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Statement of the case.—Judgment of the court.

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## TREAT v. JEMISON.

A judgment affirmed for want of such an assignment of errors as is required by the twenty-first rule; there being in the record no plain error not assigned and such as the court thought fit to be noticed by it without a proper assignment.

ERROR to the Circuit Court for the District of California.

Rule twenty-one of this court provides that the brief of the counsel for the plaintiff in error shall contain, "*in the order here stated,*"—

1. A statement of the case, &c.

"2. An assignment of the errors relied upon, which, in cases brought up by writ of error, shall set out separately and specifically each error asserted and intended to be urged."

And the rule further declares that "without such an assignment of errors counsel will not be heard, except at the request of the court, and errors not assigned according to this rule will be disregarded, though the court at its option may notice a plain error not assigned."

With these rules, officially published in form\* when first made, and long in force and generally acted on at the bar, the present case was brought up here and submitted. The briefs were elaborate, but contained *no such assignment of errors* as by the rule is prescribed.

*Mr. N. Bennett, for the plaintiff in error; Messrs. Foote, Houghton, and Reynolds, contra.*

## The CHIEF JUSTICE:

The judgment of the Circuit Court is affirmed. There is no such assignment of errors in this case as is required by the rule, and we do not see in the record any error that ought to be noticed without an assignment.

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\* 14 Wallace, xi.