

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.

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.

Mr. Thomas J. Durant filed a certified copy of the order of the said Circuit Court, bearing date June 1, 1875, for a commission to take the deposition of certain witnesses to be used here, and moved that the depositions taken thereunder be made a part of the record.

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

The depositions in question were taken since the appeal, under a commission issued from the Circuit Court. Further proof in the case has not been ordered by this court. No such order would have been granted if application therefor had been made, unless a sufficient excuse was shown for not taking the evidence in the usual way before the courts below. This was the rule established in the case of *The Mabey*, 10 Wall. 419. We cannot admit depositions taken under a commission from the Circuit Court, except upon a similar showing. That has not been made. Leave is granted to renew the motion if this defect can be supplied.

Motion denied,

KOHL ET AL. *v.* UNITED STATES.

1. The right of eminent domain exists in the government of the United States, and may be exercised by it within the States, so far as is necessary to the enjoyment of the powers conferred upon it by the Constitution.
2. Where Congress by one act authorized the Secretary of the Treasury to purchase in the city of Cincinnati a suitable site for a building for the accommodation of the United States courts and for other public purposes, and by a subsequent act made an appropriation "for the purchase at private sale, or by condemnation of such site," power was conferred upon him to acquire, in his discretion, the requisite ground by the exercise of the national right of eminent domain; and the proper Circuit Court of the United States had, under the general grant of jurisdiction made by the act of 1789, jurisdiction of the proceedings brought by the United States to secure the condemnation of the ground.
3. Where proceedings for the condemnation of land are brought in the courts of Ohio, the statute of that State treats all the owners of a parcel of ground as one party, and gives to them collectively a trial separate from the trial of the issues between the government and the owners of other parcels; but each owner of an estate or interest in each parcel is not entitled to a separate trial.