

196 U. S.

Opinion of the Court.

COMSTOCK *v.* EAGLETON.APPEAL FROM THE SUPREME COURT OF THE TERRITORY OF
OKLAHOMA.

No. 105. Submitted December 15, 1904.—Decided January 3, 1905.

Under § 9, act of May 2, 1890, 26 Stat. 81, c. 182, final judgments of the Supreme Court of the Territory of Oklahoma in actions at law can only be revised by this court as are judgments of the Circuit Courts of the United States in similar actions—by writ of error and not by appeal.

THE facts are stated in the opinion.

Mr. C. J. Wrightsman, Mr. E. L. Fulton, Mr. Andrew Wilson and Mr. Noel W. Barksdale for plaintiff in error.

There was no appearance or brief for defendant in error.

THE CHIEF JUSTICE: This was an action brought by Comstock against Eagleton in the District Court of Pawnee County, Oklahoma, to recover damages for false imprisonment in the sum of \$5,317.50.

The petition was demurred to on the ground that it did not state facts sufficient to constitute a cause of action, the demurrer was sustained, and the petition dismissed with costs. The case was then carried to the Supreme Court of Oklahoma on error, and the judgment affirmed. 11 Oklahoma, 487.

From the judgment of affirmance this appeal was allowed and prosecuted to this court.

By section 9 of the "Act to provide a temporary government for the Territory of Oklahoma," approved May 2, 1890, 26 Stat. 81, c. 182, it was provided that "where the value of the property or the amount in controversy" exceeded five thousand dollars, "writs of error and appeals from the final decisions of said Supreme Court shall be allowed and may be

taken to the Supreme Court of the United States in the same manner and under the same regulations as from the Circuit Courts of the United States."

Final judgments of the Circuit Courts of the United States in actions at law can only be revised on writs of error. *Deland v. Platt County*, 155 U. S. 221; *Met. Railroad Company v. District of Columbia*, 195 U. S. 322; *Bevins v. Ramsey*, 11 How. 185; *Sarchet v. United States*, 12 Pet. 143.

Appeal dismissed.

SCOTT *v.* CAREW.

APPEAL FROM THE CIRCUIT COURT OF APPEALS FOR THE FIFTH
CIRCUIT.

No. 52. Argued November 7, 8, 1904.—Decided January 3, 1905.

Unless an intent to the contrary is clearly manifest by its terms, a statute providing generally for the disposal of public lands is inapplicable to lands taken possession of and occupied by the Government for a special purpose.

A prior appropriation is always presumed to except land from the scope of a subsequent grant although no reference may be made in the latter to the former.

The establishment of a military post under proper orders on public lands amounts to an appropriation of the land for military purposes and withdraws the property occupied from the effect of general laws subsequently passed for the disposal of public lands, and no right of an individual settler attaches to or hangs over the land to interfere with the action of the Government in regard thereto.

One who wrongfully settled on public land and was dispossessed by proper authority so that the land might be used for a military post acquired by such settlement no priority of right in the matter of purchase or homestead entry when the post was abandoned and the land opened to private purchase.

ON December 31, 1900, the plaintiffs, who are now appellants, filed their bill of complaint in the Circuit Court of the