

of plaintiff in error that its claim that the act of April 24, 1905, ch. 163, of Texas legislature was unconstitutional as depriving it of the fellow-servant defense had been duly set up at the proper time in the state court.

THE nature of this case appears above.

*Mr. C. A. Culberson* for the defendant in error in support of the motion.

*Mr. James Hagerman, Mr. J. M. Bryson and Mr. A. B. Browne*, for the plaintiff in error in opposition thereto.

*Per Curiam*: Writ of error dismissed for want of jurisdiction.

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## YADKIN RIVER POWER CO. v. WHITNEY CO.

ERROR TO THE SUPREME COURT OF THE STATE OF NORTH  
CAROLINA.

No. 835. Motion to dismiss or affirm.—Submitted May 3, 1909.—Decided May 17, 1909.

Writ of error to review judgment of the state court in a condemnation proceeding dismissed without opinion for want of jurisdiction.

THIS was a special proceeding commenced by plaintiff in error to condemn land on which to establish a water power and erect an electric light plant. The state court dismissed the proceedings, and among other things as stated in its opinion, held, construing its own statutes and basing its decision upon one of a similar case in the Supreme Court of the United States, *Denver Co. v. Alling*, 99 U. S. 480, that the plaintiff in error has not the power of eminent domain; but, that in accepting its new charter from the legislature, it accepted it in the status in which

it was at the time of the renewal of its old charter with such changes only as were specifically made in the reënacting statute. At the time it accepted its new charter, it had lost all rights which it had ever acquired, if it had ever acquired any by express legislative enactment, the legislature of North Carolina having taken away the power of eminent domain from such companies.

*Mr. Thomas Patterson, Mr. Burton Craige, Mr. Thomas J. Jerome and Mr. W. A. Way* for defendant in error in support of the motion.

*Mr. Frederick M. Leonard* for plaintiff in error in opposition thereto.

*Per Curiam:* Writ of error dismissed for want of jurisdiction.

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## GRANITE BITUMINOUS PAVING CO. *v.* LANDIS.

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

No. 528. Submitted May 3, 1909.—Decided May 17, 1909.

The Circuit Court has not jurisdiction of a suit against a number of delinquent taxpayers for assessment work where the assessment due from each taxpayer is less than two thousand dollars.

APPELLANT (complainant below) filed its bill against a large number of defendants to foreclose on special tax bills for assessment work done and for which defendant's property was liable. The assessments aggregated more than two thousand dollars, but each assessment was less than that amount. The Circuit Court dismissed the bill, holding that complainant had a separate and distinct action at law in the state court on each special tax bill, and that as each was less than two thousand dollars the Federal courts had no jurisdiction. Complainant appealed directly to this court.