

## Opinion of the Court.

WINONA & ST. PETER LAND COMPANY v.  
MINNESOTA (No. 2).

ERROR TO THE SUPREME COURT OF THE STATE OF MINNESOTA.

No. 38. Argued October 16, 1895. — Decided November 11, 1895.

The Federal question sought to be raised here not having been presented in the state court, the case is dismissed for want of jurisdiction.

THE case is stated in the opinion.

*Mr. James A. Tawney* for plaintiff in error.

*Mr. H. W. Childs*, Attorney General of the State of Minnesota, for defendant in error. *Mr. George B. Edgerton* was on his brief.

*Mr. John Lind* filed a brief for defendant in error on behalf of Brown County.

MR. JUSTICE BREWER delivered the opinion of the court.

This case is similar to the one between the same parties just decided, in that the questions presented to the state courts involved the taxability of lands included in the legislative grants of May 22, 1857, and March 10, 1862, the Barney contract of October 31, 1867, and the decree in the United States Circuit Court of March 7, 1887. The tax proceedings were under the law of 1881, but were had in the county of Brown instead of the county of Redwood. The case, however, differs from the preceding, in that the Federal questions sought to be raised in this court were not seasonably presented in the state courts. The alleged immunity from taxation and lack of due process of law were not "specially set up or claimed" prior to the decision in the Supreme Court. The failure so to do prevents this court, as has been frequently held, from acquiring jurisdiction. *Spies v. Illinois*, 123 U. S.

## Statement of the Case.

131, 181; *Brooks v. Missouri*, 124 U. S. 394; *Chappell v. Bradshaw*, 128 U. S. 132; *Brown v. Massachusetts*, 144 U. S. 573; *Schuyler National Bank v. Bollong*, 150 U. S. 85; *Powell v. Brunswick County*, 150 U. S. 433; *Miller v. Texas*, 153 U. S. 535; *Morrison v. Watson*, 154 U. S. 111; *Sayward v. Denny*, 158 U. S. 180.

*The writ of error must, therefore, be dismissed for want of jurisdiction.*

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WEEKS *v.* BRIDGMAN.

## ERROR TO THE SUPREME COURT OF THE STATE OF MINNESOTA.

No. 44. Argued October 17, 1895. — Decided November 11, 1895.

In 1857 B., a mail contractor, applied to file a preëmption declaratory statement for public land under the act of March 3, 1855, c. 201, 10 Stat. 683. His application being rejected he appealed to the Commissioner of the General Land Office, by whom the decision below was sustained. He then appealed to the Secretary of the Interior, who in 1861 reversed the Land Commissioner's decision. Meanwhile, in 1860, Congress passed an act for his relief, (12 Stat. 843, c. 63,) and under that act he paid for the land, and in 1871 received a patent in which it was stated that the land had been certified to the State of Minnesota for railroad purposes by mistake. This certification was made in 1864. *Held*, as between the grantee of B. and the grantee of a railroad company to which the land had been conveyed by the State, that the title derived from B. must prevail.

THIS was an action brought by Charles A. Weeks against Coleman Bridgman in the District Court for the Seventh Judicial District of Minnesota under a statute of that State to determine adverse claims to vacant and unoccupied real estate. Judgment having been rendered for plaintiff, the cause was taken to the Supreme Court of Minnesota on appeal, the judgment reversed, and the cause remanded. 41 Minnesota, 352. The cause was again tried in the District Court by the court, a jury having been expressly waived, and judgment entered for defendant, which, on a second appeal, was affirmed.