

National Reporter System.—United States Series.

THE
SUPREME COURT REPORTER,
VOLUME 27.

CASES ARGUED AND DETERMINED
IN THE
UNITED STATES SUPREME COURT.
OCTOBER TERM, 1906.

PERMANENT EDITION.

DECEMBER, 1906—JULY, 1907.

ST. PAUL:
WEST PUBLISHING CO.
1907.

JUSTICES
OF THE
UNITED STATES SUPREME COURT.

OCTOBER TERM, 1906.

CHIEF JUSTICE:

HON. MELVILLE W. FULLER.

ASSOCIATES:

HON. JOHN M. HARLAN.

HON. DAVID J. BREWER.

HON. HENRY BILLINGS BROWN.¹

HON. EDWARD D. WHITE.

HON. RUFUS W. PECKHAM.

HON. JOSEPH McKENNA.

HON. OLIVER WENDELL HOLMES.

HON. WILLIAM R. DAY.

HON. WILLIAM H. MOODY.²

ATTORNEY GENERAL:

HON. CHARLES J. BONAPARTE.³

SOLICITOR GENERAL:

HON. HENRY M. HOYT.

¹ Resigned June, 1906.

² Appointed December 17, 1906, to succeed Hon. Henry Billings Brown.

³ Appointed December 17, 1906.

ALLOTMENT OF THE JUSTICES
OF THE
SUPREME COURT OF THE UNITED STATES.

FIRST CIRCUIT.

Comprising Maine, Massachusetts, New Hampshire, and Rhode Island.

JUSTICE OLIVER WENDELL HOLMES, of Massachusetts. Appointed December 4, 1902, by President Roosevelt.

SECOND CIRCUIT.

Comprising Connecticut, New York, and Vermont.

JUSTICE RUFUS W. PECKHAM, of New York. Appointed December 9, 1895, by President Cleveland.

THIRD CIRCUIT.

Comprising Delaware, New Jersey, and Pennsylvania.

JUSTICE WILLIAM H. MOODY, of Massachusetts. Appointed December 17, 1906, by President Roosevelt.

FOURTH CIRCUIT.

Comprising Maryland, North Carolina, South Carolina, Virginia, and West Virginia.

CHIEF JUSTICE MELVILLE W. FULLER, of Illinois. Appointed July 20, 1888, by President Cleveland.

FIFTH CIRCUIT.

Comprising Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas.

JUSTICE EDWARD D. WHITE, of Louisiana. Appointed February 19, 1894, by President Cleveland.

SIXTH CIRCUIT.

Comprising Kentucky, Michigan, Ohio, and Tennessee.

JUSTICE JOHN M. HARLAN, of Kentucky. Appointed November 29, 1877, by President Hayes.

SEVENTH CIRCUIT.

Comprising Illinois, Indiana, and Wisconsin.

JUSTICE WILLIAM R. DAY, of Ohio. Appointed February 25, 1903, by President Roosevelt.

EIGHTH CIRCUIT.

Comprising Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.

JUSTICE DAVID J. BREWER, of Kansas. Appointed December 18, 1889, by President Harrison.

NINTH CIRCUIT.

Comprising California, Idaho, Montana, Nevada, Oregon, and Washington.

JUSTICE JOSEPH McKENNA, of California. Appointed January 21, 1898, by President McKinley.

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CASES

ARGUED AND DETERMINED

IN THE

UNITED STATES SUPREME COURT.

OCTOBER TERM, 1906.

(203 U. S. 38)

**TERRITORY OF NEW MEXICO EX REL.
E. J. McLEAN & COMPANY, Appt.
v.
DENVER & RIO GRANDE RAILROAD
COMPANY.**

**Appeal—from territorial supreme court—
Federal question.**

1. A controversy as to the constitutional right of a territorial legislature to pass a specified law under the broad legislative power conferred by U. S. Rev. Stat. § 1851, involves the validity of an authority exercised under the United States within the meaning of the act of March 3, 1885 (23 Stat. at L. 443, chap. 355, U. S. Comp. Stat. 1901, p. 572), § 2, defining the appellate jurisdiction of the Supreme Court of the United States over the supreme courts of the territories.*

**Appeal—from territorial supreme court—
amount in dispute.**

2. Some sum or value must be in dispute in order to sustain the appellate jurisdiction of the United States Supreme Court over the supreme courts of the territories which is conferred by the act of March 3, 1885 (23 Stat. at L. 443, chap. 355, U. S. Comp. Stat. 1901, p. 572), § 2, without regard to the sum or value in dispute, in cases involving the validity of a treaty or statute of, or authority exercised under, the United States.†

**Appeal—from territorial supreme court—
amount in dispute.**

3. A suit in which the matter in dispute is the right of consignors to have a consignment shipped by a common carrier to its destination involves a valuable right, measurable in money, and therefore satisfies the requirements of the act of March 3, 1885, conferring upon the Supreme Court of the United States appellate jurisdiction over the supreme courts of the territories without regard to the sum or value in dis-

pute, where the validity of a treaty or statute of, or authority exercised under, the United States is involved.‡

Commerce—duties on imports or exports.

4. Only articles imported from, or exported to, foreign countries, are within the purview of U. S. Const. art. 1, § 10, forbidding any state, without the consent of Congress to lay any imposts or duties on imports or exports except what may be absolutely necessary for executing its inspection laws.¶

Evidence—judicial notice.

5. Judicial notice will be taken by the Supreme Court of the United States of the fact that, in the territory of New Mexico and in other similar parts of the West, cattle are required to be branded in order to identify their ownership, and that they run at large in great stretches of country, with no other means of determining their separate ownership than by the brand or marks upon them.

Commerce—territorial regulation—inspection law.

6. The prohibition against the receipt by common carriers for transportation beyond the limits of the territory of hides which do not bear the evidence of inspection required by N. M. act of March 19, 1901, is a valid exercise of the police power, and does not—there being no congressional legislation covering the subject and making a different provision—violate the commerce clause of the Federal Constitution, although hides not offered for transportation are not required to be inspected after thirty days in slaughterhouses, and not at all outside of the slaughterhouses, and although the incidental effect of the statute may be to levy a tax upon this class of property.

Commerce—territorial legislation—inspection fee.

7. The amount of the fee imposed by N.

*Ed. Note.—For cases in point, see vol. 13, Cent. Dig. Courts, § 1032.

†Ed. Note.—For cases in point, see vol. 13, Cent. Dig. Courts, § 1032.

‡Ed. Note.—For cases in point, see vol. 13, Cent. Dig. Courts, § 1032.

¶Ed. Note.—For cases in point, see vol. 10, Cent. Dig. Commerce, §§ 7, 24, 61.