

MURPHY *v.* UNITED STATES.

A claim against the United States for damages which a contractor alleged he had sustained was, by the appropriate department, adjusted upon a basis to which he agreed. He accepted the sum allowed, and gave a receipt therefor in full. *Held*, that the acceptance of the sum is a bar to his suit for the same claim.

## APPEAL from the Court of Claims.

Murphy entered into a written contract with the United States for excavating a portion of the pit for a dry dock, and was paid at the contract price for all the work which he performed.

He subsequently presented to the Navy Department a claim for damages suffered by reason of certain alleged violations of the contract, and for extra work. The department adopted a basis of adjustment, to which he agreed; and there was paid to him a certain sum, which, upon full information as to the principles upon which it was awarded, he accepted, and gave a receipt in full.

He some time thereafter brought suit in the court below for the same claim, adding, however, a further item, of which there was no proof.

The court dismissed the petition, and he appealed.

*Mr. James W. Denver* and *Mr. Luther H. Pike* for the appellant.

*The Solicitor-General* and *Mr. John S. Blair* for the United States.

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

We are clearly of the opinion that the acceptance by the claimant, without objection, of the amount allowed by the Secretary of the Navy, in his adjustment of the account presented to him, was equivalent to a final settlement and compromise of all the items of the present claim included in that account. There is nothing in the findings of the court below to warrant a judgment in favor of the claimant upon the only item

included in the petition in this case which was not mentioned specifically in the account presented to the Secretary of the Navy and passed on by him in the adjustment he made.

*Judgment affirmed.*

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#### LAMAR *v.* MICOU.

A defendant, who made no defence except to reduce the amount of the recovery, cannot appeal from a decree against him for less than \$5,000.

MOTION to dismiss an appeal from the Circuit Court of the United States for the Southern District of New York.

*Mr. S. P. Nash* in support of the motion.

*Mr. Edward N. Dickerson* and *Mr. Charles J. Beaman, Jr.*, *contra.*

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

This is an appeal by the defendant below from a decree against him for less than \$5,000. There is no claim of set-off or counter-claim, except to reduce the amount of the recovery. In no event can he get any money decree in his favor. All he seeks to do is to defeat the claim of the appellee. Consequently the amount in controversy, so far as this appeal is concerned, is fixed by the decree. *Thompson v. Butler*, 95 U. S. 694; *Sampson v. Welsh*, 24 How. 207. In effect he insists that, under the rule of liability established against him in the court below, the decree should have been for more than \$5,000, and that for this reason he is entitled to an appeal, so that he may show he is not liable at all. This, we think it clear, is not the law.

The case is not changed by the fact that if, under an appeal which is pending in another suit, it shall be found the appellant was credited in this suit with an amount which properly belonged to that, the decree in that suit will be reduced, while the one in this cannot be correspondingly increased. The appellee is satisfied with this decree, and has not appealed. The appellant cannot complain if it turns out in the end that, but