

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.