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Statement of the case.

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breach of it, and would have no defence here." And again the court said: "The mere verbal promise of De Koven to release Mr. Warren would not be a good defence here, I think, but would leave Warren to turn over on De Koven for a breach of promise."

The remaining exceptions taken to the charge cannot be sustained. It may be admitted, as contended for, by the plaintiff in error, that when a deed has been delivered, and the delivery has been accepted, a verbal agreement between the parties, made at the time of the delivery, or previous thereto, that one of them should be released from the covenants contained in the deed, cannot defeat an action at law brought for an alleged breach of those covenants; but the charge of the court was in harmony with this doctrine. It may also be conceded that there can be no conditional delivery of a deed to the grantee, or covenantee, therein named; but nothing in the charge intimated that there could be. The question submitted to the jury was, whether there had been any acceptance of the lease by the defendant. This was equivalent to submitting the inquiry, not whether the deed had been delivered on condition that Warren should be released afterward, but whether it had been delivered at all as the deed of the defendant. That such a submission was proper, in view of the evidence, we have already said.

JUDGMENT AFFIRMED.

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PERRIN v. UNITED STATES.

A claim for property accidentally destroyed in the bombardment and burning of a town, by the naval forces of the United States, is not of itself within the jurisdiction of the Court of Claims.

APPEAL from the Court of Claims dismissing a petition before it, as not "founded upon any law of Congress, or upon any regulation of an executive department, or upon

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Statement of the case and judgment of the court.

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any contract, express or implied, with the government of the United States;" confessedly the only cases, in which the court, by the statutes creating it, has jurisdiction.

*Mr. W. W. Boice, for the appellants; Mr. Akerman, Attorney-General, and Mr. C. H. Hill, contra.*

Mr. Justice CLIFFORD stated the case and delivered the judgment of this court.

The petitioners alleged in the court below that they were naturalized citizens of the United States; that just before the 13th of July, 1854, they arrived at San Juan del Norte, or Greytown, possessed of a valuable invoice of merchandise, with the intention of establishing a commercial house in some part of Central America; that on that day the town of San Juan was bombarded and burnt by the United States sloop-of-war Cyane, and all the merchandise, books, and papers of the petitioners, together with their personal effects. Appearance was entered by the Assistant Attorney-General, and he demurred to the petition because it did not set forth facts sufficient to constitute a cause of action, and the court below sustained the demurrer and dismissed the petition. Whereupon the petitioners appealed to this court, and alleged that the decision sustaining the demurrer was erroneous, but the court here, inasmuch as the claim is not one "founded upon any law of Congress, or upon any regulation of an executive department, or upon any contract, express or implied, with the government of the United States," concurs in opinion with the Court of Claims and

**AFFIRMS THE DECREE DISMISSING THE PETITION.**