

DANLEY vs. PIKE.

The notes of the Bank of the State of Arkansas, issued in the years 1838 and 1839, are receivable for taxes due to the State of Arkansas.

Appeal from Pulaski Circuit Court.

Hon. WILLIAM H. FIELD, Circuit Judge.

JORDAN, for the appellant.

PIKE, contra, cited *Woodruff vs. Trapnall*, 10 How. S. C. R. 203.

Mr. Justice SCOTT delivered the opinion of the Court.

At the June term, 1851, Pike filed his petition in the Pulaski Circuit Court, setting out the amount of the State and county taxes assessed against him for that year. That the tax-books, with the proper warrant annexed for their collection, were in the hands of Danley, as sheriff and collector; that, on the 26th of July, of that year, he had tendered to the sheriff certain funds, sufficient to pay the whole amount, among which were certain Bank notes, issued by the *Bank of the State of Arkansas*, in the years 1838 and 1839, amounting to the sum of forty-five dollars, which he had tendered towards the payment of his State tax, which exceeded that amount; that Danley received all the funds tendered except the Bank notes, which he refused to receive, and would levy, and sell the relator's property to make that amount unless prevented: and as the relator had no other adequate and complete remedy, he prayed for an alternative writ of mandamus. This was issued in pursuance of his prayer, which Danley returned into Court, admitting the truth of the matters recited therein, and for cause of refusal showed that he was advised that the Bank notes in question were not by law receivable for taxes due the State of Arkansas, and that if he should receive them, and give the relator acquittal, he would violate his duty as sheriff and collector of taxes, and subject himself to grievous loss and penalties. To this a demurrer was interposed by the relator, and joined in by the respondent, and, upon the hearing, the Court ordered a peremptory mandamus, and Danley appealed to this Court.

The question of law involved was decided by the Supreme Court of the United States in the case of *Woodruff vs. Trapnall*,

taken up by writ of error from this Court, and reported in 10
How. H. p. 203. And in accordance with that decision, the judgment of the Court below in the case at bar will be affirmed.
