

lieve that there was an erroneous estimate of the amount actually laden on board, or that the cargo was not as advantageously stowed as it could and should have been. As has been stated, there should have been a loss of but 12 per cent. of the cargo space in stowage. The proofs show quite satisfactorily that, allowing for this loss, the cargo capacity of the steamship for the stowage and carriage of ordinary West Coast South American cargo was certainly 2,760 tons. How the mistake occurred is wholly a matter of conjecture. The proofs as to the accuracy of the estimate of the amount laden on board are meager and unsatisfactory.

We conclude that to the extent of 367 tons the concession was erroneously allowed, and that there should be a decree for the libelants upon that basis, with interest.

The decree is accordingly reversed, with costs of this court to the appellants, with instructions to the district court to decree for the libelants, with costs of that court, and conformably with this opinion.

MEMORANDUM DECISIONS.

ALEXANDRE et al. v. THE ARGUS. (Circuit Court of Appeals, Third Circuit. October 16, 1896.) No. 21. Appeal from the District Court of the United States for the Eastern District of Pennsylvania. Dismissed pursuant to the twentieth rule.

A LOT OF JEWELRY v. UNITED STATES. (Circuit Court of Appeals, Second Circuit. March 4, 1896.) No. 1037. M. L. Towns, for claimants. James L. Bennett, U. S. Atty. Before WALLACE, LACOMBE, and SHIPMAN, Circuit Judges. No opinion. Affirmed in open court.

BANK OF CALIFORNIA v. COWAN et al. (Circuit Court of Appeals, Ninth Circuit. June 1, 1896.) No. 253. Appeal from the Circuit Court of the United States for the District of Oregon. Zera Snow, for appellant. George H. Williams and L. L. McArthur, for appellees. Before GILBERT and ROSS, Circuit Judges, and MORROW, District Judge.

GILBERT, Circuit Judge. This is a suit brought by the Bank of California to set aside the mortgages referred to in the foregoing case of *Beall v. Cowan*, 75 Fed. 139. It is precisely similar to the former case, and the conclusions therein reached are decisive of this case. The decree is therefore affirmed, with costs to the appellees.

CENTRAL VT. R. CO. v. BATEMAN. (Circuit Court of Appeals, Second Circuit. January 29, 1895.) No. 82. In Error to the Circuit Court of the United States for the Northern District of New York. Louis Hasbrouck, for plaintiff in error. Frank E. Smith, for defendant in error. Before LACOMBE and SHIPMAN, Circuit Judges.

PER CURIAM. We find no error in the charge of the trial judge, and are satisfied that there was such a conflict of testimony upon the issues of fact as to require a submission of the case to the jury. The decision upon

defendant's motion for a new trial because the verdict was, as defendant contended, contrary to the evidence, and for excessive damages, is not reviewable in this court. Judgment of circuit court affirmed.

THE CITY OF SAVANNAH. OCEAN S. S. CO. v. HAURAHAN et al. (Circuit Court of Appeals, First Circuit. July 13, 1893.) No. 65. Appeal from the District Court of the United States for the District of Massachusetts. This was a libel by the owners of the schooner Lucy Jones, on behalf of themselves, the owners of the cargo of said schooner, and the crew, for the loss of the schooner and cargo, and for the loss of personal effects, by a collision between the steamship City of Savannah and said schooner, February 4, 1892, near Cross Rip light-ship, in Nantucket Sound. There was a decree for libelants, and claimants of the City of Savannah appeal. No opinion. Dismissed pursuant to the twentieth rule.

CROSS v. EVANS. (Circuit Court of Appeals, Fifth Circuit. February 25, 1895.) No. 246. Error to the Circuit Court of the United States for the Eastern District of Texas. Questions of law certified to supreme court.

DALY et al. v. BRADY. (Circuit Court of Appeals, Second Circuit. May 27, 1896.) A. I. Dittenhoff, for the motion. Stephen H. Olin, opposed. Before WALLACE, LACOMBE, and SHIPMAN, Circuit Judges.

PER CURIAM. The supreme court had decided in this case that no appeal was ever taken from the judgment of this court. 16 Sup. Ct. 961. The time has now passed within which an appeal can be taken. The judgment was duly entered in this court. To vacate it and direct the entry of a new judgment for the purpose of permitting an appeal would be merely an evasion of the statute which requires appeals to be brought within a prescribed time. We are satisfied that we are without power to grant any relief.

GOWEN v. BUSH. DAVISON v. GIBSON. ST. LOUIS & S. F. RY. CO. v. BARKER. (Circuit Court of Appeals, Eighth Circuit. February 8, 1896.) Nos. 535, 605, 615. In Error to the United States Court in the Indian Territory. No opinion. The judgment entered in accordance with the opinions herein (18 C. C. A. 572, 72 Fed. 299) set aside, and the cases reinstated on the docket by the court of its own motion.

HALL v. FRICKET. (Circuit Court of Appeals, First Circuit. August 10, 1893.) No. 62. Appeal from the District Court of the United States for the District of Massachusetts. This was a libel to recover damages to the schooner Mary Lymburner caused by a collision between said schooner and the schooner Robert F. King, on Nantucket Shoals, December 12, 1891. There was a decree for libelant, and claimant appeals. Thos. J. Morrison, for appellant. Frederic Dodge, for appellee. Before COLT and PUTNAM, Circuit Judges, and WEBB, District Judge. Dismissed pursuant to the twentieth rule.

THE IOWA. IOWA S. S. CO., Limited, v. MONROE. (Circuit Court of Appeals, First Circuit. July 12, 1894.) No. 96. Appeal from the District Court of the United States for the District of Massachusetts. This was a libel