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Syllabus.

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## RYAN v. KOCH.

A judgment affirmed because the plaintiff in error had filed no assignment of errors or brief, as required by the rules of court.

IN this case a writ of error to the Circuit Court of the United States for the District of Michigan (*Mr. J. G. Sutherland, for the plaintiff in error; Mr. G. T. Edmunds, contra*) had been filed on the 27th of November, 1871, but the plaintiff in error had filed no assignment of errors or brief as required by the rules of the court. And for those reasons (*Mr. Justice CLIFFORD* announcing the decision of the court) the judgment was

\_\_\_\_\_ **AFFIRMED.**

## BANK v. KENNEDY.

1. A receiver of a national bank, appointed by the comptroller of the currency under the 50th section of the National Banking Act, may sue for demands due the bank in his own name as receiver, or in the name of the bank.
2. A receiver, in order to sue for an ordinary debt due the bank, is not obliged to get an order of the comptroller of the currency. It is a part of his official duty to collect the assets.
3. The case of *Kennedy v. Gibson* (8 Wallace, 506), distinguished from this case; as having been a suit against the stockholders of the bank, which required the direction of the comptroller.
4. Conversations occurring during the negotiation of a loan, or other transaction, as well as the instruments given or received, being part of the *res gesta*, are competent evidence to show the nature of the transaction, and the parties for whose benefit it was made, where that fact is material. They are not adduced for the purpose of proving facts stated or affirmed in the conversations, but to prove the conversations themselves as facts; and are not hearsay, but original evidence.
5. Where the cashier of a bank effects a loan, and it becomes material to ascertain whether it was made for his own account or for the use of the bank, evidence of the negotiation and circumstances may be given for that purpose, whatever may be the form of the securities given or received, when the latter are introduced only collaterally in the cause.
6. When papers or documents are introduced collaterally in the trial of a cause, the purpose and object for which they were made, and the reason why they were made in a particular form, may be explained by parol evidence.