

FERRY *v.* TOWN OF WESTFIELD.*Circuit Court, W. D. Wisconsin.*

December Term, 1883.

JURISDICTION—CITIZENSHIP.

Ferry v. Town of Merrimack, 18 FED. REP. 657, followed, and cause remanded to state court.

Decision Remanding Cause to the circuit court of Sauk county.

James G. Flanders, complainant's solicitor.

H. W. Chynoweth, defendant's solicitor.

BUNN, J. This cause was argued and submitted upon general demurrer to the complainant's bill. But in the examination of the case there appears upon the face of the bill a certain defect of jurisdiction, which will render it unnecessary to remand the cause to the state court. The suit is brought by William F. Ferry, a citizen of Illinois, against the defendant, a citizen of Wisconsin, upon a claim arising upon a 156 non-negotiable contract between the defendant town and the Chicago & Northwestern Railway Company, also a citizen of Wisconsin, and who assigned the claim to the plaintiff. The plaintiff is therefore suing upon a contract, his title to which is derived through a formal written, assignment from a resident of the same state with the defendant, and who was itself incorporated by virtue of section 1 of the act of March 3, 1875. to maintain a suit thereon in the federal court.

The question was before us and decided in the case of the same plaintiff against the town of Merrimack, at the present term of this court, where the same defect appeared in the record. And we beg leave to refer to that decision for the grounds of the opinion that this court cannot take cognizance of such a case, whether originally brought here, or begun in the state court and

afterwards removed to this court on the application of the plaintiff.

The case will be remanded to the circuit court of Sauk county, Wisconsin, from where it came to this court.

HARLAN, J., concurs.

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