

Statement of the Case.

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.

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

Syllabus.

answer; and that the marshal of the Southern District of New York had taken him into custody for the contempt, and continued to hold him. The petitioner prayed for a writ of *habeas corpus* to that officer from this court.

PER CURIAM: Petitioner alleges that he is detained by the United States marshal for the Southern District of New York, by virtue of an order purporting to be an order of the Circuit Court of the United States for the District of Colorado. The motion for leave to file a petition for the writ of *habeas corpus* is denied upon the authority of *Ex parte Mirzan*, 119 U. S. 584, and cases cited.

Denied.

Mr. Backus W. Huntington for the petitioner.

FLORSHEIM v. SCHILLING.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR
THE NORTHERN DISTRICT OF ILLINOIS.

No. 23. Argued October 21, 22, 1890. — Decided November 10, 1890.

The claims in letters patent No. 238,100 granted to Simon Florsheim and Thomas H. Ball, February 22, 1881, for "an improvement in cor-sets," and claims 1 and 2 in letters patent No. 238,101 granted to the same grantees on the same day for "an improvement in elastic gores, gussets, and sections for wearing apparel," are invalid by reason of their long prior use as inventions secured by patents which cover every feature described in those claims; and the combination of those features in No. 238,100 is not a patentable invention.

The substitution in a manufactured article of one material for another, not involving change of method or developing novelty of use, is not necessarily a patentable invention, even though it may result in a superior article.

A new arrangement or grouping of parts or elements of a patented article, which is the mere result of mechanical judgment, and the natural outgrowth of mechanical skill, is not invention.

The combination of old devices into a new article, without producing any new mode of operation, is not invention.