

APPENDIX.

THE twenty-fifth section of the Judiciary Act of 1789 and the second section of the act of 1867, much similar to it, being referred to in the body of this book more than once, are here given. Words in the former act omitted in the latter, or words in the latter not in the former, are here put in brackets; and words variant in the two acts in italics.

JUDICIARY ACT OF 1789.

[1 STAT. AT LARGE, 85.]

SECTION 25. *And be it further enacted*, 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,

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,

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,

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,

JUDICIARY ACT OF 1867.

[14 STAT. AT LARGE, 385.]

SECTION 2. *And be it further enacted*, That a final judgment or decree in any suit in the highest court of a State in which a decision in the suit could be had,

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,

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,

OR where any title, right, privilege, or immunity is claimed under the Constitution, or any treaty or statute of, or commission held, or authority exercised under the United States, and the decision is against the title, right, privilege, or *immunity* especially set up or claimed by either party under such Constitution, treaty, statute, commission [or authority],

May be re-examined and reversed or affirmed in the Supreme Court of the United States upon a writ of error, the citation being signed by the chief justice, or judge, or chancellor of the court rendering or passing the judgment or decree complained of, or by a justice of the Supreme Court of the United States, in the same manner and under the same regulations, and the writ shall have the same effect as if the judgment or decree complained of had been rendered or passed in a *Circuit Court*, and the proceeding upon the reversal shall also be the same, except that the Supreme Court [instead of remanding the cause for a final decision as before provided] may, at their discretion [if the cause shall have been once remanded before], proceed to a final decision of the same and award execution. [But no other error shall be assigned or regarded as a ground of reversal in any such case as aforesaid, than such as appears on the face of the record, and immediately respects the before-mentioned questions of validity or construction of the said Constitution, treaties, statutes, commissions, or authorities in dispute.]

May be re-examined and reversed or affirmed in the Supreme Court of the United States, upon a writ of error, the citation being signed by the chief justice, or judge, or chancellor of the court rendering or passing the judgment or decree complained of, or by a justice of the Supreme Court of the United States, in the same manner, and under the same regulations, and the writ shall have the same effect as if the judgment or decree complained of had been rendered or passed in a *court of the United States*; and the proceeding upon the reversal shall also be the same, except that the Supreme Court may, at their discretion, proceed to a final decision of the same, and award execution [or remand the same to an inferior court]. . . .