

Bean Vs. Patterson

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Court : US Supreme Court

Decided On : Feb-04-1884

Appeal No. : 110 U.S. 401

Appellant : Bean

Respondent : Patterson

Judgement :

Bean v. Patterson - 110 U.S. 401 (1884)

U.S. Supreme Court Bean v. Patterson, 110 U.S. 401 (1884)

Bean v. Patterson

Submitted January 28, 1884

Decided February 4, 1884

110 U.S. 401

APPEAL FROM THE CIRCUIT COURT OF THE UNITED

STATES FOR THE WESTERN DISTRICT OF MISSOURI

SYLLABUS

When a party has printed the transcript of the record at his own expense, the case may be docketed without security for the fee allowed the clerk by Rule 24, 7, but the printed copies cannot be delivered to the Justice or the parties for use on final hearing or on any motion in the progress of the cause unless the fee is paid when demanded by the clerk in time to enable him to make his examinations and perform his other duties in connection with the copies.

Motion for leave to docket an appeal, without security for payment of fees for printing.

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MR. CHIEF JUSTICE WAITE delivered the opinion of the Court.

In this case, the appellants have delivered to the clerk the requisite number of copies of the record in print, and they ask to docket the cause without securing the payment of the fee chargeable under the present rules in connection with the printing.

The Act of March 3, 1883, c. 143, 22 Stat. 631, making appropriations for sundry civil expenses of the government for the fiscal year ending June 30, 1884, made an entire change in the emoluments of the clerk of this Court. Before that act, the clerk collected the fees of his office, paid the expenses, and kept what remained as his own compensation. He was not accountable to the government or to anyone else for the income. The act of 1883 established a maximum for his annual compensation, and required to pay into the Treasury all the fees and emoluments of the office over his salary, necessary clerk hire, and incidental expenses.

The same act made it the duty of the court to prepare a table of fees to be charged by the clerk. This was done, and among the rest, is the following:

"For preparing the record or a transcript thereof for the printer, indexing the same, supervising the printing, and distributing the printed copies to the justices, the reporter, the law library, and the parties or their counsel, fifteen cents per folio."

Rule 24, sec. 7.

The clerk is responsible to the court for the correctness and proper indexing of the printed copies of the record, for their presentation to the justices in the form and of the size prescribed by the rules, and for their delivery, when required, to the parties entitled thereto. As he must now account to the Treasury for the fees and emoluments of his office, he may demand payment in advance. *Steever v. Rickman*, [109 U. S. 74](#) . If the printing is actually done under his supervision, he may require the payment of the fee chargeable under the rule before the printing is done. If the parties themselves furnish the printed copies, the fee must be paid, if demanded, in time to enable him to make the necessary examinations and be ready to deliver the copies to the parties or their counsel and to the

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court when needed for any purpose in the progress of the cause. The fee is for the service specified in this item of the table, and is indivisible. Consequently, if the clerk performs any part of the service he is entitled to collect the whole fee, and if the printed record is used at all, it must be examined by him to see if it conforms to the copy certified below and on file as the transcript of the record. So that if the printed copies are used for any purpose in the progress of the cause the whole fee is chargeable.

As the law now stands the fees and emoluments of the office belong to the government, subject only to the payment of the annual salary of the clerk, necessary clerk hire, and incidental expenses, and the clerk is the collecting agent for the government.

As this record has been printed, the case may be docketed without security for this fee, but the printed copies cannot be delivered to the justices or the parties for use on the final hearing or on any motion in the progress of the cause unless the fee is paid, when demanded by the clerk, in time to enable him to make his examinations and perform his other duties in connection with the copies.

Rule 31 relates only to the form and size of the printed records, briefs, and arguments, and has nothing to do with the fee now in question.

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