

Statement of the Case.

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court for the first district in favor of the bank against Mallers, which judgment was affirmed by the Supreme Court.

On the case being remanded to the appellate court an execution was issued by the clerk to enforce the collection of the judgment which Mallers moved to quash, and from the judgment of that court denying that motion a writ of error was prosecuted to the Supreme Court, which affirmed the judgment of the appellate court.

The case was then brought here on writ of error, which must be dismissed for want of jurisdiction. *Hulbert v. Chicago*, 202 U. S. 275; *Burt v. Smith*, 203 U. S. 129; *Bonner v. Gorman*, 213 U. S. 86.

No Federal question was raised in the state courts, and the attempt to raise a Federal question in the assignment of errors in this court, not only came too late, but was palpably not maintainable. *Chapin v. Fye*, 179 U. S. 127.

Writ of error dismissed.

UNITED STATES *v.* GRIMAUD.

UNITED STATES *v.* INDA.

ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

Nos. 490, 491. Argued February 28, 1910.—Decided March 14, 1910.

Quære and not decided by this court whether the provision in the act of June 4, 1897, c. 2, 30 Stat. 30, 35, empowering the Secretary of Agriculture to make regulations in regard to grazing sheep on a forest reserve is unconstitutional as delegating legislative power to an executive officer and empowering such officer to create a criminal offense.

170 Fed. Rep. 205, affirmed by a divided court.

THESE were writs of error to the District Court under the Criminal Appeals Act of March 2, 1907, as defendants in

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error were indicted for grazing sheep upon the Sierra Forest Reserve without a permit in violation of Regulation 45, established by the Secretary of Agriculture concerning stock grazing upon forest reserves under the act of June 4, 1897, c. 2, 30 Stat. 11, 35.

The District Court sustained demurrers on the ground that the act of 1897 delegated legislative power to an executive officer and that the act is unconstitutional because it empowers an executive officer to create a criminal offense.

The Solicitor General, with whom *The Attorney General* was on the brief, for the plaintiff in error.

No appearance for the defendants in error.

Per Curiam. Judgments affirmed by a divided court.

April 18, 1910, petitions for rehearing granted and cases restored to the docket.

MISSOURI, KANSAS & TEXAS RAILWAY COMPANY *v.*
HOLLAN.

ERROR TO THE COURT OF CIVIL APPEALS FOR THE FIFTH SUPREME JUDICIAL DISTRICT OF THE STATE OF TEXAS.

No. 161. Motion to dismiss or affirm submitted March 14, 1910.—Decided March 21, 1910.

Writ of error to review a judgment of the state court in an action for personal injuries dismissed, without opinion, for want of jurisdiction.

Mr. James Hagerman, Mr. J. M. Bryson, and Mr. Cecil H. Smith for the plaintiff in error.

Mr. C. B. Randell and Mr. Judson H. Wood for the defendant in error.

Per Curiam. Dismissed for the want of jurisdiction.