

## Opinion of the Court

record. His pleadings were their pleadings, and the issues which he had presented for trial were their issues. The trustee did not see fit to take steps at that time for a removal; neither did they. When the term ended, the term at which the cause, as a cause, could be first tried had passed by, and all right of removal under the act of March 3d, 1875, then in force, was gone.

It is true that the creditors got leave to file pleadings within ninety days, and that their answers and cross-bills were in before that time expired, but this operated only as an amendment of the original pleadings and created no new right of removal. As was said in *Babbitt v. Clark*, 103 U. S. 612, "the act of Congress does not provide for the removal of a cause at the first term at which a trial can be had on the issues as finally made up by leave of court or otherwise, but at the first term at which the cause, as a cause, could be tried."

Without considering any of the other questions presented by the record,

*We reverse the decree, and remand the cause to the District Court, with instructions to send the case back to the State court from which it was improperly removed.*

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GREENWOOD & Others v. RANDALL.

IN ERROR TO THE SUPREME COURT OF THE TERRITORY OF MONTANA.

Argued April 9th, 1884.—Decided May 5th, 1884.

*Practice.*

If a record fails to present in proper form the questions argued by counsel, the judgment will be affirmed.

*Mr. E. W. Toole* for plaintiff in error, submitted on his brief.

*Mr. Samuel Shellabarger* for defendant in error.

MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

This judgment is affirmed. The record fails entirely to present in proper form any of the questions which have been argued for the plaintiff in error. *Affirmed.*