Cases Omitted in the Reports.

MOTION TO DISMISS. The case is stated in the opinion.

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

We have looked into this record and find no final decree. The libel claims the condemnation of the schooner Monterey and cargo. The answer denies this liability. The cargo was delivered to the respondents at an appraised value, and the money was deposited with the register. The decree condemns the schooner, but makes no mention of the cargo. The decree, therefore, does not dispose of the cause and cannot be final. The appeal must, therefore, be dismissed, and the cause sent to the Circuit Court for the District of Maryland for further proceedings.

Mr. Attorney General and Mr. Assistant Attorney General Ashton for the motion. *Mr. Andrew S. Ridgely* opposing.

MILWAUKEE AND MINNESOTA RAILROAD COMPANY *v.* HOWARD.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF WISCONSIN.

No. 149. December Term, 1865. — Decided April 3, 1866.

The removal or appointment of a receiver in a suit for the foreclosure of a mortgage on a railroad rests in the sound discretion of the court below, and is not reviewable here.

THE case is stated in the opinion of the court.

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

This is an appeal from an order denying a petition for the dismissal of a receiver.

Sebre Howard filed his bill in the District Court of the United States for the District of Wisconsin, as a judgment creditor of the La Crosse & Milwaukee Railroad Company and Selah Chamberlain, to set aside the contract between the defendants and the confessed judgment, which made the subject of the two suits just decided. The cause was afterwards transferred to the Circuit Court.

Sebre Howard having deceased, Charles Howard was made complainant in his stead; and the La Crosse Company having been obliged to allow their road to be sold under mortgage, the Minnesota Company became the proprietor of an important division of it. Before either of these events, a receiver had been appointed in the suit, and had been for several years in possession and management of the road.

The Minnesota Company, on acquiring title, intervened in the suit by petition, and asked the court to discharge the receiver and put the petitioner in possession of the division of the road purchased by them.

The court being divided in opinion, the petition was denied, and the petitioner appealed.

We think the appeal was premature. The decision upon the petition was not a final decree in the cause. The removal or appointment of a receiver, as we have heretofore said, rests in the sound discretion of the court, and is not reviewable here.

The appeal must, therefore, be dismissed.

Mr. Matthew H. Carpenter for appellant. *Mr. John W. Cary* for appellee.

UNITED STATES *v.* ARMEJO.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA.

No. 164. December Term, 1865. — Decided April 3, 1866.

After the lapse of a term a general appearance cannot be changed to a special appearance, so as to affect the rights of parties, without leave of court first obtained.

The case is stated in the opinion.

Mr. Chief Justice Chase delivered the opinion of the court.

The motion to dismiss the appeal in this case must be denied.

It appears from the record that an appeal was allowed to the appellants from a final decree of the District Court for the Northern District of California, on the 21st December, 1863.

The record was brought here and filed at the next term, but no citation was issued to the appellee.

A general appearance was, however, entered in his behalf, and remained on the docket during the return term, which was the last term of this court.

At this term, the entry was limited to a special appearance by the addition of the necessary words. This addition was made by the clerk without direction from the court, in order, as he states, to make it conform to the original direction given him, which he understood to be not for the entry of a general but of a special appearance, and which direction, through his inadvertence, was not properly performed.

We think it was too late after the lapse of a term to alter a gen-