

MENTZ *V.* THE SAMMY.
MARTIN *ET AL.* *V.* SAME.

Circuit Court, E. D. Louisiana.

October 25, 1890.

ADMIRALTY—REVIEW ON APPEAL.

In cases Involving questions of fact only, depending on conflicting evidence and the credibility of witnesses, the circuit court in admiralty will not disturb the decrees Of the district court, where there is no preponderance of evidence, and no additional evidence offered on appeal. Following *Duncan v. The Nicholls, ante, 302.*

In Admiralty.

R. DeGray, for libelant.

Frank Butler, for claimants.

PARDEE, J. To this case, tried and submitted at the last term of court, I have given a careful and laborious examination. The questions presented are questions of fact. The proper decision of them depends upon the credibility to be given the witnesses. The examination given the case raises some little doubt as to whether the case made by the libelant is not overturned by the claimants' evidence. But this doubt is not of such magnitude, nor so well supported by the evidence, that the court can say that the finding of the district court based upon the same evidence, with opportunities to hear and observe witnesses, is incorrect. For the reasons given in the case of *The Nicholls, ante, 302*, (just decided,) the decree of the district court will be affirmed.

The following decree will be entered in the cause:

This cause came on to be heard on the transcript of appeal, and was argued by Mr. DeGray for the libelants and Mr. Butler for the claimants. Whereupon, and for the afore-said reasons, it is ordered, adjudged, and decreed that the libelant, Mrs. Amelia Mentz, wife of E. D. Mentz, do have and recover from Martin & Dreibholz, claimants, and owners of the steam-boat Sammy, and from Newell Tilton, surety on their release bond, *in solido*, the sum of \$400 damages, and all costs of the circuit and district courts.