

Cases Omitted in the Reports.

DUMONT *v.* DES MOINES VALLEY RAILROAD
COMPANY.APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE
DISTRICT OF IOWA.

No. 87. October Term, 1878. — Decided May 5, 1879.

A petition to file a bill of review on the ground of newly discovered evidence will not be granted if the bill, when filed, ought not to be sustained by reason of the laches of the petitioner in neglecting to discover the evidence earlier.

PETITION for leave to file a bill of review. The application was denied in the Circuit Court, and the petitioner appealed. The case is stated in the opinion.

MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

This application is denied. The petitioners have not shown such diligence as will entitle them to reopen a litigation that has been carried on with so much pertinacity for a great number of years. The new matter relied upon consists principally of record evidence drawn from the archives of the government, which might as easily have been found at the time the controversy arose as now. The treaty was a part of the law of the land, and the maps and official reports have been on file in the proper government office, where they were discovered, for a quarter of a century. We are all of the opinion that if a bill of review should be filed containing all the averments that are in the present petition, it ought not to be sustained. Clearly, then, leave ought not to be granted for a continuance of the litigation.

Affirmed.

Mr. Charles A. Clark and Mr. James Grant for appellant. Mr. C. C. Nourse and Mr. A. M. Hubbard for appellees.

CARSON *v.* OBER.

ERROR TO THE SUPREME COURT OF THE STATE OF MISSOURI.

No. 123. October Term, 1878. — Decided January 13, 1879.

The question raised and decided in a state court, whether there could be a sale of cotton so as to pass title to the vendee before the payment of the government tax, is not a Federal question.

THE case is stated in the opinion.

Flournoy v. Lastrapes.

MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

We find no Federal question in this record. The court below decided that as between vendor and vendee there could be a sale and delivery of cotton, so as to pass title to the vendee before the payment of the government tax assessed upon the cotton, under the act of July 1, 1862, 12 Stat. 465. This was a question of general law only. The plaintiff in error claimed no right or title under the tax laws or treasury regulations. The court was not called upon to determine whether the lien of the tax was valid or invalid, but only whether so long as the lien existed the ownership of the property subject to the lien could be transferred. The case is clearly within the rule considered in *Long v. Converse*, 91 U. S. 105, 112.

Dismissed for want of jurisdiction.

Mr. J. S. Black and Mr. H. W. Garnett for plaintiff in error.
Mr. S. T. Glover and Mr. J. R. Shepley for defendants in error.

FLOURNOY v. LASTRAPES.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF LOUISIANA.

No. 186. October Term, 1878. — Decided April 7, 1879.

A sheriff's deed executed by a deputy sheriff in his own name is good in Louisiana.

An objection not made below cannot be assigned as error and considered here.

A general verdict "for the defendant" is equivalent to a special verdict on each and all the issues tried.

The judgment followed the pleadings.

THE case is stated in the opinion.

MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

The first error assigned in this case is to the effect that the court admitted in evidence to prove the title of the defendant, a sheriff's deed executed by a deputy sheriff in his own name, and not in the name of the sheriff. In some States this would be a good objection, but in Louisiana the rule appears to be otherwise. The precise question was raised and directly decided in *Kellar v. Blanchard*, 21 La. Ann. 38, 41, and we are not advised that the authority of this case has ever been questioned.

The second assignment is that the sale and adjudication of the