gill, for plaintiff in error. E. H. Farrar, E. B. Kruttschnitt, B. F. Jonas, and Hewes T. Gurley, for defendant in error. Before PARDEE, McCORMICK, and SHELBY, Circuit Judges.

PARDEE, Circuit Judge. The pleadings, rulings, bills of exception, assignments of error, and the questions involved in this case are precisely the same as in Sarrazin v. Tobacco Co. (just decided) 93 Fed. 624, and, for the reasons given in the opinion in that case, the judgment of the circuit court is affirmed.

WELSBACH LIGHT CO. v. REX INCANDESCENT LIGHT CO. et al. (Circuit Court of Appeals, Second Circuit. April 27, 1899.) No. 108. Appeal from the Circuit Court of the United States for the Southern District of New York. John R. Bennett, for appellant. Louis Hicks, for appellees. Appeal dismissed, and cause remanded to the circuit court, with instructions to entertain another motion for an injunction. See 87 Fed. 477.

In re FINKELSTEIN. (Circuit Court, S. D. New York. May 10, 1899.)

BROWN, District Judge. Before referees in bankruptcy dilatory proceedings should not be permitted, nor adjournments allowed, except for good cause, properly substantiated. The common practice of granting adjournments for convenience only should not be imitated, but progress with diligence be enforced by short adjournments only, except for good cause.

HARPER et al. v. LARE et al.

(Circuit Court, E. D. Pennsylvania. April 27, 1899.)

No. 56.

COPYRIGHT—INFRINGEMENT.

In Equity.

A. T. Gurlitz, J. R. Sypher, and Geo. L. Rives, for complainants.
H. T. Fenton, for respondents.

DALLAS, Circuit Judge. This case has been heard upon pleadings and proofs. It was previously before this court upon motion for a preliminary injunction (84 Fed. 224), and the judgment upon that motion was subsequently reversed by the circuit court of appeals. 30 C. C. A. 373, 86 Fed. 481. The application then made was for an injunction to restrain the defendants—First, from continuing an alleged violation of copyright; and, second, from using, in connection with any book whatever, the name or designation, "The Fram Expedition: Nansen in the Frozen World." The appellate court decided adversely to the complainants with respect to the matter first stated, and its