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APPELLATE CASE FILE NO. 1631,
CHARLES RIVER BRIDGE CO. V. WARREN RIVER BRIDGE CO., 36 U.S. 420 (11 PETERS 420),
DECIDED FEBRUARY 14, 1837, AND RELATED RECORDS

Introduction

On the single roll of this microfilm publication, M1843, is reproduced appellate case file number 1631, *Charles River Bridge Co. v. Warren Bridge Co.* Included are U.S. Supreme Court records related to the case and the decision the Court rendered on February 14, 1837. The records reproduced in this microfilm publication are part of Records of the Supreme Court of the United States, Record Group (RG) 267.

Background

In 1785 the Massachusetts legislature granted a charter to the Charles River Bridge Company, authorizing it to construct a bridge between Charlestown and Boston and collect tolls for 40 years. In 1792, the charter was extended to seventy years. The franchise replaced an exclusive ferry right granted to Harvard College in 1650, and provision was made for compensating Harvard for impairment of its income from the ferry franchise. In 1828, however, the legislature incorporated the Warren Bridge Company and authorized it to construct another bridge, only 264 feet away from the Charles River Bridge on the Charlestown side and 825 feet away on the Boston side. No tolls were to be charged on the Warren Bridge after its construction costs were recovered or after a maximum period of six years. The Charles River Bridge Company entered state court and sought an injunction to prevent the erection of the Warren Bridge; then, after the bridge was constructed, they sought general relief, contending that the legislature, in authorizing the new bridge, had violated the contract clause of the U.S. Constitution. The Contract Clause, found in Article I, Section 10, provides that "No State shall...pass any...Law impairing the Obligation of Contracts..." The Massachusetts Supreme Judicial Court dismissed the complaint, and the case went to the U.S. Supreme Court on a writ of error. The U.S. Supreme Court upheld the Massachusetts Supreme Judicial Court, holding that the Charles River Bridge Co.'s charter did not grant it an exclusive franchise for a bridge at that location, and that the charter of the Warren River Bridge Co. did not in any way impair the rights granted to the Charles River Bridge Co. by its charter.

The first recorded action on the historic case of *Charles River Bridge Co. v. Warren Bridge Co.* in the records of the U.S. Supreme Court was the filing of the transcript of record from the Massachusetts Supreme Judicial Court in the Supreme Court on March 19, 1830. The opinion of the Supreme Court in the case was not given until February 14, 1837, after argument had been held on March 7-11, 1831, and reargument on January 19-21 and 23-26, 1837.

The case now bears Appellate Case Number 1631, but during the long period in which the case was before the Supreme Court it was assigned a succession of docket numbers in different terms of the Court. These docket numbers, listed below, appear opposite the entries in the Court's minutes.

Docket No. 141	January Term 1830
Docket No. 69	August Term 1830 and January Term 1831
Docket No. 31	August Term 1831 and January Term 1832
Docket No. 11	August Term 1832 and January Term 1833
Docket No. 6	August Term 1833 and January Term 1834
Docket No. 6	August Term 1834 and January Term 1835
Docket No. 6	August Term 1835 and January Term 1836
Docket No. 3	August Term 1836 and January Term 1837

The Court's opinion in the case is reproduced in the published opinions of the court at 36 U.S. 420 (11 Peters 420).

Records Description

The records of the U.S. Supreme Court relating to this case include entries in the Court's dockets and minutes, handwritten copies of the Court's opinion and dissenting opinions, and copies of the transcript of record from the Supreme Judicial Court of Massachusetts. These records are further described in the Table of Contents, which also indicates the volumes from which these records were microfilmed.

Of special interest to genealogists and historians of the pre-Federal period are lists of employees and materials contractors of the Charles River Bridge Co. during the period May 6, 1785 to January 7, 1792. The lists, which are part of the transcript of record from the Supreme Judicial Court of Massachusetts, include the name of each employee or materials contractor, type of work performed or materials furnished, and the date and amount of payment.

Related Records

Not included in this microfilm publication is the record of the case in the Court's "rough minutes." In 1966, a National Archives staff member examined entries relating to this case in the rough minutes, but concluded that they did not appear to contain any information not present in the engrossed minutes.

The staff member also undertook a search of records of the Office of the Clerk of the Supreme Court that might have referred to this case, but found no mention of it. This search included the general correspondence of the Clerk for the periods of the greatest activity in the case (March 1830, March 1831, and January-March 1837), and the correspondence of the Clerk to and from the Justices who sat on the Supreme Court during the time the case was before the Court, including Justices Henry Baldwin, Philip P. Barbour, William Johnson, Chief Justice John Marshall, John McLean, Joseph Story, Chief Justice Roger Taney, Smith Thompson, and James Wayne.

The Supreme Court's records do not include any records or briefs of this case in the Supreme Court. In general, printed records begin with the January Term 1832 and briefs with the December Term 1854. They are usually available in large libraries or in law libraries.

Although the records of the Supreme Court do not contain a record of the arguments of counsel in the Court, the Court's opinion, published in *United States Reports* (36 U.S. 420 or 11 Peters 420), contains an extensive summation of those arguments.

Related Research Sources

Some accounts of the arguments of counsel in the *Charles River Bridge* case probably appeared in the contemporary press. Charles Warren's treatment of the case in *The Supreme Court in United States History* (Boston: Little, Brown, and Co., 1935) includes references to the case that were contained in contemporary newspapers and correspondence.

Possible additional sources include the papers of the Justices of the Supreme Court and of other persons associated with the case or interested in it. The location of such sources may be determined through published guides such as *Guide to Archives and Manuscripts in the United States* (New Haven: Yale University Press, 1961) and *The National Union Catalog of Manuscript Collections* (Washington: Library of Congress, 1962-1988).

Other Related Records

Other early appellate case files have been reproduced in "Appellate Case Files of the U.S. Supreme Court, 1792-1831," National Archives Microfilm Publication M214, while an index to such files has been reproduced in "Index to Appellate Case Files of the U.S. Supreme Court, 1792-1909," National Archives Microfilm Publication M408. The Court's minutes have been reproduced in "Minutes of the U.S. Supreme Court, 1790-1950," National Archives Microfilm Publication M215, and the Court's dockets have been reproduced in "Dockets of the U.S. Supreme Court, 1791-1950," National Archives Microfilm Publication M216.

Appendix I

"Guide to the Pagination Given by the National Archives to the Handwritten Copy of the Dissenting Opinion of Justice Story in the *Charles River Bridge* Case"

<u>Page Number</u>	<u>Explanation</u>	<u>Cumulative Page Count</u>
1-3		3
3a	a crossed-out half page	4
4-17		18
17a	insertion "X" on p. 17	19
17b and overleaf 17c	insertion "AB" on p. 17	21
18-21		25
21a	crossed-out draft	26
22		27
22a	insertion "A" on p. 22	28
23		29
23a, 23b, and 23c	insertion "D" on p. 23	32
24-31		40
31a	insertion "E" on p. 31	41
31b	insertion "F" on p. 31	42
32-43		54
43a	insertion "C" on p. 43	55

44-45		57
45a	insertion "L" on p. 45	58
46		59
46a	insertion "GI" on p. 46	60
46b	insertion "(G.2)" on p. 46	61
46c	insertion "A" on p. 46	62
47-48		64
48a and 48b	first part of insertion "Z1" on p. 48	66
48c and 48d	second part of insertion "Z1" on p. 48	68
49		69
49a	insertion "D" on p. 49	70
50-56		77
56a	first page of insertion "(I)" on p. 56	78
56a-a and overleaf 56a-b	insertion to first page insertion "(I)" on p. 56	80
56b and 56c	final two pages of insertion "(I)" on p. 56	82
57-64		90
64a and 64b	insertion "(H)" on p. 64	92
64b-a	first part of insertion "WI & W2" to insertion "(H)" on p. 64	93
64b-a-a	insertion "A" to insertion "WI & W2" to insertion "(H)" on p. 64	94
64b-a-b	insertion "(B)" to insertion "WI & W2" to insertion "(H)" on p. 64	95
64b-b	continuation of insertion "WI & W2" to insertion "(H)" on p. 64	96
64b-b-a	insertions "(C)" and "(D)" to insertion "WI & W2" to insertion "(H)" on p. 64	97
64b-c, 64b-d, and 64b-e	continuation of insertion "WI & W2" to insertion "(H)" on p. 64	100
64b-c-a	insertion "A" to p. 64b-e of insertion "WI & W2" to insertion "(H)" on p. 64	101
65-67		104
67a, 67b, and 67c	insertion "ST" on p. 67	107
68	endorsement page reading "Dissenting opinion of Mr. Jus. Story Feb. 14, 1837"	108

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<u>Roll</u>	<u>Description</u>
1	Docket record of the case in the engrossed dockets of the Court, containing entries dating from March 19, 1830, in the January Term 1830 ("Record received and filed") to February 14, 1837 ("Judgment of Supreme Judl. Court affirmed with costs"), and April 12, 1843 ("Mandate issued to Governor Davis"). One page "Docket Volume D," page 1741.

Docket record in original, or "rough," dockets of the Supreme Court, for various terms listed below. There are some differences in the entries for the case in the rough and engrossed dockets. For example, the rough docket, but not the engrossed docket, contains an entry for an action taken by the Court on February 1, 1831, to substitute the *Charles River Bridge* case, in the order of argument, for the case bearing Docket No. 51, *Grant et al. v. Raymond*.

- a. January Term 1830 (Docket No. 141) and August Term 1830 (Docket No. 69).
Two pages in "Docket 1830" volume.
- b. January Term 1831 (Docket No. 69) and August Term 1831 (Docket No. 31).
Two pages in "Docket 1831" volume.
- c. January Term 1832 (Docket No. 31) and August Term 1832 (Docket No. 11).
Two pages in "Docket 1832" volume.
- d. January Term 1833 (Docket No. 11) and August Term 1833 (Docket No. 6).
Two pages in "Docket 1833" volume.
- e. January Term 1834 (Docket No. 6) and August Term 1834 (Docket No. 6).
Two pages in "Docket 1834" volume.
- f. January Term 1835 (Docket No. 6) and August Term 1835 (Docket No. 6, entered on a page headed "January Term 1835," apparently in error for "August Term 1835"). Two pages in "Docket 1835" volume.
- g. January Term 1836 (Docket No. 6) and August Term 1836 (Docket No. 3).
The January Term 1836 entry includes a statement reading "Jany. 12th (1836) ord'd postp'd for the present" documenting an action not found to be recorded in the Court's Minutes (engrossed or rough) or in the engrossed docket record. Two pages in "Docket 1836" volume.
- h. January Term 1837 (Docket No. 3). Two pages in "Docket 1837" volume.

Record of the case in the engrossed minutes of the Court, as follows:

- a. Entries in "Minutes Supreme Court, U.S. [Vol.] E," on the following dates:

March 22, 1830, page 1395. This entry, made on the final day of the January Term 1830, is a record of a "Rule of Court," relating to the order to be followed "hereafter" in "calling the cases for argument," the coverage of which presumably included the *Charles River Bridge* case, as no order of continuance for it was found in the minutes of the January Term 1830.

August 2, 1830, pp. 1396 and 1407, relating to a continuance order made on that date.

February 1, 1831, p. 1460, recording substitution of the *Charles River Bridge* case, Docket No. 69, for *Grant et al. v. Raymond*, Docket No. 51, in the order of argument.

March 7, 1831, p. 1538

March 8, 1831, p. 1543

March 9, 1831, p. 1544

March 10, 1831, p. 1549

March 11, 1831, p. 1557

March 16, 1831, p. 1565

August 1, 1831, pp. 1578 and 1582, relating to a continuance order made on that date.

b. Entries in "Minutes, Supreme Court, U.S. [Vol.] F", on the following dates:

March 3, 1832, p. 1745

August 6, 1832, pp. 1788 and 1790, relating to a continuance order made on that date.

January 17, 1833, p. 1815

January 18, 1833, p. 1819

February 25, 1833, p. 1891

February 26, 1833, p. 1894

August 5, 1833, pp. 1956 and 1957, relating to a continuance order made on that date.

February 5, 1834, p. 2074

February 6, 1834, p. 2080

c. Entries in "Minutes, Supreme Court, U.S. [Vol.] G," on the following dates listed below. The entries in the minutes are brief. They make only the barest references to the argument of counsel; for example, the entry for March 7, 1831, merely reads, "The argument of this cause was commenced by Mr. Dutton for the plaintiffs in Error."

August 4, 1834, pp. 3103 and 3104, relating to a continuance order made on that date.

January 13, 1835, pp. 3116 and 3117

August 4, 1835, pp. 3255 and 3256, relating to a continuance order made on that date.

August 1, 1836, pp. 3421 and 3426, relating to a continuance order made on that date.

January 19, 1837, p. 3470

January 20, 1837, p. 3471

January 21, 1837, p. 3472

January 23, 1837, p. 3473

January 24, 1837, p. 3474

January 25, 1837, p. 3475

January 26, 1837, p. 3476, reading "The argument of this cause was concluded by Mr. [Daniel] Webster for the plaintiffs in Error".

February 11, 1837, p. 3511

February 14, 1837, pp. 3527 and 3528, recording the judgment of the Court in the case.

Draft copies of opinions of the Supreme Court (in "Opinions in Appellate Cases" file) in Appellate Case Number 1631, as listed below. Researchers may wish to compare these drafts of opinions with the reported opinion of the Court, delivered by Chief Justice Taney (11 Peters 536-553); the opinion of Justice McLean in favor of dismissing the bill for want of jurisdiction (11 Peters 553-582); the dissenting opinion of Justice Story (11 Peters 582-649); and the opinion of Justice Thompson concurring in the dissent of Justice Story (11 Peters

649).

- a. Folios 18, 24, and 25 of a handwritten draft, apparently of an opinion in the *Charles River Bridge* case. Six pages.
- b. Handwritten copy of the opinion of Justice McLean, in favor of dismissing the bill for want of jurisdiction, February 14, 1837. 58 pages (pages 1-55, 9a, 21a, and an endorsement page).
- c. Handwritten copy of the dissenting opinion of Justice Story, February 14, 1837. 108 pages (including numerous insertions, as identified in "Guide to the Pagination Given by the National Archives to the Handwritten Copy of the Dissenting Opinion of Justice Story in the *Charles River Bridge Case*," a copy of which follows as Appendix I.
- d. Handwritten copy of the "Opinion of the Court...Taney, February 14, 1837." 23 pages.

Records in the case file, Appellate Case Number 1631:

- a. Handwritten copy of the Transcript of Record, including, in part, a table of contents, Petition to the Supreme Court of the United States, Writ of Error, Citation, Bill of Complaint and annexed exhibits, various depositions and interrogatories, and four maps (of the river, the two bridges, and adjacent roads). Narrative portions total 108 pages, but only the first 13 pages are included here; see 5e below for remainder.
- b. Letter from J. P. Cooke to John Davis, February 4, 1837, relating to the death of Nathan Tufts, one of the defendants in the case. Two pages.
- c. Writ of Error (printed) from the Supreme Judicial Court of Massachusetts to the Supreme Court of the United States, January Term 1831. Two pages.
- d. Mandate of the Supreme Court, February 14, 1837. Three pages.
- e. Handwritten copy of the Transcript of Record (continued); see 5a above for description). This segment begins with a subsidiary title page that, in part, reads "Filed 19th March 1830").
- f. Certified copy of the Transcript of Record (printed) from the Supreme Judicial Court of Massachusetts, filed in the Supreme Court of the United States on March 19, 1830. 212 pages.