

his costs in that court, and, if so, how much. No appeal lies from a mere decree respecting costs and expenses. *Canter v. The American and Ocean Insurance Companies*, 3 Pet. 307. As this case comes within the reason of that rule, we affirm the decree below without examining the merits.

Decree affirmed

RAILROAD COMPANY v. TROOK.

Where a judgment for the recovery of money, affirmed in the Supreme Court of the District of Columbia, is brought here for re-examination, the amount thereof, without adding interest or costs, determines the value of "the matter in dispute," under the act of Feb. 25, 1879 (20 Stat. 320), and, if it does not exceed \$2,500, this court has no jurisdiction.

MOTION to dismiss a writ of error to the Supreme Court of the District of Columbia.

Trook, in an action in the court below against the Baltimore and Potomac Railroad Company, recovered judgment, Feb. 19, 1877, for \$4,000 and costs of suit. A motion for a new trial was then made on exceptions taken during the progress of the cause, and on account of excessive damages. Trook entered a *remititur* of \$1,500, and the judgment was ultimately affirmed at a hearing in general term. The company then removed the case here by writ of error, which Trook moves to dismiss, on the ground that this court, under the act of Feb. 25, 1879 (20 Stat. 320), has no jurisdiction, as the "matter in dispute exclusive of costs" does not exceed "the value of \$2,500."

Mr. James G. Payne in support of the motion.

Mr. Enoch Totten, contra.

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

In cases brought here by writ of error for the re-examination of judgments of affirmance in the Supreme Court of the District of Columbia, the value of the matter in dispute is determined by the judgment affirmed without adding interest

or costs. The judgment in this case, after the \$1,500 had been remitted to avoid a new trial, did not exceed \$2,500. Such being the case, under the rule established in *Railroad Company v. Grant* (98 U. S. 398), our jurisdiction has been taken away.

The motion to dismiss will be granted, each party to pay his own costs; and it is

So ordered.

LANSDALE v. DANIELS.

A settler upon unsurveyed public lands in California, who filed no declaratory statement after the return of the plat of the survey to the proper local land-office, could not, under the act of March 3, 1853 (10 Stat. 244), acquire by his settlement a right of pre-emption.

ERROR to the Supreme Court of the State of California.

The facts and the assignment of errors are stated in the opinion of the court.

Mr. Rodney Mason for the plaintiff in error.

Mr. W. W. Cope and *Mr. Walter Van Dyke*, *contra*.

MR. JUSTICE CLIFFORD delivered the opinion of the court.

Pre-emption rights of the kind in controversy are regulated by the act of March 3, 1853 (10 Stat. 244), from which it appears that unsurveyed as well as surveyed lands, not exempted by the same act, are subject to the pre-emption laws, with all the exceptions, conditions, and limitations expressed in such, unless otherwise herein provided. Provision is also made for the appointment of a surveyor-general and of a register and receiver, with the same powers and duties as conferred and prescribed under the prior pre-emption laws. Official surveys were to be made, and the same section which gives the right to pre-empt the lands provides that, where unsurveyed lands are claimed, the usual notice of such claim shall be filed within three months after the returns of the plats of surveys to the land-office.

Proceedings in the nature of an action of ejectment were