

Syllabus.

to recover on either of the contracts sued on. It follows that the judgment of the Court of Claims in favor of Smoot on the Chicago contract is REVERSED, and the case remanded for judgment in favor of the United States; and the judgment of that court on the St. Louis contract, the subject of the appeal by Smoot, is

AFFIRMED.

NOTE.

AT the same time was adjudged—it having been previously argued by *Mr. C. H. Hill*, Assistant Attorney-General, for the United States, and by *Mr. James Hughes*, contra—the case of the

UNITED STATES v. SPICER,

the facts of which were very similar to those of Smoot's case, above reported. Judgment had been given below in favor of Spicer. The court now announced that the principles set forth in Smoot's case, which they had just decided, must govern Spicer's case also. The judgment in it was accordingly reversed, with directions to the Court of Claims to render judgment

IN FAVOR OF THE UNITED STATES.

KEARNEY v. DENN.

1. A suit was brought in a Circuit Court; properly as regarded the citizenship of the parties. The defendant died, and his representatives were made defendants; nothing being said as to their citizenship. On motion to dismiss because the plaintiff and defendants were citizens of the same State, the Circuit Court refused the motion, but on what ground did not appear; the record not showing whether any evidence had been taken on the matter, and recording only that the defendants "reserved their exception to the decision of the court." *Held*, that as the record stood, there was no case that this court could examine.
2. A judgment of an Orphans' Court of Maryland (affirmed in the Court of Appeals), passing directly on the legitimacy of a son who was applying