

WIGTON *v.* BRAINERD.*Circuit Court, D. Vermont.*

July 8, 1886.

COSTS—FAILURE OF  
PROSECUTION—DISMISSAL—DOCKET FEE.

Where a suit is dismissed for want of prosecution, a docket fee to the defendant is not taxable.

In Equity.

No appearance for plaintiff.

*Guy G. Noble*, for defendant.

WHEELER, J. This suit was dismissed, with costs, for want of prosecution. The defendant claims a docket fee of \$20 as a part of the costs to be taxed, which the clerk has disallowed. This whole subject is carefully examined, and all the cases up to that time, bearing upon it, are reviewed, by Mr. Justice BLATCHFORD, in *Wooster v. Handy*, 23 Fed. Rep. 49. The conclusion is there reached that this docket fee in such cases is not taxable. That case is controlling here, notwithstanding the different views expressed by Judge HAMMOND in *Partee v. Thomas*, 27 Fed. Rep. 429.

Taxation of clerk affirmed.

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