
Statement of the case.

others, due care and its opposite, negligence, are relative terms, having respect to the nature of the duty to be performed, the knowledge communicated to the party to be charged, and the prevailing usages of the business. In view of the almost invariable practice as to the stowage of nuts on this voyage, of the well-known fact that if stowed in the hold they are extremely liable to be injured by sweat, and of the marks and directions on the packages in question in this case, it was culpable negligence in the master of the vessel to stow them in the hold. If he could not stow them as directed, he should, at least, have given notice to the shippers.

This view of the case is sufficient to dispose of it without deciding whether the evidence in reference to the stowage of nuts established a custom of the trade in the proper sense of that term, or whether the shipping receipts were a part of the contract of affreightment.

DECREE AFFIRMED WITH INTEREST AND COSTS.

MILLER *v.* JOSEPH ET AL.

A writ of error from the Supreme Court of the United States to review the judgment of a State court must be issued to the highest court of the State in which a decision of the case could be had, even if that court be an inferior court of the State. Accordingly, where a Circuit Court of Virginia had jurisdiction to decide a case finally, the Court of Appeals of that State not having jurisdiction to review the decision, by reason of the amount in controversy being under \$500, a writ of error from this court issued to the Court of Appeals was dismissed. If allowable at all, the writ should have been issued to the Circuit Court.

ERROR to the Supreme Court of Appeals of Virginia; the case being thus:

In 1868 one Joseph recovered a judgment in the Circuit Court of Rockingham County, Virginia, against a certain Miller for a sum less than \$500—costs and interest included—and issued execution thereon. In 1869 Miller filed a bill

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in chancery in the same Circuit Court to restrain the collection of the judgment and for a new trial, making Joseph and the sheriff of that county parties. They appeared and answered. The Circuit Court, at the hearing, which was had on the pleadings, dismissed the bill.

The plaintiff then applied to the Supreme Court of Appeals of the State to allow an appeal from the decree of the Circuit Court, but that court refused to allow it. Miller then sued out of this court a writ of error to review this action of the Supreme Court of Appeals. With certain exceptions, not embracing the present case, the constitution of Virginia of 1870 does not allow an appeal in civil cases where the amount in controversy is under \$500.

Mr. David Fultz, for the plaintiff in error ; Messrs. Woodson and Compton, contra.

Mr. Justice FIELD delivered the opinion of the court.

The writ of error in this case must be dismissed. The Court of Appeals of Virginia had no jurisdiction to review the decree of the Circuit Court of Rockingham County, and therefore rightfully refused to allow an appeal therefrom. The amount in controversy was less than five hundred dollars, and the constitution of Virginia, of 1870, withholds jurisdiction from the Court of Appeals in civil cases where the matter in controversy is under that sum, with certain exceptions within which the present case does not fall. The Circuit Court of Rockingham County is the highest tribunal of the State in which a decision of the case could be had, and if a writ of error to review its judgment was allowable at all from this court, it should have been issued to that court and not to the Court of Appeals.*

WRIT DISMISSED.

* Constitution of Virginia of 1870, Art. VI, sec. 2.