

Harry Hess, of Cincinnati, Ohio, for plaintiff in error.  
R. T. Dickerson, Asst. U. S. Atty., of Cincinnati, Ohio (James R. Clark, U. S. Atty., of Cincinnati, Ohio, on the brief), for the United States.

Before KNAPPEN, DENISON, and DONAHUE, Circuit Judges.

PER CURIAM. Yaffee was charged in the first count with selling intoxicating liquor in violation of the National Prohibition Act, and in the second count with maintaining a nuisance by keeping a place where such liquor was sold. He was acquitted under the first count and convicted under the second. Some of the assignments of error became immaterial by reason of this acquittal.

[1] There was no substantial prejudice from the reference made upon the trial to a former conviction. This indicated that the sale named in the first count was a second offense, as was there charged; but the court finally ruled that the conviction was too late to be a good basis for that conclusion, and excluded the evidence of the conviction. Discussion of the subject could not have been avoided, nor could the exclusion have been more complete.

[2] As to the other matters mentioned in the printed brief and oral argument, we find no instance of specific and definite objection or exception to the admission of testimony or charge of the court, where the point has been saved by such a specific assignment of error as our rules require. There is therefore nothing which we are required to consider, and upon examination of the record we feel no obligation to disregard these matters of form. If the jury believed the government's witnesses, the conviction was inevitable.

The judgment is affirmed.

---

---

**PUBLIC LEDGER CO. v. NEW YORK TIMES CO. et al.**

(Circuit Court of Appeals, Second Circuit. January 26, 1922.)

No. 170.

Copyrights  $\Leftrightarrow$ 76—Plaintiff, relying on contract which gave no authority to copyright matter, cannot sue for infringement of copyright.

Where it was admitted that all of plaintiff's rights grew out of a contract between it and a foreign publishing company, which contract did not give plaintiff authority to copyright in this country the matter of which its representative was permitted to make a résumé or copy, plaintiff cannot maintain a suit for infringement of the copyright of such matter.

Appeal from the District Court of the United States for the Southern District of New York.

Suit in equity for infringement of a copyright by the Public Ledger Company against the New York Times Company and others. Decree for defendants (275 Fed. 562), and plaintiff appeals. Affirmed.

Certiorari denied 257 U. S. —, 42 Sup. Ct. 383, 66 L. Ed. —.

Stetson, Jennings & Russell, of New York City (Thomas Raeburn White, of Philadelphia, Pa., and William C. Cannon, of New York City, of counsel), for appellant.

Alfred A. Cook and Harold Nathan, both of New York City, for appellees.

Before HOUGH, MANTON, and MAYER, Circuit Judges.

PER CURIAM. It being admitted and agreed that all plaintiff's rights, whatever they are, grow out of a certain contract between plaintiff and the Times Publishing Company, Limited, of Great Britain, we ground decision on a single point, and express no opinion on all other matters discussed at bar or suggested in the opinion below.

The point is this: The contract in question did not, and was not intended to, give plaintiff any authority to copyright in this country the "news, special articles, and other matter" of which plaintiff's representative was permitted to make a "résumé or copy, \* \* \* for the purpose of transmission to the Public Ledger for publication."

Since plaintiff was without authority to copyright, its action for infringement of copyright must fail.

Decree affirmed, with costs.

#### CITIZENS' AMERICAN BANK & TRUST CO. v. DRISCOLL

(Circuit Court of Appeals, Fifth Circuit. April 11, 1922.)

No. 3842.

**Bankruptcy § 184(1)—Trustee in bankruptcy held entitled to motor truck as against mortgagee.**

Where bank advanced purchase price of motor truck and accepted as security a mortgage from the purchaser, who maintained a place of business at which he was engaged in buying and selling automobiles, and permitted him to retain possession of the truck and display and offer it for sale in his salesroom, and thereafter the purchaser became bankrupt, the trustee in bankruptcy was entitled to the truck as against the mortgagee.

Appeal from the District Court of the United States for the Southern District of Florida; Rhydon M. Call, Judge.

Action by the Citizens' American Bank & Trust Company against P. W. Driscoll, trustee of the estate of A. J. Halbauer, bankrupt. From an order denying the relief sought, plaintiff appeals. Affirmed.

William Hunter, of Tampa, Fla., for appellant.

William H. Jackson and Martin B. Withers, both of Tampa, Fla., for appellee.

Before WALKER, BRYAN, and KING, Circuit Judges.

PER CURIAM. The appellant bank advanced the purchase price of a motor truck, and accepted as security a mortgage thereon from the purchaser, one A. L. Halbauer, who maintained a place of business at