

in this section seems to have been the purpose of Congress. The phrase *oil-cloth foundations* would not necessarily import the article known in commerce as *floor-cloth canvas*; nor would the phrase *floor-cloth canvas* necessarily import an article to be used for "*oil-cloth foundations*."

Considering the juxtaposition and connection in which the two phrases are found, and letting in upon them the light of the mercantile evidence, the inference is clear that Congress used them, and intended that they should be understood, as convertible terms. This gives all the certainty and freedom from doubt which could be effected by the largest circumlocution.

It evinces unmistakably the purpose that the *floor-cloth canvas* which is known in commerce as the article used for *oil-cloth foundations* should pay a duty of forty per cent *ad valorem*. The two designations have no effect beyond this result.

This examination of the statute and the record leaves no doubt in our minds upon the questions presented for our consideration.

As the case stood before the jury, the plaintiffs were clearly entitled to a verdict. The court, therefore, properly directed the jury to find accordingly. *Shugart v. Allens*, 1 Wall. 359.

It would have been error to refuse so to instruct them.

*The judgment of the Circuit Court is affirmed.*

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#### THE "D. R. MARTIN."

Where the libellant recovered in the District Court a decree for \$500, which, upon appeal by the adverse party, was reversed by the Circuit Court and the libel dismissed, and the libellant thereupon appealed to this court,—*Held*, that, the amount in controversy in the Circuit Court and here being but \$500, the appeal must be dismissed.

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

This suit was brought by Barney, the libellant, to recover damages for his wrongful eviction from the steamboat "D. R. Martin." He demanded in his libel \$25,000 damages, but in

the District Court recovered only \$500. From this decree the claimant appealed. Barney did not appeal. The Circuit Court reversed the decree of the District Court, and dismissed the libel. From this decree of the Circuit Court Barney appealed to this court.

*Mr. Thomas Young* for the appellee moved to dismiss the appeal because the matter in dispute did not exceed \$2,000.

*Mr. John M. Guiteau, contra.*

MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

Barney, having failed to appeal from the decree of the District Court, is concluded by the amount found there in his favor. He appears upon the record as satisfied with what was done by that court. In the Circuit Court, the matter in controversy was his right to recover the sum which had been awarded him as damages. If that court had decided against the claimant, he could not have asked an increase of his damages. *Stratton v. Jarvis*, 8 Pet. 9, 10; *Houseman v. Schooner North Carolina*, 15 id. 40. As the matter in dispute here is that which was in dispute in the Circuit Court, it follows that the amount in controversy between the parties in the present state of the proceedings is not sufficient to give us jurisdiction. *Gordon v. Ogden*, 3 Pet. 34; *Smith v. Honey*, id. 469; *Walker v. United States*, 4 Wall. 164.

*The appeal is dismissed.*

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#### THE "JUNIATA."

Depositions taken under a commission from a circuit court in an admiralty case, after an appeal to this court, will not be made a part of the record, unless a sufficient excuse be shown for not taking the evidence in the usual way before the courts below.

APPEAL from the Circuit Court of the United States for the District of Louisiana.

The decree of the Circuit Court in this case was signed Feb. 13, 1874. An appeal was taken therefrom, and the record filed here on the thirteenth day of the following October.