$3916.75. The case went to a hearing on the pleadings and proofs, and a decree was entered dismissing the bill. It is now here on appeal.

Although the bill was originally filed against four parties, while the suit was progressing, and after the above judgment creditors had become parties to the proceedings, it was dismissed by the stipulation and consent of the complainants as to two of them—Thompson and Green—who were charged in the bill as having become the owners of large parcels of the estate of Fenn, the debtor, after his insolvency and before he made an assignment for the benefit of his creditors. The dismissal of these parties narrowed the litigation and confined the issue between the judgment creditors on the one side, and the debtor and Robbins, his general assignee, on the other, and who was the only witness examined in the case. He was called on the part of the complainants. His testimony shows, that Fenn was heavily in debt and hopelessly insolvent. That he had divested himself of all his property in his endeavors to adjust his debts, and by the assignment for the benefit of his creditors. There was no concealment of any of his assets, or attempted appropriation of any part of them for his own benefit or the benefit of his family. All that he possessed appears to have been devoted by the assignment to the use of his creditors, and we perceive no reason for dissenting from the conclusion at which the court below arrived in its disposition of the case.

DECREE AFFIRMED.

SEAVER v. BIGELOWS.

In a creditor's bill—several creditors joining—to set aside a conveyance of property as fraudulently made, this court has no jurisdiction on appeal if the judgment of the creditor appealing do not exceed $2000. The fact that the fund in litigation exceeds it is not sufficient.

SEAVER filed a creditor's bill against the defendants, in the Circuit Court for the Northern District of Illinois, setting forth a judgment against one of the defendants, for the

sum of $839.48, and, *he* being insolvent, seeking to get satisfaction of it from a fund *exceeding* $2000 in the hands of another of the defendants who, it was charged, was in possession of the fund by fraud. Plimpton, who joined in the bill, set out a judgment for the sum of $988.47. The suit went to issue, and was heard on the pleadings and proofs, and a decree entered dismissing the bill. The case being now here on appeal, a question arose whether this court had jurisdiction, as the statute limiting appeals from the Circuit Court is confined to cases where the sum in dispute exceeds $2000, exclusive of costs.*

Mr. E. S. Smith, in support of the jurisdiction:

The act of Congress allows appeals in equity, when the matter in dispute shall exceed the *sum or value* of two thousand dollars. The *judgment* is not the amount, as that is not in dispute, it having been fixed by the court at law. Therefore, the value of the property must be the sum in controversy. A decree, in cases of this kind, need not state the amount to be paid. The prayer in the bill, is to apply the property, fraudulently disposed of, to pay the sums fixed by the judgments. *Freeman* v. *Howe*† is decisive. It was there held, that a bill filed on the equity side of the court to restrain or regulate judgments, or suits at law, in the same court, and thereby prevent any injustice or inequitable advantage, under mesne or final process, is not an original suit, but ancillary and dependent; supplementary merely to the original suit, out of which it had arisen.

The bill, in this case, was not filed as an original suit, but to aid the judgment at law.

Mr. Thomas Hoyne, contra.

Mr. Justice NELSON delivered the opinion of the court.

The judgment creditors who have joined in this bill have separate and distinct interests, depending upon separate and

* 2 Stat. at Large, 244, § 2, chap. 40.

† 24 Howard, 460

distinct judgments. In no event could the sum in dispute of either party exceed the amount of their judgment, which is less than $2000. The bill being dismissed, each fails in obtaining payment of his demands. If it had been sustained, and a decree rendered in their favor, it would only have been for the amount of the judgment of each. We say nothing as to the costs, as the statute excludes them on the question of jurisdiction.

It is true, the litigation involves a common fund, which exceeds the sum of $2000, but neither of the judgment creditors has any interest in it exceeding the amount of his judgment. Hence, to sustain an appeal in this class of cases, where separate and distinct interests are in dispute, of an amount less than the statute requires, and where the joinder of parties is permitted by the mere indulgence of the court, for its convenience, and to save expense, would be giving a privilege to the parties not common to other litigants, and which is forbidden by law.

The case is analogous to proceedings in admiralty in behalf of seamen for wages, and salvors for salvage, where the practice of the court is well settled.

In the case of the seaman, though the contract is separate and not joint, all may join in the libel and carry on the proceedings, in form, jointly, to the decree, which assigns to each severally the amount due. If the sum thus assigned is under $2000, neither party can appeal.* So in respect to the case of salvage, where the amount charged upon the goods of each of the several claimants is less than this sum.†

The case of *Rich* v. *Lambert*‡ furnishes another illustration. There, several owners of cargo, having separate and distinct interests, filed a libel against the vessel for damage done to the goods on the voyage. The court decreed damages in their favor, but with the exception of two of the cases the amount was under $2000. The court dismissed the appeals for want of jurisdiction.

* Oliver *v.* Alexander, 6 Peters, 143.

† United States *v.* Carr, 8 Id. 9; Spear *v.* Place, 11 Howard, 522.

‡ 12 Howard, 347.

Syllabus.

The only plausible ground upon which the jurisdiction can be sustained in the case before us is, that the several judgment creditors are proceeding against a common fund, which each is interested to have applied to the payment of his demand. But the same ground for the jurisdiction existed in the case of the seaman, salvors, and owners of cargo for damages. The answer is, that the interest of the judgment creditors in the common fund could not exceed the amount of their several and separate judgments, and if these are under the $2000, the same reason exists for cutting off the appeal as if the suit had been separate and not joint. Indeed, the joinder of parties complainant in the case of creditors' bills is so much a matter of form, that new parties may come in at almost any stage of the proceedings on a proper application; and, under special circumstances, even after decree, if they can show an interest in the common fund. And the party first instituting proceedings may do so on behalf of himself and all other creditors who may come in and assume their share of the costs and expenses.

DISMISSED FOR WANT OF JURISDICTION.

NOTE.—Similar decree made for the same reason in the case of *Field* v. *Bigelow*, and in one branch of *Myers* v. *Fenn*.

UNITED STATES *v.* REPENTIGNY.

1. On a conquest by one nation of another, and the subsequent surrender of the soil and change of sovereignty, those of the former inhabitants who do not remain and become citizens of the victorious sovereign, but, on the contrary, adhere to their old allegiance and continue in the service of the vanquished sovereign, deprive themselves of protection or security to their property except so far as it may be secured by treaty.
2. Hence, where on such a conquest, treaty provided that the former inhabitants who wished to adhere in allegiance to their vanquished sovereign, might sell their property, provided they sold it to a certain class of persons and within a time named, the property, if not so sold, became abandoned to the conqueror.