

McLEOD, COMMISSIONER OF REVENUES, *v.* BINSWANGER &
COMPANY.

4-6975

171 S. W. 2d 65

Opinion delivered April 26, 1943.

1. INTERSTATE COMMERCE—SALES TAX.—The question whether the business of appellee, a foreign corporation not authorized to do business in this state, conducted by soliciting orders in this state through traveling salesmen to be approved at the home office in the state of its domicile, is subject to the imposition of the sales tax imposed by the laws of this state was raised, but not decided.
2. APPEAL AND ERROR.—Where the Supreme Court is unable to determine from the record whether the interstate journey had ended so that the sales tax could apply, the case will be reversed and remanded in order that the facts may be developed concerning the delivery of the goods.

Appeal from Pulaski Chancery Court; *Frank H. Dodge*, Chancellor; reversed.

Leffel Gentry, for appellant.

Daggett & Daggett, for appellee.

Supreme Court in *McGoldrick v. Felt & Tarrant Mfg. Co.*, 309 U. S. 70, 84 L. Ed. 584, 60 Sup. Ct. Rep. 404. No proof was taken as to how the deliveries were made. We are not able to determine whether the interstate journey had ended so that the sales tax could apply.

So we reverse and remand this case against Binswanger & Company to the Chancery Court in order that the facts may be developed concerning the delivery of goods in Arkansas, and for further proceedings by the Chancery Court not inconsistent with the opinion in the *J. E. Dilworth* case, *supra*, and this case.
