

which is not shown to be in excess of the just debts of the shareholder that should be deducted.

The decree of the circuit court is reversed, and the case remanded for further proceedings in accordance with this opinion.

State Taxation—Injunction.

GERMAN NAT. BANK OF CHICAGO v. KIMBALL. Appellant filed a bill in chancery in the circuit court for the northern district of Illinois to enjoin defendant as collector, and Samuel H. McCrea as treasurer, from enforcing payment of the taxes assessed against its shareholders on their shares of the bank stock, on the general ground that the assessment violates the provision of the act of congress concerning national banks, which forbids the states from taxing these shares at any higher rate than other moneyed capital within the state, and that it also violates the provision of the constitution of Illinois concerning uniformity of taxation. The case was taken up on appeal to the supreme court of the United States, and a decision was rendered at the October term, 1880, affirming the decree of the circuit court, dismissing the bill. Mr. Justice *Miller* delivered the opinion of the court.

No one can be permitted to go into a court of equity to enjoin the collection of a tax until he has shown himself entitled to the aid of the court by paying so much of the tax assessed against him as it can be plainly seen he ought to pay; nor should he be permitted, because his tax is in excess of what is just and lawful, to screen himself from paying any tax at all until the precise amount which he ought to pay is ascertained by a court of equity.

The cases cited in the opinion were: State Railroad Tax Cases, 92 U. S. 575; Williams v. Weaver, 100 U. S. 539; Pelton v. National Bank, 101 U. S. 143; Cumming v. National Bank, Id. 153.

State Tax on National Bank Shares—Injunction.

EVANSVILLE NAT. BANK v. BRITTON, 25 Alb. Law J. 432. Cross-appeals from a decree of the circuit court for the district of Indiana, decided in the supreme court of the United States, April 3, 1882; Mr. Justice *Miller* delivering the opinion of the court.

The taxation of bank shares under the Indiana statute, without permitting the shareholder to deduct from their assessed value the amount of his *bona fide* indebtedness, as in the case of other investments of moneyed capital, is a discrimination forbidden by the act of congress. The decree of the circuit court perpetually enjoining the collector as to those shareholders who had proved in the case that at the time of the assessment they owed debts which should have rightfully been deducted, and dismissing the bill as to other shareholders, where no evidence was given that they owed any debts which could have been deducted from the value of the shares, affirmed; *Waite*, C. J. dissenting, and Mr. Justice *Gray* concurring in the dissent.

The cases cited in opinion were: Hills v. Nat. Albany Exch. Bank, *ante*, 93; Williams v. Weaver, 100 U. S. 539; Van Allen v. Assessors, 3 Wall. 573.

YUENGLING, Jr., v. SCHILLE.

(Circuit Court, S. D. New York. April 3, 1882.)

1. COPYRIGHT—CHROMO.

A chromo, if a meritorious work of art, may be copyrighted, though designed and used for gratuitous distribution as an advertisement for the purpose of attracting business.

2. SAME—WHO ENTITLED TO COPYRIGHT.

It is only "authors and inventors" who, under the constitution, art. 1, § 8, are directly entitled to copyright. The title of all other persons is secondary, and derivative from them only; and, in claiming an injunction, third persons must show a legal title and an exclusive right to the copyright, lawfully derived from the author or inventor; to allege that the plaintiff is "proprietor," without more, is not enough.

3. SAME—INJUNCTION—INFRINGEMENT—PROTECTION LIMITED TO NATIVE ART.

In a suit for an injunction to restrain an alleged infringement, where it appeared that the plaintiff had imported copies of a chromo designed and printed in Europe by a foreign artist, and that the plaintiff had copyrighted the chromo by depositing two of his imported copies with the librarian of congress, and it further appeared that the defendant had never known of such chromo being copyrighted, had never seen any copyrighted impression, and had availed himself, in making a new chromo, of some material portions of the same design as plaintiff's chromo, which defendant had taken from a copy independently imported from Europe, and it did not appear whether the design of the plaintiff's chromo was new or old, or whether plaintiff had ever acquired any exclusive right from the artist, *held*, that the motion for a preliminary injunction should be denied. *Held, also*, that congress, in the revision of the copyright act of 1870, and in adding in that act to the previous subjects of copyright "a painting, drawing, chromo, statue, statuary, and models or designs intended to be perfected as works of the fine arts," did not intend any reversal or change of its inflexible policy, ever since the act of 1790, of protecting only native or resident authors and artists, and that the word "proprietor," in section 86 of the act of 1870, and in section 4952 of the Revised Statutes, must be construed in the limited and restricted sense in which it has been used in every act from that of 1790 downwards, viz., as the legal representative of a right derived from a native or resident author or artist.

4. STATUTES—AMENDMENTS, HOW CONSTRUED—CHROMOS EMBRACED IN "PRINTS."

Amendments of statutes are to be construed in harmony with a long-established policy rather than upon a mere literal reading which would introduce two diverse and contradictory policies in the same statute. *Held, also*, that "chromos," being in fact chromo-lithographic *prints*, were embraced in sections 1 and 8 of the act of May 21, 1831, under the term "prints," as well as in sections 86 and 103 (16 St. at Large, 212, 215) of the act of 1870, and are within the restrictions of section 4971 of the Revised Statutes; and that no copyright upon a chromo designed by a foreign artist abroad can be acquired by his representative resident here as "proprietor."

Motion for a Preliminary Injunction for Infringement of a Copyright.