

June 1, 1965.

381 U. S.

KENNECOTT COPPER CORP. *v.* UNITED STATES.APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK.

No. 995. Decided June 1, 1965.

231 F. Supp. 95, affirmed.

Arthur H. Dean and *Howard T. Milman* for appellant.*Solicitor General Cox*, *Assistant Attorney General Orrick*, *Lionel Kestenbaum*, *Jerome S. Wagshal* and *Donald L. Hardison* for the United States.

PER CURIAM.

The motion to affirm is granted and the judgment is affirmed. *Brown Shoe Co. v. United States*, 370 U. S. 294 and *United States v. Aluminum Co. of America*, 377 U. S. 271.

MR. JUSTICE HARLAN and MR. JUSTICE GOLDBERG, dissenting.

We would note probable jurisdiction and set the case for argument. In so voting, we indicate no opinion on the merits. Under the Expediting Act, 32 Stat. 823, as amended, 15 U. S. C. § 29 (1964 ed.), this is appellant's first and only appeal. So long as this statute remains on the books and Congress provides no intermediate review, see *United States v. Singer Mfg. Co.*, 374 U. S. 174, 175, it is our view that the policy of the Act is, in general, best served by plenary rather than summary dispositions of such appeals. *Ibid.* Of course, if the question presented by an appeal is plainly insubstantial or directly governed by a controlling decision of this Court, summary disposition would still be appropriate. Since we do not believe that this can be said of this case, we would give plenary consideration to this appeal.