

## Statement of the Case.

verdict for the defendant, and reversed the judgment of the court below, and remanded the cases for further proceedings in accordance with its opinion. The petitioners prayed this court to issue writs of *certiorari* to the United States Circuit Court of Appeals for the eighth judicial circuit, commanding that court to certify to this court the record of its proceedings in the causes so pending and determined in that court. Copies of the record of the said causes in said Circuit Court of Appeals were filed and made a part of the applications.

*Mr. C. C. Nourse* for the petitioners.

*Mr. W. C. Goudy* opposing.

THE CHIEF JUSTICE: The petitions for writs of *certiorari* to the Circuit Court of Appeals for the eighth circuit are denied. *McLish v. Roff*, 141 U. S. 661; *Rice v. Sanger*, 144 U. S. 197; *Meagher v. Minnesota Thresher Manufacturing Co.*, 145 U. S. 608. *Denied.*

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## JOY v. ADELBERT COLLEGE.

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

No. 1014. Submitted November 28, 1892. — Decided December 5, 1892.

This court has no jurisdiction of an appeal from a judgment of a Circuit Court remanding to a state court a cause which had been improperly removed from it.

MOTION to dismiss. On behalf of the motion it was stated that the suit was originally brought in the Court of Common Pleas of Lucas County, Ohio, by the Adelbert College against the Toledo, Wabash and Western Railroad Company and other defendants, including the plaintiffs appellants; that on the 2d of December, 1890, petitions for its removal to the Circuit Court of the United States were filed by each of the present appellants on the ground that, "from prejudice or local

## Argument for the Motion.

influence this defendant will not be able to obtain justice in the said state court situated in the county of Lucas, or in any other state court in which the said defendant may have the right to remove said cause on account of such prejudice or local influence"; that thereupon an order of removal was made, and the record was filed in the Circuit Court January 21, 1891; that thereupon motions were made in the Circuit Court to remand the cause to the Court of Common Pleas; that the motions having been submitted upon briefs, an opinion was filed by Jackson, Circuit Judge, granting the same, and an order was entered in the Circuit Court of the United States finding that that court was without jurisdiction to entertain and grant the said petitions for removal, and that the cause had been illegally removed from the Court of Common Pleas of Lucas County, and it was accordingly remanded to that court for further proceedings.

The appellants Joy and others, by their solicitors, excepted, and prayed an appeal to this court, which was allowed and ordered.

On the 10th day of November, 1891, there was filed in the Clerk's office of the Circuit Court of the United States, for the Northern District of Ohio, Western Division, a certificate of the Circuit Judge, to the effect that "the court is of opinion that the citizenship of the various parties hereto as shown by the record and affidavits filed herein is such that this court has no jurisdiction of the cause, and on this ground alone the court granted said motion and orders said cause to be remanded to the said Court of Common Pleas of Lucas County," whereupon said moving defendants having given notice of appeal on said question of jurisdiction, made application to the court for a certificate, which was accordingly granted. An assignment of errors was filed on the same day in the same court.

*Mr. George Hoadly and Mr. John C. F. Gardner* for the motion.

No one opposing.



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THE CHIEF JUSTICE: The motion to dismiss is granted upon the authority of *Richmond & Danville Railroad v. Thouron*, 134 U. S. 45; *Gurnee v. Patrick County*, 137 U. S. 141; *McLish v. Roff*, 141 U. S. 661; *Chicago, St. Paul &c. Railway v. Roberts*, 141 U. S. 690. *Dismissed.*

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*In re* ENGLS, Petitioner.

## ORIGINAL.

No number. Submitted November 28, 1892. — Decided December 5, 1892.

On the authority of *In re Fassett*, 142 U. S. 479, the court refuses to grant a writ of prohibition to restrain the District Court of the United States for the Eastern District of New York from taking jurisdiction of a petition of the owner of a barge for the benefit of the limited liability act, Rev. Stat. §§ 4283 to 4285, and from further proceedings thereunder.

THE petitioner filed her petition in this court, making the following averments:

I. That theretofore, on the 25th day of September, 1891, The Myers Excursion and Navigation Company filed its petition in the District Court of the United States, as owners of the barge Republic, for a limitation of liability, a copy of which is hereto attached, marked Exhibit A, and the usual monition was ordered by said District Court.

II. On the return day of said order this petitioner filed her answer to said petition, a copy of which is hereto attached, marked Exhibit B.

III. That thereafter, on the 21st day of November, 1892, said cause came on to be heard before the District Court, aforesaid, on exceptions to the jurisdiction of said court, and on motion of your petitioner to dismiss the same for want of jurisdiction, yet the said court overruled your petitioner's exceptions and denied said motion to dismiss, and ordered said cause to proceed, as will appear by a copy of said order hereto attached, marked Exhibit C. Wherefore, the said Elizabeth Engles respectfully requests that a writ of prohibition may be