

SHERMAN AND ANOTHER V. WINDSOR
MANUF'G Co. AND ANOTHER.

Circuit Court, D. Vermont.

June 21, 1881.

REMOVAL OF CAUSE—GROUNDS FOR REMAND.

Where there is no allegation as to the citizenship of the orators other than the description contained in their original bill, the cause will be remanded, as there is nothing to sustain the jurisdiction of the circuit court.

In Equity.

Aldace F. Walker, for orators.

Jesse B. Phelps, for defendants.

WHEELER, D. J. This cause was commenced in the state court. In the orators' bill they are described as of Castleton, in the county of Rutland, in the state of Vermont. The cause was removed into this court on petition of the defendant Lamson, in which he avers himself to be a citizen of Massachusetts, and the cause to be one which can be fully determined as between him and the orators without the presence of the other defendant, but nothing as to the citizenship of the orators. There is nothing in the case on that subject further than that description in the bill. That is not a sufficient averment of citizenship to sustain the jurisdiction of this court, as has been held from the earliest times. *Abercrombie v. Dupuis*, 1 Cranch, 343; *Wood v. Wagnon*, 2 Cranch, 9.

The orators have moved to remand for this cause, among others. On this ground the motion is granted, and the cause is remanded to the state court.

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