

United States *v.* Allire.

should be received as the correct exponent of the contract, or the correspondence between them which preceded it.

The question of fraud or mistake was one of fact, and was negatived by the finding of the court, which is conclusive here. The question of law ought not to have been made, either in that court or here. Let the judgment of the Court of Claims be *Affirmed.*

*Mr. John Jolliffe* for appellants. *Mr. Eli P. Norton* and *Mr. John J. Weed* for appellee.

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CLARKE *v.* UNITED STATES.

## APPEAL FROM THE COURT OF CLAIMS.

No. 116. December Term, 1867.—Decided March 16, 1868.

A motion for a *certiorari* to the Court of Claims is denied.

THE case is stated in the opinion.

MR. JUSTICE NELSON delivered the opinion of the court.

This is a motion for a *certiorari* in the case of an appeal from a decree in the Court of Claims on a suggestion of diminution of the record. The diminution as alleged is, that the record does not set out the joinder of issue nor the trial of the same nor the evidence, findings, or judgment of the court; also many orders made in the case.

We have looked into the record and are of opinion that the suggestions are not well founded, in point of fact, with the exception of the one relating to the evidence, which, of itself, is answered by the rules of this court on the subject. *Motion denied.*

*Mr. James Hughes* and *Mr. John M. McCalla* for appellant. *Mr. John J. Weed* and *Mr. Eli P. Norton* for appellees.

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MILWAUKEE AND ST. PAUL RAILROAD COMPANY *v.* SOUTTER. SAME *v.* SAME. SAME *v.* SAME.

## APPEALS FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF WISCONSIN.

Nos. 161, 43, 62. December Term, 1867.—Decided March 16, 1868.

The decrees for the payment of rent by the Milwaukee and St. Paul Railroad Company to the receiver of the La Crosse and Milwaukee Railroad were not final decrees from which appeals could be taken to this court, and this proceeding was irregular, and involved useless litigation.

THE case is stated in the opinion of the court.