

DECISIONS

IN THE

SUPREME COURT OF THE UNITED STATES, DECEMBER TERM, 1872.

PORTLAND COMPANY v. UNITED STATES.

A case dismissed, January 8th, 1873, because the counsel for the appellant did not file a brief in the form required by the amendment to the 21st rule, promulgated November 16th, 1872, and to be seen at large in 14 Wallace, p. ix.

APPEAL from the Court of Claims.

The Portland Company, a corporation of Maine, filed a petition in the court just named to recover the drawback allowed by the 17th section of the act of June 30th, 1864,* on certain locomotive-engines exported by them. The engines were manufactured by the company under a contract with the United States, and the internal revenue tax thereon was paid. Afterwards the engines were sold by the government at public auction, and the company bought them. The Court of Claims dismissed the petition, and the claimants appealed.

On the case being called, January 8th, 1872, it was submitted by the appellants *on the record, no brief being filed in their behalf.*

For the United States, a brief was submitted by Mr. C. H. Hill, Assistant Attorney-General.

The CHIEF JUSTICE, January 20th, 1873, delivering the judgment of the court, said:

From time to time, the court has adopted rules of practice

* 13 Stat. at Large, 302, 303.

Warning to the bar.

intended to facilitate the presentation of causes by counsel and their consideration by the court. Finding that these rules, through the inattention of the bar, had failed in a great degree of their intended effect, we promulgated at the last term and for the same end, an amended twenty-first rule, the fourth section of which required that the brief should contain, *in the order there stated*:

First, a concise abstract or statement presenting succinctly the questions involved, and the manner in which they were raised;

Second, an assignment of the errors relied upon, setting out, in cases brought up by writ of error, separately and specifically each error asserted and intended to be urged, and in cases brought up by appeal, as specifically as may be, the error alleged to exist in the decree; or, if the error be alleged in a ruling upon the report of a master, stating the exception to the report and the action of the court upon it;

Third, a brief of the argument exhibiting a *clear* statement of the points of law or fact to be discussed, with a reference to the pages of the record and authorities relied upon in support of each point, and containing, when a statute of a State is cited, so much thereof as may be deemed necessary to the decision of the case, printed at length.

The fifth section of the rule also required that when the error allowed is to the charge of the court, the specification shall set out the part referred to *totidem verbis*, whether it be instructions given or instructions refused.

And the sixth section required that when the error alleged is to the admission or rejection of evidence, the specification shall quote the full substance of the evidence admitted or rejected.

The necessity of strict compliance with these rules, especially in view of the greatly augmented business of the court, is evident. It will facilitate as much the labors of the bar as those of the bench. That counsel might have full notice of the rule, it was required to take effect on the first day of the present month of January, and the clerk was directed to have printed copies made of the rule as amended, and send one

Statement of the case.

copy to each of the counsel in all cases pending and not yet argued. In the case before us, this rule has been totally disregarded on the part of the appellant.

We shall, therefore, in this case

DISMISS THE APPEAL.

RAILROADS v. RICHMOND.

A case will fall within the 25th section of the Judiciary Act where the record shows that on a suit on a contract the defendants set up that the contract had been rendered void and of no force and effect by provisions of the Constitution of the United States and of certain acts of Congress, and shows also that the decision of the highest court of the State was against the right, title, privilege, or exemption thus specially set up.

MOTION to dismiss a writ of error to the Supreme Court of Iowa, which had been sued out on the assumption that the case came within the third clause of the 25th section of the Judiciary Act. That act thus enacts:

"That a final judgment or decree in any suit, in the highest court of law or equity of a State in which a decision in the suit could be had,

"(1st.) Where is drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision is AGAINST their validity;

"(2d.) Or where is drawn in question the validity of a statute of or an authority exercised under any State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision is IN FAVOR of such their validity;

"(3d.) Or where is drawn in question the construction of any clause of the Constitution, or of a treaty, or statute of, or commission held under the United States, and the decision is AGAINST the title, right, privilege, or exemption, specially set up or claimed by either party, under such clause of the said Constitution, treaty, statute, or commission,—

"May be re-examined and reversed or affirmed in the Supreme Court of the United States upon a writ of error."