SECOND CIRCUIT, 1891–1892. vii

Order Respecting Reporter.

SAMUEL BLATCHFORD

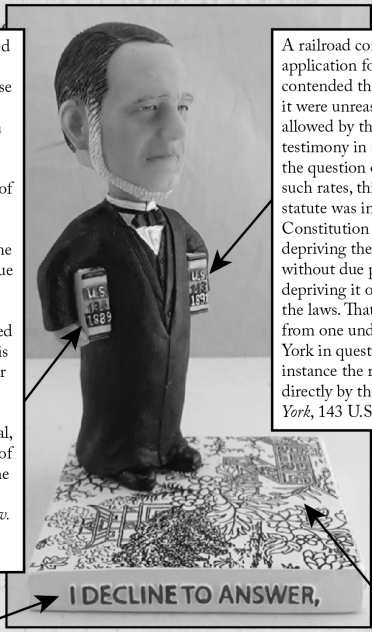
THE ANNOTATED BOBBLEHEAD

The box for this doll might make you wonder why the Circuit Justice for the Second Circuit did not sign the order enabling someone named Samuel Blatchford to be reporter for that court. *See* 6 Journal of Law 251, 255-56 (2016).

ORDER RESPECTING REPORTER.

If the company is deprived of the power of charging reasonable rates for the use of its property, and such deprivation takes place in the absence of an investigation by judicial machinery, it is deprived of the lawful use of its property, and thus, in substance and effect, of the property itself, without due process of law and in violation of the Constitution of the United States, and in so far as it is thus deprived, while other persons are permitted to receive reasonable profits upon their invested capital, the company is deprived of the equal protection of the laws. *Chicago, Milwaukee and St. Paul Railway Co. v. Minnesota*, 134 U.S. 418 (1890) (yes, 1890).

A railroad company, in answer to an application for a mandamus, contended that such rates in regard to it were unreasonable, and, as it was not allowed by the State Court to put in testimony in support of its answer, on the question of the reasonableness of such rates, this court held that the statute was in conflict with the Constitution of the United States, as depriving the company of its property without due process of law, and depriving it of the equal protection of the laws. That was a very different case from one under the statute of New York in question here, for in this instance the rate of charges is fixed directly by the legislature. *Budd v. New York*, 143 U.S. 517 (1892) (yes, 1892).



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WALLACE.

LACOMBE.

From a consideration of the language of the constitutional provision, and of all the authorities referred to, we are clearly of opinion that the appellant was entitled to refuse, as he did, to answer. *Counselman v. Hitchcock*, 142 U.S. 547 (1891).

Approval of the particular design or pattern may very well be one motive for purchasing the article containing it, but the article must have intrinsic merits of quality and structure, to obtain a purchaser, aside from the pattern or design; and to attribute, in law, the entire profit to the pattern, to the exclusion of the other merits, unless it is shown, by evidence, as a fact, that the profit ought to be so attributed, not only violates the statutory rules of "actual damages" and of "profits to be accounted for," but confounds all distinctions between cause and effect. *Dobson v. Hartford Carpet Co.*, 114 U.S. 439 (1885).