

## Opinion of the Court.

commonly called the Enforcement Act, passed April 20, 1871, 17 Stat. 15, Congress, after providing that in prosecutions under that act, no person should be a grand or petit juror who should, in the judgment of the court, be in complicity with any combination or conspiracy punishable by the provisions thereof, repealed the said first section of the act of 1862; and the law remained in this state until the adoption of the Revised Statutes. For some unexplained reason, the revisers imported the section back again into the Revised Statutes (as section 820), although it had not been in force for over two years. It is probable that the fact of its repeal was overlooked by Congress when the revision was adopted; and it is to be hoped that their attention will be called to it.

In conclusion, to the third and fourth questions certified by the court below, the answer will be in the affirmative;

*And it is so ordered.*

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STEEVER *v.* RICKMAN.

Submitted October 22d, 1883.—Decided October 23d, 1883.

*Appeal—Clerk's fees—Practice.*

If, through fault of the party prosecuting a cause in this court, printed copies of the record are not furnished to the justices or parties, the writ or appeal will be dismissed for want of prosecution, unless good cause be shown to the contrary. The fees of the clerk of this court must be paid in advance when demanded.

Motion to use printed record without paying clerk's fee.

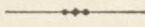
MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

By the act making appropriations for sundry civil expenses of the government for the fiscal year ending June 30, 1884, c. 143, 22 Stat. 631, the clerk of this court is required to pay into the treasury the fees and emoluments of his office over and above his own compensation as fixed by law, and his necessary clerk hire and incidental expenses. It is proper, therefore, that for his protection his fees should be paid in advance, if demanded.

## Syllabus.

Under Rule 10, it is the duty of the clerk to have the record printed, and a fee has been fixed for preparing the record for the printer, indexing the same, and supervising the printing. Ordinarily this fee is to be paid in the first instance by the party who prosecutes the cause. If he fails to make the payment when demanded in time to enable the clerk to cause the printing to be done in due course, he fails in the orderly prosecution of his suit, and may be dealt with accordingly. Consequently if, through the fault of a plaintiff in error or appellant, printed copies of the record are not furnished to the justices or the parties when required in the due prosecution of the cause, the writ or appeal will be dismissed for want of prosecution, unless sufficient cause be shown to the contrary.

In the present case the record has been printed, but the clerk has not furnished the necessary copies to the justices because his fee for preparing the record for the printer and other services, has not been paid by the appellant, although demanded. As this is the first time the question has arisen, and the practice has not heretofore been authoritatively announced, it is ordered that, unless the appellant pay to the clerk within twenty days from the entry hereof what is due him for this fee, the appeal be dismissed for want of prosecution. If the payment is made, the clerk shall at once notify the opposite party, and the cause may thereafter be brought on for hearing under paragraph 7 of Rule 26, as a case that has been passed under circumstances which do not place it at the foot of the docket.

OLIVER & Others *v.* RUMFORD CHEMICAL WORKS.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE  
WESTERN DISTRICT OF TENNESSEE.

Argued October 10th and 11th, 1883.—Decided October 29th, 1883.

*License—Patent—Survivorship.*

The reissued letters patent No. 2,979, granted to the Rumford Chemical Works, June 9th, 1868, for an "improvement in pulverulent acid for use