

## Statement of the Case.

*Mr. Charles B. Alexander* (with whom was *Mr. John J. McCook* on the brief) for plaintiff in error.

*Mr. Given Campbell* for defendant in error.

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

This action was commenced by plaintiff in error in a State court, and removed to the Circuit Court of the United States for the Eastern District of Missouri upon petition of the defendant, on the ground that the plaintiff was an alien and citizen of France and the defendant a citizen of Missouri. The existence of such diverse citizenship at the commencement of the suit, as well as when the removal was asked, did not appear affirmatively in the petition for removal or in the record when that was filed.

We are compelled to reverse the judgment, with costs, and remit the cause to the Circuit Court, with a direction to remand to the State Court. *Stevens v. Nichols*, 130 U. S. 230; *Crehore v. Ohio and Mississippi Railway Co.*, 131 U. S. 240; *Jackson v. Allen*, 132 U. S. 27.

*Reversed and ordered accordingly.*

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WASHINGTON MARKET COMPANY v. DISTRICT  
OF COLUMBIA.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

No. 10. Submitted October 21, 1890. — Decided October 27, 1890.

The court dismisses without costs to either party an appeal, the subject matter of which has been settled elsewhere, leaving only the disposition of costs involved.

IN EQUITY. The case is stated in the opinion.

PER CURIAM: This is an appeal from the decree of the Supreme Court of the District of Columbia dismissing the bill of

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complaint filed by appellant therein, the object of the bill having been to restrain the defendants from selling, or attempting to sell, certain property of complainant, on account of certain assessments for street improvements, and also to cancel and annul two tax lien certificates therein named; and counsel for appellant having stated in open court that such assessments and lien certificates have been, pending this appeal, quashed and annulled at law by the Supreme Court of the District of Columbia, and that only the disposition of costs is involved herein, it is ordered that said appeal be

*Dismissed without costs to either party.*

*Mr. William Birney* for appellant.

*Mr. George C. Hazelton* and *Mr. S. T. Thomas* for appellee.

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IN RE HUNTINGTON, Petitioner.

## ORIGINAL.

Not numbered. Submitted October 27, 1890.—Decided November 3, 1890.

On the authority of *Ex parte Mirzan*, 119 U. S. 584, the court denies a petition for leave to file a petition for a writ of *habeas corpus*.

THIS was a petition for leave to file a petition for a writ of *habeas corpus*. The petition sought to be filed set forth the issue of a writ of *dedimus potestatem* by the Circuit Court of the United States for the District of Colorado, to take the evidence of the petitioner, a resident of New York, to be used in a suit pending in that court; the execution of the writ by the commissioner named in it; the refusal of the witness to answer some of the questions propounded by the commissioner; an order of the court that he appear before the commissioner within thirty days and answer the unanswered questions, or otherwise be deemed in contempt, and stand committed till he should answer; his appearance and continued refusal to