State, the suit must be commenced in the state court and be prosecuted there, unless it is removed into the Circuit Court for the same district, in pursuance of some one of the acts of Congress passed for that purpose. *Assessor* v. *Osborne*, 9 Wall. 567; *Philadelphia* v. *Collector*, 5 Wall. 720, 728.

Jurisdiction of the Circuit Courts in suits of a civil nature at common law or in equity, as conferred by the 11th section of the Judiciary Act, extended only to cases where the United States are parties or petitioners or where an alien is a party, or where the suit is between the citizen of a State where the suit is brought and a citizen of another State; but the 12th section of the act made provision that the defendant, in certain cases and under certain conditions, might remove the cases from the state court into the Circuit Court "to be held in the district where the suit is pending." 1 Stat. 78.

Amendments have been enacted to the provision giving authority to the defendants to remove such cases from the state courts into the Circuit Courts, extending that right, and even conferring the same right in a limited class of cases upon the plaintiff; but it is unnecessary to enter into any discussion of those provisions, as no one of them has any tendency to support the jurisdiction in this case. 4 Stat. 632; 12 Stat. 756; 14 Stat. 46, 172, 307, 558; 15 Stat. 227, 253, 267; 16 Stat. 261, 440.

Viewed in any light, it is quite clear that the Circuit Court had no jurisdiction of the case.

Judgment reversed, and the cause remanded, with directions to dismiss the suit for want of jurisdiction.

Mr. Attorney General for plaintiff in error. *Mr. J. E. McDonald* and *Mr. A. L. Roache* for defendant in error.

MAYS *v.* FRITTON.

ERROR TO THE SUPREME COURT OF THE STATE OF PENNSYLVANIA.

No. 553. December Term, 1872. — Decided February 10, 1873.

The claim set up in the state court being founded on the Bankruptcy Act, and the decision of the state court being adverse to it, this court has jurisdiction to review it.

MOTION TO DISMISS. The case is stated in the opinion.

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

Garratt *v.* Seibert.

This is a motion to dismiss the writ of error for want of jurisdiction.

Upon looking into the record, we find that the only claim set up by the plaintiffs in error was founded upon the act of Congress known as the Bankruptcy Act; and that the decision of the Supreme Court of the State was against the claim.

The case is within the very words of the act of February 5, 1867, giving to this court jurisdiction to review the decisions of the state courts; and the motion must be denied.

Mr. J. H. Parsons and *Mr. P. Phillips* for the motion. *Mr. T. J. Durant* and *Mr. C. W. Hornor* opposing.

GARRATT *v.* SEIBERT.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF CALIFORNIA.

No. 35. October Term, 1873. — Decided March 23, 1874.

If the subject of a patent is a combination of several processes, parts or devices, the use of any portion of the combination less than the whole is not an infringement.

The second claim in the patent granted to Nicholas Seibert for an improvement in lubricators for steam-engine cylinders, does not embrace the heating apparatus and the combination devised for preparing tallow for use in the lubricator, which is covered by the first claim in the patent.

This was an action at law for alleged infringement of letters patent, dated February 14, 1871, granted to Nicholas Seibert for an improvement in lubricators for steam-engine cylinders. The case is stated in the opinion.

Mr. Justice Strong delivered the opinion of the court.

If the true construction of the patent be, as the plaintiffs in error contend, that the patentee's second claim is for a combination of all the devices mentioned in the specification, there was error in the instruction given to the jury by the Circuit Court. It is undoubtedly the law, that if the subject of a patent is a combination of several processes, parts or devices, the use of any portion of the combination less than the whole cannot be an infringement. There may indeed, be a patent for a combination of many parts, and at the same time for an arrangement of some of the parts constituting another combination, but still a part of the larger; yet, if there be no patent for the constituents, they are open to the public for use in