

## Opinion of the Court.

\$5000, but none of which exceeded that sum, and filed a bill against him and a preferred creditor to subject to the payment of their judgment goods which had been seized upon a prior judgment, in which they succeeded, and defendant appealed. The appeal was dismissed, the court holding that if the decree were several as to the creditors, it was equally so as to their adversaries. "The theory is, that, although the proceeding is in form but one suit, its legal effect is the same as though separate suits had been begun on each of the separate causes of action." So in *Henderson v. Wadsworth*, 115 U. S. 264, it was held that where a suit was brought against several heirs to enforce their liability for the payment of a note on which their ancestor was bound, and separate judgments were rendered against each for his proportionate share, this court had jurisdiction in error only over such judgments as exceeded \$5000; and, again, in *Ex parte Phoenix Ins. Co.*, 117 U. S. 367, that distinct decrees against different parties on a single cause of action in which there were distinct liabilities, could not be joined to give this court jurisdiction on appeal. In that case the suit was brought upon a single policy of insurance written by four different companies, and the decree was against each company severally for its separate obligation.

In short, the rule applicable to several plaintiffs having separate claims, that each must represent an amount sufficient to give the court jurisdiction, is equally applicable to several liabilities of different defendants to the same plaintiff. The disposition we have made of this question renders it unnecessary to consider the others.

Upon the whole, we are of opinion that this bill ought not to have been sustained, and the decree of the court must, therefore, be

*Reversed, and the case remanded, with directions to dismiss the bill for want of jurisdiction.*

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KEELS v. CENTRAL RAILROAD COMPANY. Appeal from the Circuit Court of the United States for the District of South Carolina. No. 1207. Argued with No. 1206. MR. JUSTICE BROWN. As the

## Syllabus.

facts of this case are substantially the same as the one just decided, the decision must be the same.

The decree of the court below will, therefore, be reversed, and the case remanded, with directions to dismiss the bill.

*Mr. Samuel Lord*, (with whom were, on the brief, *Mr. D. A. Townsend*, Attorney General of the State of South Carolina, and *Mr. Ira B. Jones*,) for appellants.

*Mr. Henry A. M. Smith*, (with whom was *Mr. J. T. Barron* on the brief,) for appellee.

## COOKE v. AVERY.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE  
NORTHERN DISTRICT OF TEXAS.

No. 72. Submitted December 5, 1892. — Decided January 23, 1893.

In view of the requirements of Rev. Stat. § 953, respecting the authentication of bills of exceptions, it will be assumed, where a bill is certified by a District Judge holding Circuit Court, that the Circuit Justice and Circuit Judge were not present at the trial, unless the record clearly and affirmatively shows the contrary.

When it appears that some title, right, privilege or immunity, on which the recovery depends, will be defeated by one construction of the Constitution or a law of the United States, or sustained by the opposite construction, the case is one arising under the Constitution or laws of the United States.

When a party, on the first trial of a cause in a Circuit Court, sets up such a right as the ground of Federal jurisdiction, and the jurisdiction is sustained, he cannot be permitted, on the second trial, to oust the jurisdiction by contending that no such right is in controversy.

Where a plaintiff's title rests upon the validity of a lien claimed to have been acquired under a judgment of a Circuit Court of the United States, the disposition of the issue depends upon the laws of the United States and the rules of its courts, and a Federal court has jurisdiction.

An index to an abstract of judgments in Texas, made under its laws for acquiring judgment liens, is sufficient, which gives the defendants' name or names correctly, and the names of the plaintiffs by a partnership title.

In Texas, in trespass to try title, the defendant cannot question the validity