

BRINKERHOFF, EX'R, ETC., v. MORRIS CANAL
& BANKING CO.

Circuit Court, D. New Jersey. October 22, 1883.

REMOVAL OF CAUSE—CITIZENSHIP.

In order to remove a case into the federal courts the necessary citizenship must have existed at the time the suit was brought.

On Motion to Remand.

H. C. Pitney, for the motion.

McCarter, Williamson & McCarter, contra.

NIXON, J. The above case was removed into this court from the supreme court of the state of New Jersey. The plaintiff moves to remand the cause, on the ground that when the original suit was commenced both the plaintiff and the defendant corporation were residents of the state. At the time of the removal the plaintiff was a citizen of the state of New York, having been substituted in the place of the original plaintiff, who had departed this life *pendente lite*. The supreme court, in the recent case of *Gibson v. Bruce*, 2 Sup. Ct. Rep. 873, seems to have settled the controverted question that the requirement of the old law, that the necessary citizenship should exist when the suit was brought, was not abolished or changed by the act of 1875.

This case, therefore, has been improperly removed, and must be remanded.