

Opinion of the court.

SILVER v. LADD.

1. Where a title under a settlement certificate issued under an act of Congress is set up by a party in the highest court of a State, and the decision of such court is against the title so set up, a writ of error lies from this court under the twenty-fifth section of the Judiciary Act.
2. Approval by the judge of a bond for prosecution of a writ of error may be inferred from the facts of the transaction. And where the record showed that the bond had been duly executed, that the sureties had been sworn to their sufficiency by the judge who signed the citation, and that all was done on the same day: *Held*, that it might be inferred that the bond was approved by the judge.

THIS cause came before the court on a motion by *Mr. Lander*, to dismiss writ of error to the Supreme Court of Oregon.

The CHIEF JUSTICE delivered the opinion.

The record shows a suit in equity to quiet title to a certain tract of land, which belonged to the complainant's intestate, against the alleged inequitable claims of the defendants.

The complainant claimed title under a settlement certificate issued under the act of Congress of September 27th, 1850, relating to donations to settlers upon the public lands, and the decision of the court was against the title claimed under the authority of that act. There is no doubt, therefore, that the complainant was entitled to his writ of error to bring the judgment of the State court under the review of this court.

Another ground of dismissal more relied upon was, that the bond for prosecution was not taken as required by law. It appears from the record that the writ of error was duly issued; that a bond for prosecution of the writ was executed; that the sureties made oath to their sufficiency before E. D. Shattuck, chief justice of Oregon; that the citation in error was signed by the same judge; and that all these things were done on the same day, namely, the 8th of October, 1866. The law requires that the judge signing the citation shall take good and sufficient security. This, doubtless, is equiva-

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lent to a provision that the judge shall approve the bond. But no particular form of approval is required. Approval may be inferred from the facts of the transaction. And we think it a fair, and, indeed, almost necessary inference, from the fact of the sureties being sworn to their sufficiency by the judge who signed the citation, that the security was taken by him as required by law.

MOTION DENIED.

Mr. Justice CLIFFORD: I dissent from the views expressed by the court in the second ground assumed in favor of dismissing the writ of error.

THE GRACE GIRDLER.

In an appeal in admiralty, where the record has failed to show that the sum necessary to give this court jurisdiction of such an appeal was in controversy below, the court, in a proper case, and where it is asserted by the appellant that such sum was really in controversy, will allow him a limited time to make proof of the fact.

APPEAL from the Circuit Court of the United States for the Southern District of New York.

This was a motion made by *Mr. Donohue* to dismiss an appeal from the Circuit Court of the Northern District of New York.

Lockwood, the appellant, with several others, had filed a joint libel against the schooner *Grace Girdler*, claiming damages occasioned by her collision with the schooner *Ariel*. The aggregate damages sustained by the libellants amounted, according to the libel, to \$2754. The libel was dismissed in the District Court, and the dismissal was affirmed on appeal in the Circuit Court. None of the libellants appealed to this court except Lockwood; and while it was apparently obvious that as owner of the vessel much the greater part of the loss had fallen upon him, the record did not aver that the damage which he had suffered exceeded \$2000; as a statute requires that it should be, in order to give the court jurisdiction.