

SCHULTZ *v.* DIEHL.APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES
FOR THE DISTRICT OF OREGON.

No. 166. Submitted by appellants April 22, 1910.—Decided April 25, 1910.

Under the act of March 3, 1875, c. 137, 18 Stat. 470, the Circuit Court may have jurisdiction of an action brought by a resident of one State against a corporation organized under the laws of another State and stockholders of that corporation for the purpose of removing encumbrances from the property of the corporation in the District in which the suit is brought, even if some of the stockholders are not residents of the District in which they are sued. *Jellenik v. Huron Copper Mining Co.*, 177 U. S. 1.

THE plaintiffs and appellants brought this case as minority stockholders of the Highland Gold Mines Company, a private corporation organized and existing under the laws of the State of Oregon, against the Highland Gold Mines Company, said corporation, and its officers and directors.

It is charged in the bill of complaint that the defendant Crawford, who was the attorney and legal advisor of the company, conspired with defendants Diehl, Grabill and Sorrensen, officers and directors of the company, to fabricate false and fictitious claims against the company on which judgment was obtained; that the object and purpose of said defendants was to use the judgment as a means of obtaining title in themselves to the company's property.

Other fraudulent acts were also charged.

Upon the trial defendants Diehl and Grabill moved to dismiss as to them because the court did not have jurisdiction over them for the reason that they had not been sued in the district in which either of them resided or of

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Statement of the Case.

which they were residents or inhabitants, it appearing from the bill that they were citizens of Pennsylvania. The court sustained the motion.

Mr. Charles W. Fulton and *Mr. Douglas W. Bailey* for appellants.

No appearance for appellees.

Per Curiam. Decree reversed with costs and cause remanded to be proceeded in according to law. *Jellenik v. Huron Copper Mining Company*, 177 U. S. 1; 18 Stat. 470, c. 137, § 8; Code of Oregon, §§ 5064, 300, 301.

BRADY *v.* BERNARD & KITTINGER.

APPEAL FROM, AND PETITION FOR CERTIORARI TO, THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT.

No. 501. Petition for certiorari and motion to dismiss submitted April 26, 1910.—Decided May 2, 1910.

An appeal from an adjudication in bankruptcy taken under § 25a of the Bankruptcy Act of 1898 dismissed because taken too late.

APPEAL from an adjudication in bankruptcy taken under § 25a of the Bankruptcy Act.

Appellee contended in this case that the appeal came too late as it was taken more than ten days after the order. Appellant contended that as he had filed a petition to set aside the order the time ran from denial of that order. The petition to set aside was not filed until more than ten days after the adjudication.