

Statement of the Case.

disclosed by the record the bill of exceptions was not tendered to the judge or signed by him until October 7, 1889, and no order was entered extending the time for its presentation, nor was there any consent of parties thereto, nor any standing rule of court which authorized such approval. The bill of exceptions was therefore improvidently allowed. *Müller v. Ehlers*, 91 U. S. 249; *Jones v. Grover & Baker Sewing Machine Co.*, 131 U. S. Appx. cl; *Michigan Insurance Bank v. Eldred*, 143 U. S. 293. As the errors assigned arise upon the bill of exceptions, we are compelled to affirm the judgment, and it is so ordered.

Affirmed.

NASH v. HARSHMAN.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR
THE NORTHERN DISTRICT OF OHIO.

No. 957. Submitted April 17, 1893. — Decided May 1, 1893.

This case is dismissed upon the authority of *Hohorst v. Hamburg-American Packet Co.*, 148 U. S. 262.

THIS action was commenced in the court of common pleas of Logan County, Ohio, to foreclose a mortgage made by Nash to Harshman of real estate then owned by him, and conveyed by him to one Dupee after the execution of the mortgage. Nash and Dupee were both made defendants. After issue joined the cause was removed to the Circuit Court of the United States on the defendants' motion, on the ground of local prejudice. Trial was had there which resulted in a decree, December 4, 1890, against Nash for the payment of the debt, and against Dupee for the sale of the land on failure of Nash to make the payment within ten days from the decree. On the 11th of December, Nash took an appeal to this court, which was allowed, and a receiver was appointed to take possession of the estate and hold and manage it pending the appeal. The appellee moved to dismiss the appeal or affirm the judgment, assigning the following reasons therefor:

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"1. No proper bond for appealing said cause to this court has been given; and none was required by said Circuit Court to be given, but in allowing this appeal, said court assumed to excuse and dispense with the bond required by law, whereby the allowance of appeal is rendered invalid and this court acquires no jurisdiction thereby.

"2. This appeal is not taken and prosecuted by the party against whom the decree of the court below was rendered.

"3. It is apparent upon an inspection of the record that said appeal is frivolous and utterly groundless, and was taken for the purposes of delay merely."

Mr. Louis D. Johnson for the motion.

No one opposing.

THE CHIEF JUSTICE: The appeal is dismissed. *Hohorst v. Hamburg-American Packet Co.*, 148 U. S. 262.

INTERSTATE COMMERCE COMMISSION *v.* ATCHISON, TOPEKA AND SANTA FÉ RAILROAD COMPANY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

No. 1275. Submitted April 24, 1893. — Decided May 1, 1893.

No appeal now lies to this court from decisions of the Interstate Commerce Commission.

THIS was a motion to dismiss for want of jurisdiction.

The motion was also entitled in the following cases: Atlantic & Pacific Railroad Company; Burlington & Missouri River Railroad Company; California Central Railway Company; California Southern Railroad Company; Chicago, Kansas & Nebraska Railway Company; Missouri Pacific