

SANBORN, Circuit Judge. This was an action by A. F. Miles, administrator of the estate of James W. Brown, deceased, the defendant in error, to recover damages from the St. Louis & San Francisco Railway Company and its receivers, the plaintiffs in error, for injuries to the deceased, which he alleged were caused by the negligence of the company. The facts out of which the case arose, and the theory of the law upon which it was tried, were the same as in No. 581,—*Railway Co. v. Bennett* (just decided by this court) 69 Fed. 525. The judgment below must be reversed, and the cause remanded, with directions to grant a new trial, for the reasons stated in the opinion in that case.

ST. LOUIS & S. F. RY. CO. et al. v. HICKS.

(Circuit Court of Appeals, Eighth Circuit. September 2, 1895.)

No. 584.

RAILROAD COMPANIES—LIABILITY FOR NEGLIGENCE—INJURIES TO PERSONS ON TRACK.

In Error to the Circuit Court of the United States for the Western District of Arkansas.

B. R. Davidson (Edward D. Kenna, on the brief), for plaintiffs in error.

Oscar L. Miles, for defendant in error.

Before CALDWELL, SANBORN, and THAYER, Circuit Judges.

SANBORN, Circuit Judge. This was an action by Harrison Hicks, administrator of the estate of William Spoon, deceased, defendant in error, to recover damages from the St. Louis & San Francisco Railway Company and its receivers, the plaintiffs in error, for injuries to the deceased, which he alleged were caused by the negligence of the company. The essential facts in this case, and the theory of the law upon which the case was tried are the same as in No. 581,—*Railway Co. v. Bennett* (just decided by this court) 69 Fed. 525. For the reasons stated in that opinion the judgment below must be reversed, and the cause remanded, with directions to grant a new trial, and it is so ordered.

ST. LOUIS & S. F. RY. CO. et al. v. HICKS.

(Circuit Court of Appeals, Eighth Circuit. September 2, 1895.)

No. 585.

RAILROAD COMPANIES—LIABILITY FOR NEGLIGENCE—INJURIES TO PERSONS ON TRACK.

In Error to the Circuit Court of the United States for the Western District of Arkansas.

B. R. Davidson (Edward D. Kenna, on the brief), for plaintiffs in error.

Oscar L. Miles, for defendant in error.

Before CALDWELL, SANBORN, and THAYER, Circuit Judges.

SANBORN, Circuit Judge. This was an action brought by Harrison Hicks, administrator of the estate of William Spoon, deceased, the defendant in error, to recover damages from the St. Louis & San Francisco Railway Company and its receivers, the plaintiffs in error, for the death of the deceased, which he alleged was caused by the negligence of the company. The essential facts in this case, and the theory of the law upon which the case was tried, were the same as in No. 581,—*Railway Co. v. Bennett* (just decided by this court) 69 Fed. 525. For the reasons stated in the opinion in that case the judgment below must be reversed, and the cause remanded, with directions to grant a new trial, and it is so ordered.

LINN COUNTY NAT. BANK v. CRAWFORD.

(Circuit Court, D. Oregon. July 31, 1895.)

No. 2,108.

1. JURISDICTION OF FEDERAL COURTS—ACTIONS BY NATIONAL BANK RECEIVERS.

The federal courts have jurisdiction of actions brought by the receiver of an insolvent national bank to realize its assets, irrespective of the citizenship of the parties; and it is immaterial to such jurisdiction whether the action is brought in the receiver's own name, as receiver, or by him in the name of the bank.

2. NEGOTIABLE INSTRUMENTS—ACCOMMODATION NOTES.

A stockholder and director in a national bank, being aged and infirm of sight, was requested by the president of the bank to give him an accommodation note for \$10,000. He replied that if the purpose was to draw money on the note or put it in the bank he would not give it. The president then stated that the note was merely to be put into the hands of his personal creditor as security, and that no money would be needed. A note was accordingly made, but, without the knowledge of the maker, it was payable to the bank, and was, in fact, placed in the bank, and a certificate of deposit for the amount issued to the president, and by him deposited with his creditor, who held it as security until the bank failed. *Held*, that the maker's stipulation that the note should not be used to take money from the bank was apparently made for the bank's benefit, and that, having given a valid accommodation note, he was liable thereon to the receiver of the bank, although his wishes in regard to the manner of its use had not been respected.

This was an action brought by the receiver of the Linn County National Bank, in the name of the bank, against John A. Crawford upon a note for the sum of \$10,000. Heard on a motion by defendant for a new trial.

Wirt Minor, for plaintiff.

J. W. Whalley, for defendant.

BELLINGER, District Judge. This is a motion for a new trial upon the grounds: (1) That the court is without jurisdiction; (2) error of the court in refusing to instruct the jury to the effect that, if they believed the statements of the defendant Crawford as to the circumstances under which the note sued on was given, their verdict must be for the defendant.

The action is one by the receiver of the bank, in the bank's cor-