
Statement of the case.

can be no more meritorious or efficient upon one than upon the other. In the absence of express legislative enactment to that effect, no satisfactory reason can be given why a vessel captured on the Red River five miles above its junction with the Mississippi should be turned over to the courts to be treated as captured and abandoned property under the statutes of 1863 and 1864, which does not apply to a capture made on the Mississippi itself, five hundred miles farther from the Gulf of Mexico. Congress probably anticipated, especially in view of the state of the war when the act was passed, that most of the captures on the rivers would be made by the army, and thought it unwise to continue two modes for the disposition of the property taken.

Such being our opinion of the meaning of the seventh section of the act of July 2d, 1864, we must hold that the property captured and condemned in this case ought not to have been regarded as maritime prize, and subject to condemnation as such.

The decree of the District Court is therefore REVERSED, and the case is remanded, in accordance with the rule stated in *United States v. Weed*,* for further proceedings, if the government shall see fit to institute them.

MILLER v. McKENZIE.

A writ of error dismissed as defective in respect to parties, where the suit was against four persons by name, and the writ recited that it was against two which it named, "and others."

ERROR to the District Court for the Northern District of Mississippi.

Pitzer Miller brought suit in the court just named against Larkin McKenzie, James Hamer, Joseph Hamer, and Ezekiel Wall, to recover the value of several bales of cotton.

* 5 Wallace, 62.

Syllabus.

Such proceedings were had that a judgment was rendered for the defendants, whereupon the plaintiff brought this writ of error; the writ reciting that the proceedings were between "Peter Miller, Larkin McKenzie, *and others*."

Mr. P. Phillips, on the part of the defendants, now moved to dismiss the case for want of jurisdiction.

Mr. T. Wilson, contra.

Mr. Justice NELSON delivered the opinion of the court.

It appears, from an inspection of the record, that the writ of error is defective in respect to the parties. It is therein recited that the proceedings are between Pitzer Miller and Larkin McKenzie, *and others*. This defect has been held so many times in this court as fatal to its jurisdiction that it need be but mentioned to require a dismissal of the case.

MOTION GRANTED.

STOVALL v. BANKS.

1. A decree which adjudges a certain sum of money to be due from an administrator to each of the distributees of his intestate's estate, and awards execution to collect it, is a final decree. An added direction that the defendant be allowed, as payment to each of the distributees, the amount of any note held by him against them, and also that the several shares of the parties to whom the estate is awarded, shall be subject to ratable deduction for fees yet unpaid for the collection of notes belonging to the administrator, does not make the decree less final; especially when it does not appear that the administrator held any notes against any of the distributees, or that there were any unpaid fees.
2. Sureties in an administration bond are bound by a decree against their administrator finding assets in his hands, and nonpayment of them over, to the same extent to which the administrator himself is bound. They cannot attack collaterally a decree made against him on such a subject.
3. A decree of a court of competent jurisdiction awarding a sum in the hands of an administrator to distributees, cannot be attacked collaterally.