requested to have taxed, as part of the costs for printing, the bill of Alfred M. Slocum Company for reprinting complainant's record; and under rule 23 this was disallowed, to which order counsel for appellants duly excepted. Strawbridge & Taylor, for appellants. Joshua Pusey, for appellee.

PER CURIAM. Under the circumstances of the case, which we do not think it necessary to state, as counsel have not differed respecting the facts, we are of opinion that the conclusion reached by the clerk of this court upon the contested question of costs is right, and accordingly his taxation of the costs is confirmed.

HUNT v. FARMERS' LOAN & TRUST CO. (Circuit Court of Appeals, Ninth Circuit. June 4, 1896.) No. 269. In Error to the Circuit Court of the United States for the District of Oregon. William L. Brewster, for plaintiff in error. L. L. McArthur, for defendant in error. No opinion. Dismissed by agreement, pursuant to the twentieth rule.

INTERSTATE COMMERCE COMMISSION v. ATCHISON, T. & S. F. R. CO. (Circuit Court of Appeals, Ninth Circuit. June 1, 1896.) No. 93. Appeal from the Circuit Court of the United States for the Southern District of California. No opinion. Dismissed on motion of Henry S. Foote, United States attorney, for appellant. See 50 Fed. 295.

LEAVENWORTH COAL CO. v. UNITED STATES. (Circuit Court of Appeals, Eighth Circuit. March 1, 1897.) No. 628. Appeal from the Circuit Court of the United States for the District of Kansas. Robert Crozier, Lucien Baker, and William C. Hook, for appellant. W. C. Perry, U. S. Dist. Atty. No opinion. Reversed in part and affirmed in part, by consent of parties, pursuant to compromise.

McPECK v. CENTRAL VERMONT R. CO. (Circuit Court of Appeals, First Circuit. June 19, 1897.) No. 187. In Error to the Circuit Court of the United States for the District of Massachusetts. This was an action by Henry McPeck against the Central Vermont Railroad Company to recover damages for personal injuries. The court directed a verdict for defendant, and plaintiff sued out a writ of error. The judgment of the circuit court was affirmed (79 Fed. 590), and plaintiff now petitions for the right to file in the circuit court a motion for a new trial, and to be heard thereon, etc. Before COLT and PUTNAM, Circuit Judges, and WEBB, District Judge. No opinion. Petition denied.

MARKHAM et al. v. DAISY MANUF'G CO. (Circuit Court of Appeals, Sixth Circuit. May 18, 1897.) No. 487. Appeal from the Circuit Court of the United States for the Eastern District of Michigan. James Whittemore and Edward Rector, for appellants. Charles H. Fisk, for appellee. No opinion. Decree reversed and bill ordered dismissed.

NATIONAL HARROW CO. v. HENCH et al. (Circuit Court of Appeals, Third Circuit. March 24, 1897.) Appeal from the Circuit Court of the United States for the Eastern District of Pennsylvania. No opinion. Dismissed pursuant to the twenty-third rule. See 76 Fed. 667.

OREGON RY. & NAV. CO. v. FARMERS' LOAN & TRUST CO. (Circuit Court of Appeals, Ninth Circuit. June 1, 1896.) No. 268. Appeal from the Circuit Court of the United States for the District of Oregon. Zera Snow and J. M. Woolworth, for appellant. William L. Brewster, Dolph, Mallory & Simon, and Story & Srumble, for appellee. No opinion. Dismissed by agreement, pursuant to the twentieth rule.

PAYNE v. WALKER et al. (Circuit Court of Appeals, Eighth Circuit. February 15, 1897.) No. 817. In Error to the Circuit Court of the United States for the District of Kansas. Waters & Waters and Mr. Light, for plaintiff in error. A. A. Hurd, O. J. Wood, and W. Littlefield, for defendants in error. No opinion. Affirmed, with costs.

PHILLIPS et al. v. SULLIVAN MACHINERY CO. (Circuit Court of Appeals, Third Circuit. March 24, 1897.) No. 13. Appeal from the Circuit Court of the United States for the Western District of Pennsylvania. No opinion. Dismissed, without prejudice, on motion of counsel for appellants.

REED v. CLARK. (Circuit Court of Appeals, Ninth Circuit. June 1, 1896.) No. 242. Appeal from the Circuit Court of the United States for the District of Oregon. Dolph, Mallory, Simon & Strahan, for appellant. Zera Snow, for appellee. No opinion. Dismissed after argument.

RIO GRANDE BRIDGE & TRAMWAY CO. v. HOLLAND TRUST CO. (Circuit Court of Appeals, Fifth Circuit. May 18, 1897.) No. 560. Appeal from the Circuit Court of the United States for the Western District of Texas. This was a suit in equity to foreclose a mortgage on a bridge across the Rio Grande river, and the property and franchises connected therewith. The question raised by the assignment of error was the same as that in International Bridge & Tramway Co. v. Holland Trust Co., 81 Fed. 422. Oscar Bergstrom, for appellant. Winchester Kelso and Geo. M. Van Housen, for appellee. Before PARDEE and McCORMICK, Circuit Judges, and NEWMAN, District Judge.

PER CURIAM. The assignment of error in this case is not well taken. Muller v. Dows, 94 U. S. 444. The decree appealed from is affirmed.

SCANES v. BURT. (Circuit Court of Appeals, Sixth Circuit. May 4, 1897.) No. 493. In Error to the Circuit Court of the United States for the Northern District of Ohio, Western Division. F. E. Wright, for plaintiff in error. No opinion. Dismissed for failure to print the record, pursuant to the twenty-third rule.

SINTON v. PECK, Tax Collector. (Circuit Court of Appeals, Sixth Circuit. May 17, 1897.) No. 492. In Error to the Circuit Court of the United States for the District of Kentucky. Harmon, Colston, Goldsmith & Hoadly, for plaintiff in error. No opinion. Dismissed, pursuant to the twenty-third rule, for failure to print record.

SMITH v. TEXAS & P. RY. CO.

(Circuit Court of Appeals, Fifth Circuit. June 1, 1897.)

No. 519.

MASTER AND SERVANT—ASSUMPTION OF RISKS.

In Error to the Circuit Court of the United States for the Eastern District of Louisiana.

This was an action at law by Mrs. G. T. Smith, widow of Paoli A. Smith, suing in her own behalf and that of her minor child, to recover damages from the Texas & Pacific Railway Company for the death of her husband. The court directed a verdict for defendant, and entered judgment accordingly, and the plaintiff brought the case here on writ of error.

B. F. Jonas and J. H. Hall, for plaintiff in error.
W. W. Howe and C. P. Cocke, for defendant in error.

Before McCORMICK, Circuit Judge, and TOULMIN and NEWMAN, District Judges.

McCORMICK, Circuit Judge. This case was before us at a former term. It is fully stated in the report of our decision then rendered. 30 U. S. App. 176, 14 C. C. A. 509, and 67 Fed. 524. It is very similar, in its issues of fact and law, to the case of Railway Co. v. Minnick, decided by this court, and reported in 23 U. S. App. 310, 10 C. C. A. 1, and 61 Fed. 635, on the authority of which, in part, our former decision in this case was made to rest. Upon a full consideration of the case when it was before us at the former term, the court were unanimous in reversing the judgment of the circuit court, and a majority of this court held that on the case then shown by the record the general charge for the defendant should have been given in the court below; and the judgment below was reversed, and the cause remanded for proceedings in accordance with the views expressed in the opinion. When the case came on for trial again in the circuit court the pleadings and the proof offered were substantially the same as at the first trial, and the judge of the circuit court, in accordance with the views of this court, gave to the jury the general charge to find their verdict for the defendant; and on the verdict returned in compliance with the charge the court rendered judgment that the plaintiff take nothing, and that the defendant go hence with its costs. To review this judgment this writ of error is prosecuted. On the authority of our former decision in this case, we must hold that the judge of the circuit court did not err in directing a verdict for the defendant. We therefore conclude and decide that the judgment of the circuit court should be, and is hereby, affirmed.

SPAULDING v. TATUM. (Circuit Court of Appeals, Ninth Circuit. June 1, 1896.) No. 283. Appeal from the Circuit Court of the United States for the Northern District of California. No opinion. Dismissed, pursuant to the twenty-third rule, for failure to print record, on motion of J. P. Langhorne, for appellee.

END OF CASES IN VOL. 81.