Statement of the case.

be reversed, and the cause remanded to the court below, with directions to proceed on the same in conformity with this opinion; but liberty is given to the defendants to require proof before the court of the issuing of executions and return unsatisfied, as averred in the bill of complaint.*

DECREE, ETC., ACCORDINGLY.

CAMPBELL *v.* READ.

A question involving the construction of a statute regulating intestacies within the District of Columbia, is not a question of law of "such extensive interest and operation," as that if the matter involved is not of the value of $1000 or upwards, this court will assume jurisdiction under the act of Congress of April 2d, 1816.

THE act of Congress of April 2d, 1816,† regulating appeals and writs of error from the Circuit Court of the District of Columbia to this court, limits them to cases in which the matter in dispute is of the value of $1000 or upwards. It provides, however, that if "any questions of law of *such extensive interest and operation* as to render the final decision of them by the Supreme Court desirable" are involved in the alleged errors of the Circuit Court, the case may be heard here, even though the matter in dispute is of less value than $1000; and any judge of the court, if he is of opinion that the questions are of such a character, may allow the writ or appeal accordingly.

With this statute in force, Campbell, by will, left legacies to his widow and several illegitimate children; but, after paying them all, a fund of $141 remained in the hands of the executor undisposed of; there being no residuary legatee named in the will, and no parents, &c., legitimate children,

* Levy *v.* Arredondo, 12 Peters, 218; Marine Insurance Company *v.* Hodgson, 6 Cranch, 206; Mandeville *v.* Burt, 8 Peters, 256–7.

† 3 Stat. at Large, 261.

or collateral relations, who had the right to claim it as next of kin in preference to the widow.

The widow accordingly claimed it under statute. Her claim was opposed by the executor in virtue of an act regulating such matters in the District, and which declares that "every bequest of personal estate to the wife of a testator *shall be construed to be intended in bar* of her *share of the personal estate*, unless it be otherwise expressed in the will."* Her right depended, therefore, upon a construction of this statute, and the point before this court was, whether this question was a question of law of such extensive interest and operation as to render the final decision of it, in a case like the present one, by this court, desirable. Under the impression that it might be, or under some misunderstanding, an *allocatur* had been allowed in vacation by one of the justices of this court. The printed copy of the record showed no certificate that the papers it contained were a transcript of the record, though counsel put nothing on that ground, which was supposed to be an accident only.

Mr. Eames, for the appellant, argued that the question was of such a character as the act of Congress contemplated. It concerned the whole subject of testaments and intestacies in a large and important territory, constantly increasing in population and wealth, the seat of the Federal Government itself. The amount here, indeed, was not large, but the principle, and therefore the "question of law," was the same as if the amount was millions.

Mr. Stone, contra.

At a subsequent day, the CHIEF JUSTICE announced briefly the court's opinion, that independently of the record's not showing a proper certificate,—this itself being a sufficient ground for dismissal,—the amount in controversy was insignificant, and that the court was satisfied, on an inspection of the papers, that the *allocatur* was inadvertently

* Act of Maryland, 1798; Dorsey's Laws, 406.

sanctioned. There was, he said, no principle involved of such extensive application as to bring the case within the act of Congress giving jurisdiction on a judge's *allocatur* when the amount in controversy is less than $1000. Notwithstanding the *allocatur*, therefore, the case was

DISMISSED.

BANK TAX CASE.

A tax laid by a State on banks, "on a *valuation* equal to the amount of their capital stock paid in, or secured to be paid in," is a tax on the property of the institution; and when that property consists of stocks of the Federal Government, the law laying the tax is void.

A STATUTE of the State of New York, passed in 1857, making some modifications of previous acts of 1823, 1825, and 1830, enacted that the *capital stock of the banks of the State should be* "*assessed at its actual value*, and taxed in the same manner as other personal and real estate of the country." After the passage of this act, several of the banks became owners of large amounts of the bonds of the United States, in regard to which Congress enacts* that "whether held by individuals or *corporations*, they shall be exempt from taxation by or under *State* authority." On a question between several banks of New York, formed under the general banking law of 1838 in that State, and the tax commissioners of New York, this court decided, in March, 1863 (*Bank of Commerce* v. *New York City*, reported in 2 Black, 620), that the tax referred to was a tax upon the *stock;* and that being so, it was by the settled law of this court illegally imposed. In April, 1863, just after this decision, the legislature of New York passed *another* statute,† which enacted that "all banks, banking associations, &c., shall be liable to taxation on a *valuation equal to the amount of their capital stock paid in or secured to be paid in*, and their surplus earnings, &c., in the manner now provided by law," &c. On a tax laid, under

* Act of February 25, 1862. † Act of 29th April, 1863.