

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.

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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.

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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.

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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.

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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.

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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

opinion upon that subject is, I think, conclusive even now. Therefore, the only question which I regard as being still, even partially, an open one, is that which arises under the allegation of unfair competition in trade; but it is proper to mention that the learned counsel of the plaintiffs, upon the oral argument, expressly reserved their right to hereafter insist upon every ground for relief which they had set up, and in their brief they say "that complainant cannot rest this case until it has been passed upon by the court of ultimate jurisdiction. The questions of copyright are of such controlling importance, and are so bound up with other questions involved, that such a course is absolutely imposed upon us." Upon the hearing of the motion for a preliminary injunction, I reached the conclusion that a case of unfair competition had been established, but, I am now authoritatively instructed that that conclusion was erroneous. The proofs as now presented have, I think, somewhat strengthened the plaintiff's position, but, after careful consideration of them, I am unable to find that the defendants' competition was unfair, without giving to some of the facts which were considered by the court of appeals a significance which that tribunal has said should not be ascribed to them. Consequently I am constrained to hold that the bill has not been sustained. The primary facts are, in general, plain and uncontroverted. The only substantial question is as to the inference which should be deduced from them, and as that question, together with those relating to copyright, is to be again submitted to the court of last resort, I do not believe that any useful end would be attained by any further discussion of it by me. Bill dismissed, with costs.

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In re MARTIN.

(Circuit Court, S. D. New York. May 11, 1899.)

**BANKRUPTCY—SOLVENCY.**

**BROWN**, District Judge. A debtor having permitted all his stock in trade to be sold under a judgment and execution, and the residue of his property being insufficient to pay his debts, held, upon the issue of "solvency," that the "fair valuation" of the goods levied on (Bankruptcy Law, § 1, subd. 15) must be taken with reference to the actual situation and the liability of the goods to sale under execution; and, if the sale under execution thereafter had was in all respects a fair and reasonable one, that the debtor was bound by the result as to the valuation of the goods, and could not prove his solvency by higher estimates of their value if they had been free from levy, and sold at retail, or in the ordinary course of business.

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**REYNOLDS v. RITCH et al.** (Circuit Court, S. D. New York. April 3, 1899.) William Blaikie and Roger M. Sherman, for the motion. William B. Putney, for Amherst College. Bronson Winthrop, for Hamilton College. C. N. Bovee, for Thomas G. Ritch. John E. Parsons, for Bulkley & Vaughan. Noah H. Swayne, for Lafayette College.

**LACOMBE**, Circuit Judge. (1) The motion to require defendants to appear, demur, plead, or answer to the cross bill is denied. (2) The motion that this cause be heard with the principal cause instituted in the original bill by Emma S. Fayerweather and others is denied, with leave to renew when this cause is actually ready for hearing. (3) The motion that the testimony taken by the complainant under the replication to the plea and answer of trustees of Hamilton College to said original bill stand and be read and received with the same force and effect as if the same had been taken in support of the cross bill is granted. (4) The motion to stay proceedings is denied.