

213 U. S.

Counsel for Parties.

SILER *et al.*, AS RAILROAD COMMISSION, *v.* ILLINOIS
CENTRAL RAILROAD COMPANY.

SAME *v.* SOUTHERN RAILWAY COMPANY IN
KENTUCKY.

SAME *v.* CINCINNATI, NEW ORLEANS AND TEXAS
PACIFIC RAILWAY COMPANY.

APPEALS FROM THE CIRCUIT COURT OF THE UNITED STATES FOR
THE EASTERN DISTRICT OF KENTUCKY.

Nos. 522, 523, 524. Argued February 24, 25, 26, 1909.—Decided April 5,
1909.

Decided on authority of *Siler v. Louisville & Nashville Railroad*, *ante*,
p. 175.

THESE cases involved the same questions as were involved
in the preceding case and were argued simultaneously there-
with.¹

Mr. C. C. McChord and *Mr. Robert H. Winn*, with whom
Mr. James Breathitt, Attorney General of Kentucky, was on
the brief, for the appellants.

Mr. Henry L. Stone for appellee in No. 521.

Mr. E. F. Trabue, with whom *Mr. John C. Doolan* and *Mr.*
Jacob M. Dickinson were on the brief, for appellee in No. 522.

Mr. Alexander Pope Humphrey submitted a brief for appellee
in No. 523.

Mr. John Galvin, with whom *Mr. Edward Colston* was on the
brief, for appellee in No. 524.

¹ For abstracts of arguments see, *ante*, p. 183.

MR. JUSTICE PECKHAM. The above-entitled cases raise the same question that is decided in Louisville and Nashville Railroad Company, *supra*, and, upon its authority, the decrees in the above cases are

Affirmed.

SELLIGER *v.* COMMONWEALTH OF KENTUCKY, BY
ALEXANDER, REVENUE AGENT.

ERROR TO THE COURT OF APPEALS OF THE STATE OF KENTUCKY.

No. 115. Argued March 16, 17, 1909.—Decided April 5, 1909.

Where there is nothing in the record on which to base them this court cannot indulge in presumptions as to which of several possible forms a transaction may have taken.

Where goods are exempt from the taxing power of the State under the Constitution of the United States because not within the State, the protection of the Constitution extends to warehouse receipts for those goods locally present within the State; and this rule applied to whiskey in a foreign country, warehouse receipts for which were held by a person in Kentucky and sought to be taxed as personal property at owner's domicil.

A tax upon warehouse receipts for goods amounts in substance and effect to a tax upon the goods themselves. *Fairbank v. United States*, 181 U. S. 283.

The facts are stated in the opinion.

Mr. Alexander Pope Humphrey and *Mr. John L. Dodd*, with whom *Mr. Joseph C. Dodd* was on the brief, for plaintiff in error:

The tax in question violates § 10, Art. I, of the Constitution of the United States prohibiting a State from laying any tax upon exports. *Brown v. Maryland*, 12 Wheat. 419; *The License Cases*, 5 How. 575; *Almy v. California*, 24 How. 169; *Low v. Austin*, 13 Wall. 29; *May v. New Orleans*, 178 U. S. 504, distinguished.