
 United States v. Boisdoré's Heirs.

ters shall be finally adjusted. If the injunction has been inadvertently granted, the Circuit Court has power to suspend it or set it aside, until the report of the master shall be sanctioned. And unless the defendants below are in doubtful circumstances, and cannot give bond to respond in damages for the use of the machines, should the right of the plaintiff be finally established, we suppose that the injunction will be suspended. Such is a correct course of practice, as indicated by the decisions of this court, and that is a rule of decision for the Circuit Court.

The appeal is dismissed.

ORDER.

This cause came on to be heard on the transcript of the record from the Circuit Court of the United States for the Northern District of New York, and was argued by counsel. On consideration whereof, and it appearing to the court here that the decree of the court below complained of is not a final decree within the meaning of the act of Congress, it is thereupon now here ordered and decreed by this court, that this cause be and the same is hereby dismissed for the want of jurisdiction.

THE UNITED STATES, APPELLANTS, v. THE HEIRS OF LOUIS BOISDORÉ.*

The meaning of the forty-third rule of this court is, that, if a judgment or decree in the court below be rendered more than thirty days before the commencement of the term of this court, and the record be not filed within the first six days of the term, the appellee or defendant in error may docket the case, and move for its dismissal as the rule prescribes.

But if the judgment or decree of the court below be rendered less than thirty days before the commencement of the term of this court, the rule does not apply.¹

THIS was an appeal from the District Court of the United States for the Southern District of Mississippi.

Mr. Fendall moved to dismiss the appeal, upon the grounds stated in the opinion of the court, which motion was opposed by *Mr. Toucey* (Attorney-General).

Mr. Justice McLEAN delivered the opinion of the court.

**Mr. Chief Justice Taney* did not sit in this cause.

¹ Further decision, 8 How., 113.

This is an appeal from the decree of the District Court for the Southern District of Mississippi.

*The bill was filed against the United States, under [*659 the acts of June 17, 1844, and May 26, 1824, to try the validity of the complainants' claims to certain lands in Mississippi. At the November term of the District Court, 1847, a decree was entered in favor of the petitioners, and at the same term an appeal to the Supreme Court of the United States was granted by the District Court, on the application of the defendants. An appeal thus allowed requires no notice to the appellee. A motion is now made to dismiss this appeal, on the following grounds:—

1. Because the appeal is not made to any specified term of the Supreme Court.
2. Because it is not made returnable to the term of the Supreme Court next following the decree.
3. Because the record is not filed at the term of the Supreme Court next following the decree.

Under the act of 1824, the party against whom the decree is entered may appeal within one year. On the 14th of March, 1848, a transcript of the record was made out, and it was filed in this court at the present term. From the time this decree was entered, to the commencement of the ensuing session of the Supreme Court, there were less than thirty days. And under such circumstances it appears, by the forty-third rule, that the appellant was not required to file the transcript of the record in this court at the first term.

The rule provides, that, "in all cases where a writ of error, or an appeal, shall be brought to this court from any judgment or decree rendered thirty days before the commencement of the term, it shall be the duty of the plaintiff in error or appellant, as the case may be, to docket the cause and file the record with the clerk of this court within the first six days of the term." If this be not done, the other party, on producing the proper certificate, may have the cause docketed and the appeal or writ of error dismissed.

The rule does not operate where a decree is entered less than thirty days before the term of this court, and consequently the cause is not liable to be docketed and dismissed. The appellants, under the circumstances of this case, are chargeable with no neglect for failing to file the record with the clerk at the first term of the Supreme Court after the decree was entered. The motion to dismiss is overruled.

 Missouri v. Iowa.

ORDER.

On consideration of the motion to dismiss this cause, made by *Mr. Fendall*, on a prior day of the present term of this *660] court, to wit, on Friday, the 2d instant, and of the *arguments of counsel thereupon had, as well in support of as against the motion, it is now here ordered by this court, that the said motion be and the same is hereby overruled.

THE STATE OF MISSOURI, COMPLAINANT, *v.* THE STATE OF IOWA, RESPONDENT.

THE STATE OF IOWA, COMPLAINANT, *v.* THE STATE OF MISSOURI, RESPONDENT.—*Cross-Bill.*

The western and northern boundary-lines of the State of Missouri, as described in the first article of the constitution of that State, were as follows:—from a point in the middle of the Kansas River, where the same empties into the Missouri River, running due north along a meridian line, to the intersection of the parallel of latitude which passes through the rapids of the River Des Moines, making said line correspond with the Indian boundary-line; thence east from the point of intersection last aforesaid, along the said parallel, to the middle of the channel of the main fork of the said River Des Moines; thence, etc., etc.

The constitution of the State of Missouri was adopted in 1820. But in 1816, an Indian boundary-line had been run by the authority of the United States, which in its north course did not terminate at its intersection with the parallel of latitude which passed through the rapids of the River Des Moines, and in its east course did not coincide with that parallel, or any parallel of latitude at all.

Missouri claimed that this north line should be continued until it intersected a parallel of latitude which passed through certain rapids in the River Des Moines, and from the point of intersection be run eastwardly along the parallel to these rapids.

Iowa claimed that this Indian boundary-line was protracted too far to the north; that by the term “rapids of the River Des Moines” were meant certain rapids in the Mississippi River, known by that name, and that the parallel of latitude must pass through these rapids; the effect of which would be to stop the Indian boundary-line in its progress north, before it arrived at the spot which had been marked by the United States surveyor.

There being a bill and a cross-bill, each State is a defendant, and this court can pass such a decree as the case requires.¹

The southern boundary-line of Iowa is coincident with, and dependent upon, the northern boundary-line of Missouri.

Iowa is bound by the acts of its predecessor, the government of the United States, which had plenary jurisdiction over the subject as long as Iowa remained a Territory; and the United States recognized the Indian boundary-line,—1st. By treaties made with the Indians; 2d. By the acts of the general land-office; 3d. By Congressional legislation.

¹ CITED. *Virginia v. West Virginia*, 11 Wall., 54.