

Counsel for Appellee.

OGDEN *v.* UNITED STATES.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR
THE EASTERN DISTRICT OF LOUISIANA.

No. 1184. Submitted March 20, 1893. — Decided March 27, 1893.

The appeal in this case from a decree of the Circuit Court in a suit against the United States brought under the act of March 3, 1887, 24 Stat. 505, c. 359, not having been taken until August 9, 1892, is dismissed.

THE appellant brought this suit against the United States under the act of March 3, 1887, 24 Stat. 505, c. 359. The amount claimed exceeded the sum necessary to give this court jurisdiction on appeal. The bill was dismissed June 27, 1892. The application for appeal was made August 9, 1892. On behalf of the appellee the following motion was made: "And now, March 20, 1893, comes the Solicitor General, on behalf of the appellee, and moves the court to dismiss the appeal herein — for that such appeal is not authorized, by the act of March 3, 1891, 26 Stat. 826, entitled 'an act to establish Circuit Courts of appeals,' and so forth; and because such appeal is without the authority of law, and this court, therefore, is without jurisdiction of said appeal:" and with this motion was also submitted a statement of the appellants' counsel in which, acknowledging notice of the motion, he said: "I am anxious that the question shall be determined; the time you give me, however, is too short to prepare or file a brief. I accept your communication of the 13th as notice and waive any other, asking you in making the motion to state to the court that, so far as appellant is concerned, the case is submitted for construction of the statute conferring jurisdiction on the Circuit Courts in actions against the government, and whether that act conferring special jurisdiction with special procedure is affected by the general act creating the Circuit Courts of appeal."

Mr. Solicitor General for appellee in support of the motion.

Opinion of the Court.

Mr. J. R. Beckwith for appellants, opposing.

THE CHIEF JUSTICE: This appeal is dismissed upon the authority of *Bank v. Peters*, 144 U. S. 570; *Hubbard v. Soby*, 146 U. S. 56, and cases cited.

NORTHERN PACIFIC RAILROAD COMPANY v.
WALKER.

CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE EIGHTH CIRCUIT.

No. 1124. Argued January 31, February 1, 1893. — Decided April 3, 1893.

Following *Walter v. Northeastern Railroad Company*, 147 U. S. 370, it is again held that a Circuit Court of the United States has no jurisdiction over a bill in equity to enjoin the collection of taxes from a railroad company, when distinct assessments, in separate counties, no one of which amounts to \$2000, and for which, in case of payment under protest, separate suits must be brought to recover back the amounts paid, are joined in the bill and make an aggregate of over \$2000.

As, perhaps, by amendment this bill might be retained as to some one of the defendants, this court declines to dismiss the bill, and reverses the judgment, and remands the cause to the court below for further proceedings in conformity with this opinion.

THE case is stated in the opinion.

Mr. Frederick M. Dudley and *Mr. James McNaught* for appellant.

Mr. S. L. Glaspell, (with whom was *Mr. Edgar W. Camp* on the brief,) for appellees.

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

This was a bill filed in the Circuit Court of the United States for the District of North Dakota, November 21, 1890, by the