additional labor, to put aside his desire to make a direct and quick passage, even to disregard the express instructions of his owners, in favor of the request of another steamer disabled at sea to be towed to a place of safety.

Upon these considerations I award to the Napier a salvage compensation of $25,000, to be distributed among the owners, officers, and crew as follows: Out of the sum awarded, the amount actually disbursed by the Napier in performing the services, viz., $712.50, is to be first deducted and paid to the owners of the Napier. Three-fourths of the remainder is to be then paid to the owners of the Napier as their share of the salvage award. The master of the Napier is to receive the sum of $2,500, and her chief officer the sum of $650. The remainder is to be divided among the other officers and crew in proportion to their respective rates of wages—the volunteer third officer to be rated at £5 per month.

Let it be referred to the commissioner to ascertain the names and wages of the crew, and report the amount to be decreed each person, in accordance with this opinion.

Equity—Jurisdiction—Dismissal—Remedy at Law.

MITCHELL, Adm'r, *v.* DOWELL and others, and the same parties *e converso*, U. S. Sup. Ct., Oct. Term, 1881. Cross-appeals from the same decree and on the same record, from the circuit court of the United States for the eastern district of Arkansas. The decision was rendered by the supreme court of the United States on May 8, 1882. Mr. Justice *Woods* delivered the opinion of the court, reversing the decision of the circuit court, and remanding the cause, with directions to dismiss the bill.

Where a cause of action cognizable at law is entertained in equity, on the ground of some equitable relief sought by the bill, which it turns out cannot, for defect of proof or other reason, be granted, the court is without jurisdiction to proceed further, and should dismiss the bill and remit the cause to a court of law.

Clark & Williams, for Mitchell.

W. F. Henderson and A. H. Garland, for Dowell.

Cases cited in the opinion: Russell v. Clark, 7 Cranch. 69; Price's Pat. Candle Co. v. Bauwen's Pat. Candle Co. 4 Kay & J. 727; Baily v. Taylor, 1 Russ. & M. 73; French v. Howard, 3 Bibb, 303; Robinson v. Gilbreth, 4 Bibb, 184; Nourse v. Gregory, 3 Litt. 378.

Appeal—Taken in Time.

BRANDRES and others *v.* COCHRANE and others, U. S. Sup. Ct., Oct. Term, 1881. Appeal from the circuit court of the United States for the northern district of Illinois. On motion to dismiss because the appeal was not taken within two years after entry of decree. The decision was rendered by the supreme court of the United States on March 13, 1882. Mr. Chief Justice *Waite* delivered the opinion of the court, denying the motion.

Where complainants prayed an appeal on the day the decree was entered, which was allowed upon their giving bond according to law, and on the day before the expiration of the two years the circuit judge approved a bond for an appeal and signed a citation, which were filed with the clerk, and afterwards entered an order allowing the appeal *nunc pro tunc*, as of the date of approval of the bond, the taking of the security and the signing of the citation were an allowance of the appeal, and no formal order of allowance was necessary, and the appeal was taken in time.

John S. Mont, for appellants.

Edwin F. Bailey, for appellees.

Cases cited in opinion: Sage v. Railroad Co. 96 U. S. 714; Draper v. Davis, 102 U. S. 371.

Appeal—Matter in Dispute.

RUSSELL *v.* STANSELL, U. S. Sup. Ct., Oct. Term, 1881. Appeal from the district court of the United States for the northern district of Mississippi. The decision was rendered in the supreme court of the United States on March 13, 1882. Mr. Chief Justice *Waite* delivered the opinion of the court, dismissing the appeal for want of jurisdiction.

Where several land-owners are assessed by court commissioners, each for small sums, and each liable only for his own assessments, the matter in dispute, as regards their right of appeal, is the separate amounts assessed to each, and not the aggregate amount; and the distinct and separate interests cannot be united for the purpose of making up the necessary amounts to give jurisdiction on appeal.

H. T. Ellett, for appellees.

Cases cited: Paving Co. v. Mulford, 100 U. S. 148; Seaver v. Bigelow, 5 Wall. 208; Rich v. Lambert, 12 How. 347; Stratton v. Jarvis, 8 Pet. 41; Oliver v. Alexander, 6 Pet. 143.

Damages—Province of Jury.

CITY OF MANCHESTER *v.* ERICSSON, U. S. Sup. Ct., Oct. Term, 1881. Error to the circuit court of the United States for the eastern district of Virginia. The controversy in this case was on the question whether the city or a bridge company was responsible for the condition of the street in such a manner as to incur liability for negligence in the care of it. The decision was rendered in the supreme court of the United States on April 17, 1882. Mr. Justice *Miller* delivered the opinion of the court, reversing the judgment of the circuit court, and remanding the cause, with instructions to grant a new trial.

The fact that the city owned stock, and had advanced money to the corporation which held the title to the bridge, does not make the city responsible