

Syllabus.

because of the danger of increasing the fire." But this was evidently a disagreement as to a minor particular, and there is an express finding that "the measures taken by the mate before the port authorities took charge of the ship, and those subsequently taken by the port authorities, were the best available to extinguish the fire and to save greater loss upon the cargo." There seems to have been no objection at the time to the port authorities moving the ship and putting her aground, although the master subsequently incorporated an objection to such action in his protest. In fact, the District Judge states that "the master did not object to the scuttling," and that the chief difference between them was with respect to keeping the hatches open longer for the purpose of removing more of the cargo, to which the officials objected, in consequence of the increased draft of air serving as fuel to the flames.

The opinion of the court tends, in every such emergency, to put the master and local authorities in antagonism, to give rise to unseemly conflicts between them, and to prevent the master from availing himself of their superior facilities for extinguishing fires. It seems to me there is no distinction in principle between a sacrifice made by a master and one made by authority of law, provided the common safety of the ship and cargo be the object of their action.

I am authorized to state that MR. JUSTICE HARLAN concurs in this dissent.

LUTCHER v. UNITED STATES.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE
EASTERN DISTRICT OF TEXAS.

No. 271. Submitted April 5, 1895. — Decided April 8, 1895.

For the reasons stated in the opinion of the court it is *held*, (1) that this court has no jurisdiction to review the judgment of the Circuit Court in this case, and (2) that the writ of error was brought too late.

Opinion of the Court.

THE case is stated in the opinion.

Mr. J. L. Bradford for plaintiffs in error.

Mr. Solicitor General for defendants in error.

THE CHIEF JUSTICE: This was an action brought by the United States in the Circuit Court of the United States for the Eastern District of Texas against the firm of Lucher & Moore of that district, doing a milling and manufacturing business at Orange, Texas, to recover damages for cutting, carrying away, and converting to their own use certain timber, the property of the United States. Judgment was rendered in favor of the United States March 11, 1891. April 3, 1891, a writ of error was allowed from the Circuit Court of Appeals for the Fifth Circuit. The record does not disclose what proceedings were had thereon in that court. July 2, 1891, a writ of error from this court was sued out and filed, the bond thereon being approved and the citation signed July 10, 1891. The petition for the allowance of the writ states that the Circuit Court of Appeals refused to allow the cause to be docketed and the transcript of record to be filed therein, on the ground that the cause should have been taken to this court and not to that court. But the last clause of section six of the Judiciary Act of March 3, 1891, refers to the Circuit Court of Appeals and not to the Circuit Court, and this writ of error is to the Circuit Court and not to the Circuit Court of Appeals, and does not, therefore, reach the proceedings in the latter court. We perceive no ground on which this court has jurisdiction to review the judgment of the Circuit Court on this writ, and, moreover, it was brought too late. *Cincinnati Safe and Lock Co. v. Grand Rapids Deposit Co.*, 146 U. S. 54. Either objection is fatal.

Writ of error dismissed.