

APPENDIX.

I.

ASSIGNMENTS TO CIRCUITS.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1891.

It is ordered that the following allotment be made of the Chief Justice and Associate Justices of this court among the circuits, agreeably to the act of Congress in such case made and provided, and that such allotment be entered of record, viz.:

For the First Circuit, HORACE GRAY, Associate Justice.

For the Second Circuit, SAMUEL BLATCHFORD, Associate Justice.

For the Third Circuit, JOHN M. HARLAN, Associate Justice.

For the Fourth Circuit, MELVILLE W. FULLER, Chief Justice.

For the Fifth Circuit, LUCIUS Q. C. LAMAR, Associate Justice.

For the Sixth Circuit, HENRY B. BROWN, Associate Justice.

For the Seventh Circuit, JOHN M. HARLAN, Associate Justice.

For the Eighth Circuit, DAVID J. BREWER, Associate Justice.

For the Ninth Circuit, STEPHEN J. FIELD, Associate Justice.

February 1, 1892.

II.

SOME UNREPORTED PRACTICE CASES.

The following papers in the handwriting of the late Clerk of the Supreme Court, Mr. Carroll, were recently found in the Clerk's office. The Chief Justice directed them to be printed by the clerk for the use of the court.

UNITED STATES *v.* DAVENPORT'S HEIRS, No. 33, December term, 1851.

Mr. Coxe moved to dismiss this case, because the record referred to another record, and was therefore incomplete under the rule. *Mr. Attorney General* opposed the motion.

MR. CHIEF JUSTICE TANEY. When this rule was made the records were not printed, and it would have been very inconvenient to refer to other manuscript records of the court. But as the records are now printed, there is no inconvenience in the practice, and it tends to save expense. Moreover, there is in this record a stipulation of the counsel below to refer to another record of the same court now in this court, and which ought to bind the counsel here.

December 9, 1851.

Motion overruled.

Mr. Attorney General for appellant.

Mr. Coxe and *Mr. H. Baldwin* for appellees.

This motion was made under what was then the 31st Rule; now the 8th Rule. The case, when reached, was argued and decided. The opinion of the court will be found in 15 How. 1.

No. 36. BEIN *v.* HEATH. Filed and docketed December 7, 1849.

Mr. Bradley moved for a certiorari. *Mr. Coxe* objected that the motion came too late, this being the third term that the case had been on the docket. *Mr. Bradley* replied that the record was not

printed at the last term, and that he had been taken into the case since the last continuance.

MR. CHIEF JUSTICE TANEY. When this rule was made the records were not printed. Now, counsel rarely sees the record until it is printed, and if the motion is made within a reasonable time after the record is printed, and counsel has the opportunity of seeing it, a certiorari will be granted. But if, after the return, the other party desires to go to trial at this term, the party moving will not be entitled to a continuance.

December 9, 1851.

Certiorari awarded.

Mr. Coxe and Mr. A. O. Hale for plaintiffs in error.

Mr. Bradley and Mr. Bullard for defendant in error.

This motion was made under what was then the 32d Rule; now the 14th Rule. The case was argued and decided on the merits, December term, 1851, and is reported in 12 How. 168.

No. 85. *LARMAN v. TISDALE.* Filed and docketed March 19, 1850.

No appearance for plaintiff in error. Appearance of *Mr. Stanton* entered for defendant in error. *Mr. Stanton* moved to dismiss this writ of error under the 54th Rule.

MR. CHIEF JUSTICE TANEY. The object of the rule was to embrace a class of cases where there was no appearance, not to lay the foundation for a motion, but for the action of the court when the case is reached in the regular call of the docket, the counsel of defendant in error may avail himself of the 19th Rule if there be no appearance then entered for the plaintiff in error. The present motion must be overruled.

December 9, 1851.

Overruled.

No appearance for plaintiff in error.

Mr. Frederick P. Stanton for defendant in error.

A previous motion to dismiss this case on the same ground, under the 54th Rule, now the 16th Rule, was made in December term, 1850, and is reported in 11 How. 586. The case was reached in its order on the regular call of the docket, January 22, 1851, when, on motion of *Mr. Stanton*, it was dismissed for want of appearance.

