

Statement of the case.

a year of financial revulsion and distress throughout the greater part, if not the whole, of the commercial world, the effects of which were still felt in the spring of 1858. In such a time proof of the practicability of obtaining funds, in a port so remote, upon the credit of the owner, should be clear indeed in order to affect a lender upon bottomry with the duty of inquiry.

On the whole the decree of the Circuit Court must be REVERSED, and the cause must be remanded to that court with directions to refer the accounts for repairs and supplies to one or more commissioners experienced in commerce and of known intelligence and probity, to ascertain, under the instructions of the court, what portion of the repairs and supplies, actually furnished to the ship, were really necessary, and for the amount thus ascertained and approved by the court to enter

DECREE FOR THE LIBELLANTS.

LATHAM'S AND DEMING'S APPEALS.

An appellant has a right to have his appeal dismissed notwithstanding the opposition of the other side.

THESE were two appeals from the Court of Claims, in suits against the United States. They had been passed at former terms, and early at this one. It being alleged by Mr. Hoar, Attorney-General, that they involved a question of public interest—to wit, the legal tender question—which he desired, for some reasons which he stated, to have passed on anew, he asked the court to fix a day at this term for argument upon them, it being stated by him that it was, in his opinion, most desirable that the matter should not be postponed to the next term. After opposition and some delays by *Messrs. Carlisle and Merryman*, for the appellants respectively, who denied that any question of legal tender was presented in the records, and asserted that the cases, whenever called, had been passed, on an understanding by themselves, the

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counsel of the government, and the court, that if any such question were properly in them it should abide the decision to be made in *Hepburn v. Griswold*,* then under consideration by the court—a day was fixed for the hearing of the cases. When the day arrived the cases were postponed, owing to another case being before the court. Being finally called, *Mr. L. S. Chatfield, with whom was Mr. Merryman, for the appellants respectively*, offered a stipulation signed by them in behalf of their clients, and moved to dismiss the appeals. *The Attorney-General opposed the motion*; stating that it was a surprise to him; that he was now prepared to argue the cases, and desired to do so.

After some conference on the bench, where the judges did not seem to be entirely unanimous, the court withdrew for consultation. On their return, the CHIEF JUSTICE announced it as the unanimous judgment of the court that the appellants had a right to have their appeals dismissed, and they were both DISMISSED ACCORDINGLY.

THE JOHNSON.

Steamers navigating in crowded channels and in the vicinity of wharves, must be run and managed with great caution, and with a strict regard to the established rules of navigation, including that one which requires them, when approaching from opposite directions, to put their helms to port. If they are about to attempt any manœuvre not usual and clearly safe, such as running in under the bows of another vessel in motion, they must not only sound their whistle or give the other proper signal, but before attempting the manœuvre must be certain also that the signal was heard and understood by the approaching vessel.

APPEAL from the Circuit Court for the Southern District of New York, in a case of collision, the case being this:

All steamers navigating the crowded waters of the New York harbor, were bound in 1863 to obey the following RULES OF NAVIGATION, prescribed originally for the conduct of passenger steamers, but adopted by other vessels.

* The Legal Tender Case, 8 Wallace, 603.