Statement of the case.

The CHIEF JUSTICE delivered the opinion of the court.

The only question in this case arises upon the construction of the policy sued upon.

It contained a clause providing that fireworks, among other things, should be specially written in the policy. Otherwise they were not to be covered by the insurance. It is not pretended that fireworks are included under the name of fire-crackers. But the plaintiff contends that they are included in the description of "other articles in his line of business." The answer to this is, that the policy itself requires that fireworks shall be specially written in it. They are among the goods described as specially hazardous, and add 50 cents on the $100 to the ordinary rate of insurance.

It is impossible to think they are described by the general terms used in the policy. The insurance was at the ordinary rates. There can be no doubt that the evidence was properly rejected; and the judgment of the Circuit Court must, therefore, be

AFFIRMED.

PHILIP ET AL. *v.* NOCK.

The right given by the acts of February 18th, 1861, and July 20th, 1870, of appeal or writ of error without regard to the sum in controversy in questions arising under laws of the United States, granting or conferring to authors or inventors the exclusive right to their inventions or discoveries, applies to controversies between a patentee or author and alleged infringer as well as to those between rival patentees.

MOTION to dismiss an appeal from the Supreme Court of the District of Columbia.

The Judiciary Act of 1789, as is known, gives jurisdiction to this court in ordinary cases only "where the matter in dispute exceeds the sum or value of $2000."

The Patent Act of February 18th, 1861,* provides that

"From *all* judgments and decrees of any Circuit Court, ren-

* 12 Stat. at Large, 130.

dered in any action, suit, controversy, or case at law or in equity, *arising under any law of the United States granting or confirming* to authors the exclusive right to their respective writings, or to *inventors the exclusive right to their inventions or discoveries*, a writ of error or appeal, as the case may require, shall lie, at the instance of either party, to the Supreme Court of the United States, in the same manner and under the same circumstances as is now provided by law in other judgments and decrees of such Circuit Courts, *without regard to the sum or value in controversy in the action.*"

In this state of the statutory law, one Nock, inventor of locks, sued Philip & Solomon as infringers. He laid his damages at $5000 and got judgment for $500. To this Philip & Solomon took a writ of error.

After this, that is to say, July 20th, 1870, Congress passed another act,* thus:

"A writ of error or appeal to the Supreme Court of the United States shall lie from all judgments and decrees of any Circuit Court, or of any District Court exercising the jurisdiction of a Circuit Court, or of the Supreme Court of the District of Columbia or of any Territory, in any action, suit, controversy, or case, at law or in equity, *touching patent rights*, in the same manner and under the same circumstances as in other judgments and decrees of such Circuit Courts, *without regard to the sum or value in controversy.*"

Mr. G. W. Paschall, in support of his motion to dismiss:

The language of the act of 1870 is broader than that of the act of 1861; but as the former act was not passed until after this writ was taken, of course the writ, if sustainable at all, must rest on the act of 1861.

Now a suit against a naked infringer of a patent, is not within the letter, and certainly not within the spirit of that act. That act may well apply to the interference cases arising between rival patentees, or to controversies between such patentees, or those claiming under them—cases which properly involve the construction of the patent laws; where

* 16 Stat. at Large, 207.

no amount can be said to be involved, but only the rights of inventors, to the benefit of their discoveries, as against the government or other inventors — without allowing a naked trespasser the benefit of appeal simply because he disputes the validity of a patent. The assumption really is that the validity of every patent may be attacked by any trespasser in a collateral way. Is this admissible?

Mr. R. D. Mussey, contra.

The CHIEF JUSTICE delivered the opinion of the court.

The patent law of February, 1861, gives to parties to suits arising under any law of the United States giving to inventors the exclusive right to their inventions or discoveries, a writ of error or appeal to the Supreme Court of the United States without regard to the sum in controversy. The act of 1870 does not alter the right of appeal or to a writ of error in this respect.

The motion to dismiss must, therefore, be

DENIED.

HAMPTON v. ROUSE.

In a writ of error to a joint judgment against several, all must join. The omission of one or more is an irregularity for which the writ will be dismissed; a matter often held.

THIS was a motion to dismiss a writ of error to the Circuit Court for the Southern District of Mississippi.

It appeared from the record that Wade Hampton, Wade Hampton, Jr., and J. M. Howell, were defendants in the court below to an action of ejectment, and that the bill of exceptions, on which the writ of error was sued out, was tendered by them jointly. The judgment was against the defendant in the singular, but, as the verdict was joint, this court considered it obvious that this was a mere clerical error, and that the judgment, doubtless, followed the verdict.