

accuracy is demonstrated by a mere statement of the proposition to which all the contentions here urged are in their essence reducible, which is as follows. Although the shipment of merchandise from one State to another is interstate commerce which the States cannot directly burden, nevertheless the States may directly burden such shipments in every case where there is any merchandise kept in the State to be the subject of interstate commerce shipment or when any of those steps which are essentially prerequisite to the initiation of an interstate commerce shipment are taken by the owner of the merchandise.

Reversed.

SOUTHERN OPERATING COMPANY *v.* HAYS,
COUNTY CLERK OF HAMILTON COUNTY,
TENNESSEE.

ERROR TO THE SUPREME COURT OF THE STATE OF
TENNESSEE.

No. 122. Argued January 14, 1915.—Decided February 23, 1915.

Decided on the authority of *Heyman v. Hays*, *ante*, p. 178.

THE facts are stated in the opinion.

Mr. Carlisle S. Littleton and *Mr. James J. Lynch*, with whom *Mr. Jesse M. Littleton* and *Mr. George D. Lancaster* were on the brief, for plaintiff in error.

Mr. Frank M. Thompson, Attorney General of the State of Tennessee, and *Mr. J. B. Sizer*, for defendant in error.

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Opinion of the Court.

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

This case was brought to enjoin the collection of a State and County Privilege Tax upon the same facts as those which were involved in the case just decided. The two cases in both the trial and the court below were heard together and they were here argued at the same time. The court below in disposing of this case with one exception placed its conclusion upon the same grounds upon which it decided the previous case. The one exception referred to was a declaration that the trial court erred in granting the injunction so far as the state tax was concerned because there was no authority to enjoin the collection of such a tax and the only right was to pay under protest and sue to recover. Whatever difference between the two cases would otherwise result from that point of view need not be considered since the Attorney General of the State in the argument at bar in express terms states that that question is not insisted upon. It being thus removed from consideration, a complete identity between the two cases results and for the reasons given in the previous case the judgment in this case must also be reversed.

Reversed.