
Stafford et ux. v. New Orleans Canal and Banking Company.

*IN THE MATTER OF JOSIAH S. STAFFORD AND JEANNETTE KIRKLAND, HIS WIFE, APPELLANTS, v. THE NEW ORLEANS CANAL AND BANKING COMPANY.

The decision in the preceding case of Stafford and Wife v. The Union Bank of Louisiana, again affirmed.

THIS, like the preceding case of Stafford and Wife v. The Union Bank of Louisiana, was an appeal from the district court of the United States for the state of Texas, and was, in fact, a branch of the same case.

It is unnecessary, therefore, to recite the circumstances of it, which were similar to those of the preceding case.

Mr. Justice McLEAN delivered the opinion of the court.

This appeal is subject, in principle, to the objections stated in the above case of Stafford and Wife v. The Union Bank of Louisiana; and, for the reasons stated in that case, a peremptory *mandamus* is ordered in this one, to carry into effect the decree entered in the district court. The motion to dismiss this appeal is overruled.

Order.

The Honorable John C. Watrous, district judge of the United States for the district of Texas, having failed to file any return to the rule granted at the last term, in this case, requiring him to appear and show cause, if any he had, why a *mandamus* should not be awarded, requiring and commanding him to cause the decree rendered by the said court, on the 2d day of March, A. D., 1854, in a certain case therein then depending, between the said New Orleans Canal and Banking Company, as complainant, and Josiah S. Stafford and Jeanette Kirkland, his wife, as defendants, to be at once carried into execution, according to the terms thereof, notwithstanding the appeal from said decree taken by the said defendants to this court, and the order of the said court that the appeal bond, filed by the said defendants on the said appeal, operated as a *supersedeas* to the said decree of the said court; and, after due deliberation thereupon had, it appearing to the court that it was the duty of the judge, in allowing the appeal, to take security on the appeal in the sum decreed, and not having done so, that the appellant was not entitled to a *supersedeas* of any process necessary to carry the decree into execution, and that the judge was bound to issue the proper process, *284] on the application of the complainant. *It is, therefore, now here directed and ordered by this court, that a *mandamus* be awarded to the district judge of the United

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States for the district of Texas, requiring and commanding the said judge forthwith to carry the aforesaid decree of the said district court, of the 2d of March, A. D., 1854, into effect.

After-Order.

This cause came on to be heard on the transcript of the record from the circuit court of the United States for the district of Texas; and it appearing to the court here that a stipulation, by the counsel of the respective parties, to dismiss this appeal, at the costs of the appellants, has been filed in this cause, it is thereupon, on the motion of *Mr. Cox*, of counsel for the appellee, now here ordered and decreed by this court, that this appeal be and the same is hereby dismissed, with costs.

THE UNITED STATES, AT RELATION OF AARON GOODRICH,
PLAINTIFF IN ERROR, v. JAMES GUTHRIE, SECRETARY OF
THE TREASURY.

The circuit court of the United States for the District of Columbia, had not the power to issue a writ of *mandamus*, commanding the secretary of the treasury to pay a judge of the territory of Minnesota his salary, for the unexpired term of his office, from which he had been removed by the President of the United States.

No court has the power to command the withdrawal of money from the treasury of the United States, to pay any individual claim whatever.

A *mandamus* can issue only in cases where the act to be done is merely ministerial, and with regard to which nothing like judgment or discretion, in the performance of his duties, is left to the officer.¹

The question, whether or not the President has power to remove a territorial judge, argued, but not decided in the present case.

THIS case was brought up, by writ of error, from the circuit court of the United States for the District of Columbia, holden in and for the county of Washington.

The facts were these:—

On the 19th March, 1849, the President appointed, by and with the advice and consent of the senate, A. Goodrich, to be chief Justice of the supreme court of the Territory of Minnesota, for four years, which appointment was accepted.

On the 21st of October, 1851, the President of the United

¹ CITED. *Ex parte DeGroot*, 6 *Board of Liquidation*, 11 Fed. Rep., Wall., 497; *United States v. Seaman*, 645; *United States v. Boutwell*, 3 ante *230; *Gaines v. Thompson*, 7 MacArth., 182; *Matter of Murphy*, 24 Wall., 352; *The Secretary v. McGarahan*, 9 Wall., 312; *Chaffraix v. Hun*, 597.