

Syllabus.

UNITED STATES *ex rel.* JONES *v.* COUNTY COURT
OF MACON COUNTY.ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE
EASTERN DISTRICT OF MISSOURI.

No. 257. Argued March 29, 30, 1892. — Decided April 11, 1892.

The judgment below is affirmed upon the authority of *United States v. County of Macon*, 99 U. S. 582.

THIS was a petition for a writ of mandamus to compel the levy of a tax to satisfy a judgment recovered against Macon County upon bonds issued by the county. The bonds were of the same issue which was before this court in *United States v. County of Macon*, 99 U. S. 582, and the remedy sought for was the same remedy which was prayed for in that suit. The court below dismissed the writ upon the authority of that case.

Mr. George A. Sanders for plaintiff in error. *Mr. T. K. Skinker* and *Mr. Joseph Shippen* filed briefs for same.

Mr. Ben Eli Guthrie for defendant in error.

THE CHIEF JUSTICE: The judgment is affirmed upon the authority of *United States v. County of Macon*, 99 U. S. 582.

KELLAM *v.* KEITH.APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR
THE DISTRICT OF KANSAS.

No. 269. Argued and submitted April 1, 1892. — Decided April 11, 1892.

On the authority of *Stevens v. Nichols*, 130 U. S. 230, *Jackson v. Allen*, 132 U. S. 27, and *La Con fiance Compagnie v. Hall*, 137 U. S. 61, the decree below in this case is reversed and the cause remanded with directions to

Statement of the Case.

remand it to the Circuit Court, it not appearing in the record that the diverse citizenship which was the cause of removal from the State Court existed at the commencement of the action.

In such case the appellees are entitled to their costs in this court and in the Circuit Court.

THIS was a suit for the cancellation of a deed, and to compel a reconveyance of land, commenced in the District Court of Shawnee County in the State of Kansas. The complaint did not disclose the citizenship of the parties. The defendants, before pleading, presented a petition as follows for the removal of the cause to the Circuit Court of the United States:

"And now come the said defendants Edward P. Kellam and Cyrus K. Holliday, by Rossington, Smith & Dallas and John T. Morton, their attorneys, and represent and aver that in this action the matter in dispute exceeds, exclusive of costs and interest, the sum and value of five hundred dollars, and in fact exceeds, exclusive of interest and costs, the sum of two thousand dollars, and that in this suit there is a controversy which is wholly between citizens of different States, the said plaintiff being a citizen of the State of Nebraska and both of said defendants being citizens of the State of Kansas, and that the controversy can be fully determined as between them, the said plaintiff and said defendants.

"These defendants therefore ask that this cause be removed into the Circuit Court of the United States in and for the District of Kansas to be held in said district; that this court accept this petition and the bond herewith filed and proceed no further in this action, and that this cause be removed into said Circuit Court."

After removal the Circuit Court ordered the pleadings to be recast, whereupon the plaintiff filed a bill in equity in which the parties were described as follows: "Morrell C. Keith, of North Platte, Nebraska, and a citizen of the State of Nebraska, brings this his bill against Edward P. Kellam, of Topeka, and a citizen of the State of Kansas, and Cyrus K. Holliday, of Topeka, and a citizen of the State of Kansas; and thereupon your orator complains and says, etc."

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The case then proceeded to judgment, and, a decree for the plaintiff being rendered, the defendants appealed to this court.

Mr. W. H. Rossington, Mr. Charles Blood Smith, Mr. Everett J. Dallas and Mr. John T. Morton, for appellants, submitted on their brief.

Mr. E. S. Quinton for appellee. *Mr. A. B. Quinton and Mr. A. Bergen* were with him on the brief.

THE CHIEF JUSTICE: Upon the authority of *Stevens v. Nichols*, 130 U. S. 230; *Jackson v. Allen*, 132 U. S. 27; *La Confiance Compagnie v. Hall*, 137 U. S. 61, and other cases, the decree in this case must be reversed, at the costs of appellants in this court and in the Circuit Court, and the cause remanded to the Circuit Court with directions to remand it to the state court.

NATIONAL EXCHANGE BANK OF BALTIMORE *v.*
PETERS.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE
EASTERN DISTRICT OF VIRGINIA.

No. 1369. Submitted April 4, 1892. — Decided April 18, 1892.

The Judiciary Act of March 3, 1891, 26 Stat. c. 517, pp. 826, 827, having provided that no appeals shall be taken from circuit courts to this court except as provided in that act and having repealed all acts and parts of acts relating to appeals or writs of error inconsistent with the provisions for review by appeals or writs of error contained in that act, and the joint resolution of March 3, 1891, 26 Stat. 1115, having provided that nothing contained in that act shall be held to impair the jurisdiction of this court in respect of any case wherein the writ of error or the appeal shall have been sued out or taken to this court before July 1, 1891, it is *Held*, that an appeal to this court from a judgment entered in a circuit court November 18, 1890, appealable before July 1, 1891, could not be taken after July 1, 1891.

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