

Ambler v. Whipple.

UNITED STATES v. SMOOT.

SMOOT v. UNITED STATES.

APPEALS FROM THE COURT OF CLAIMS.

Nos. 264, 265. December Term, 1871. — Decided February 19, 1872.

This court will not direct the Court of Claims to send up the evidence on which that court bases its findings.

THE case is stated in the opinion.

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

The court is of opinion that the motion in this case asks in effect to remand this case to the Court of Claims with directions to send the evidence upon which their findings of fact were made to this court for revision. It alleges that the court omitted to find particular facts and asks that it may be required to certify what they shall find to support the omissions in said finding. We have repeatedly decided that this cannot be done under the rules governing appeals from the Court of Claims. The motion must, therefore, be

*Denied.*

*Mr. Benjamin F. Butler* for the motion. *Mr. Assistant Attorney General Hill* opposing.

AMBLER v. WHIPPLE.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

No. 610. December Term, 1871. — Decided February 19, March 22, 1872.

A cause is docketed and dismissed upon motion of the appellee, and subsequently redocketed on motion of the appellant.

MOTION to docket and dismiss. The case is stated in the opinion.

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

The judgment was rendered and the appeal allowed on the 2d of December, 1871. The ninth rule provides that where an appeal shall be brought to this court in less than thirty days before the commencement of the term, if the appellant shall fail to docket the appeal within the first thirty days after the judgment was rendered, the appellee may have the case docketed and dismissed upon producing a certificate from the clerk of the court wherein the decree was rendered, stating the cause and certifying that the appeal had been duly sued out and allowed; this returnable to the next term after it was allowed, which was December Term, 1871, commencing