
State Ex-Rel. Little River County v. Certain Lands and Israel Hall.

STATE EX-REL. LITTLE RIVER COUNTY VS. CERTAIN LANDS
AND ISRAEL HALL.

1. TAXES: *On lands purchased of the State; when they accrue.*

Lands purchased of the State are subject to taxes immediately after the purchase. Section 5078 of Gantt's Digest requiring land holders to assess their lands for taxes on or before the 1st of January of each year is merely directory, and does not imply that lands purchased after January 1st shall not be subject to taxation until the following year.

APPEAL from *Little River County* in Chancery.

Hon. H. B. STUART, Judge.

C. B. Moore, Attorney General, for the State.

The lands were subject to taxation. Cites *Gould's Dig.* p. 694, *Sec.* 33; *Ib.* p. 704, *Sec.* 8; *Miller's Digest Rev. Law*, p. 3, *Secs.* 2, 3, 60, 1, 2, 5, 17, 66, 18, 19, 20, 21, 22, 105, 29; *Gantt's Digest Secs.* 5048, 5043, 5113, 5114; *Const.* 1868, *Art. X, Sec.* 2; *Acts* 1871, p. 123, *Secs.* 5, 49, 50; *Acts* 1868, p. 330; *Acts* 1871, p. 38; *Acts* 1873, p. 266; *Acts* 1871, p. 35; 21 *Ark.*, 245-6.

J. M. Rose, for Appellees.

Sec. 5078 Gantt's Digest was enacted to cure a manifest injustice. The taxes if due at all are due *in solido*.

No Court can apportion the taxes in proportion to the time the purchaser had held from the State. By *Sec.* 5173 the lien did not attach 'till Dec. 1st, etc.

SMITH, J. In this proceeding it was sought, under the over-due tax law, to charge certain lands with the payment of the taxes for the year 1873. The defence was, that the lands had only been purchased from the State on the 14th of February, 1873, and were not therefore taxable for that year. To an answer setting up this defence the Court below overruled a demurrer, and the

plaintiff standing upon the demurrer, the complaint was dismissed as to those lands.

It is provided that all lands sold by the State shall be subject to taxation immediately after such sale. The Assessor is to complete his assessment on or before the third Monday in September of each year, in which he is to include all real property in his county that shall have become subject to taxation since the last previous listing. And the State's lien for taxes attached on the first Friday after the first Monday in October of each year. Gantt's Digest Secs. 5049, 5112, 5114, 5116, 5153.

In *Hunt v. McFadgen*, 20 Ark., 277, it was ruled that the personal property of a man who became a resident of a county on the last of January or first of February was subject to assessment for that same year.

Immunity from taxation is never presumed in any case, but must be shown.

Sec. 5078 of Gantt's Digest, making it the duty of land holders to list their lands for taxation on or before the first of January of each year, after the same shall be taxable, is merely directory and does not imply that lands entered after January 1st shall not be subject to taxation until the following year.

Reversed and remanded for further proceedings.
