

Case No. 3,671. DAWSON v. RANKIN.
[5 Am. Law Rev. (1870) 753.]

Circuit Court, S. D. Georgia.

JURISDICTION OF FEDERAL COURTS—ACTION ON SUPERSEDEAS
BOND—NONRESIDENT CREDITORS.

[A nonresident creditor who obtains judgment In a state court, from which an appeal, with super-
sedeas, is taken to the state supreme court, may, after affirmance of the judgment, if it is not paid,
sue the principal and surety jointly on the supersedeas bond in the federal court]

In this case a decision was rendered by WOODS, Circuit Judge, on the 15th of April last overruling the defendants' motion to dismiss for want of jurisdiction, and ordering them to plead. The facts were these: A judgment was obtained in the state court Muscogee county. Defendants appealed to the supreme court, and gave bond for \$33,000, with Salisbury as security. The judgment was affirmed. The plaintiff and security failed to pay the judgment (this "being an old debt, the relief laws of the state embarrassed plaintiff), and plaintiff then transferred the jurisdiction by suing the principal and security in the United States circuit court A motion was made to dismiss on the ground that plaintiff had his judgment in the state court and remedies under his execution. The court ruled that the supersedeas bond was a new contract; that Salisbury had not yet been sued in the state court; that by the bond plaintiff had the right to enforce the same against principal and security jointly or severally. He had elected, as he had the right to do, to sue jointly. The effect of this decision will be to enable many plaintiffs who are nonresidents to escape the operation of the relief law.