

Case No. 6,264.

{3 Blatchf. 79.}<sup>1</sup>

HAYFORD v. GRIFFITH ET AL.

Circuit Court, S. D. New York.

Oct 19, 1853.

ADMIRALTY—PROCTOR'S FEE—DISMISSAL OF APPEAL FOR IRREGULARITY.

1. A docket fee of \$20 to the proctor is taxable under the 1st section of the act of February 26, 1853 (10 Stat. 161), on a final disposition by the court of a cause on the calendar.

[Cited in *Coy v. Perkins*, 13 Fed. 112. Followed in *The Alert*, 15 Fed. 620. Approved in *Goodyear v. Sawyer*, 17 Fed. 13. Distinguished

in *Mead v. Piatt*, Id. 836. Cited in *Wooster v. Handy*, 23 Fed. 55; *The Anchoria*, Id. 671; *Louisville & N. R. Co. v. Merchants' Compress & Storage Co.*, 50 Fed. 452, 453.]

2. So *held*, in a case where an appeal in admiralty was dismissed, with costs, for irregularity, without being heard.

[Cited in *The Bay City*, 3 Fed. 48; *Coy v. Perkins*, 13 Fed. 112; *Andrews v. Cole*, 20 Fed. 410; *Wooster v. Handy*, 23 Fed. 54; *Louisville & N. R. Co. v. Merchants' Compress & Storage Co.*, 50 Fed. 452, 453.]

This was an appeal from the taxation of costs. A libel in personam had been filed in the district court [by Charles Hayford against Walter S. Griffith and others (case unreported)]. From a decree there against the libellant he appealed to this court. But, on taking such appeal, he gave no security for the costs of the appeal. On that ground, this court, on motion, dismissed the appeal before hearing, with costs. See *Hayford v. Griffith* [Case No. 6,263]. On the taxation of the respondents' costs, the clerk allowed and taxed an item of \$20 as a docket fee to the proctor for the hearing. From such taxation the libellant appealed, claiming that no docket fee was allowable under the 1st section of the act of February 26th, 1853 (10 Stat. 161), because the case had never been heard on appeal. The cause was on the calendar for hearing at the time the appeal was dismissed on motion.

Charles L. Benedict, for libellant.

Cornelius Van Santvoord, for respondents.

THE COURT held that the docket fee of \$20 was allowable on a final disposition by the court of a cause on the calendar.

<sup>1</sup> [Reporter by Samuel Blatchford, Esq., and here reprinted by permission.]