

Case No. 11,882.

ROBBINS ET AL. V. FIREMEN'S FUND INS. CO.

{16 Blatchf. 232.}¹

Circuit Court, S. D. New York.

May 1, 1879.

APPEAL AND ERROR—CERTIFICATE OF
DIVISION—FINAL JUDGMENT—JURISDICTIONAL
AMOUNT.

Under sections 650, 652, and 693 of the Revised Statutes of the United States, no civil suit, where there is a certificate of division of opinion, can be taken to the supreme court except upon final judgment, and by writ of error or appeal; and, under section 691, as amended by section 3 of the act of February 16, 1875 (18 Stat. 316), no final judgment or decree can be re-examined unless the matter in dispute exceeds \$5,000.

{This was a motion for a new trial in an action by Henry A. Robbins and Daniel F. Appleton against the Firemen's Fund Insurance Company of San Francisco. See Case No. 11,881. It is now heard upon motion for certificate of division of opinion.}

Leon Abbett, for plaintiff.

Joshua M. Van Cott and John Winslow, for defendant.

SHIPMAN, District Judge. In my opinion, under the existing statutes in regard to certificates of division in civil cases, which are contained in sections 650, 652, and 693 of the Revised Statutes, no civil suit, where there is a certificate of division, can be taken to the supreme court, except upon final judgment and by writ of error or appeal. In such case, those statutory provisions also apply, which provide that the final judgments or decrees of the circuit courts shall not be re-examined in the supreme court, unless the matter in dispute shall exceed \$5,000. Section 691 of the Revised Statutes, as amended ⁸⁶³ by section 3 of the act of February 16, 1875 (18 stat. 316).

It follows, that a certificate of division would not enable the judgment in this case to be reviewed by the supreme court; and the motion for a certificate of division of opinion as denied.

¹ {Reported by Hon. Samuel Blatchford, Circuit Judge, and here reprinted by permission.}

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