

UNITED STATES *EX REL.* GOELET AND OTHERS
 V. CITY OF ELIZABETH.

Circuit Court, D. New Jersey. August 13, 1885.

MANDAMUS—COMPELLING CITY TO LEVY TAX TO
 PAY JUDGMENT.

Mandamus to compel the city of Elizabeth, New Jersey, to assess and levy, in addition to the regular taxes, the amount of principal, interest, and costs due relators on a judgment obtained against said city, denied because of a want of competent proof of the facts justifying issue of the writ within the rule laid down in *Wolff v. New Orleans*, 103 U. S. 358; *Nelson v. St. Martin's Parish*, 111 U. S. 716; S. C. 4 Sup. Ct. Rep. 648; and *Commissioners v. Sellew*, 99 U. S. 627.

Rule to Show Cause, etc.

Jos. F. Randolph, for the rule.

Frank Bergen, *contra*.

NIXON, J. This is a rule to show cause why a writ of *mandamus* should not issue against the city of Elizabeth, commanding the corporation to assess and levy, in addition to the regular taxes, the amount of principal, interest, and costs due to the relators upon a certain judgment obtained against the city on April 19, 1884. Under the authority of *Wolff v. New Orleans*, 103 U. S. 358; *Nelson v. St. Martin's Parish*, 111 U. S. 716; S. C. 4 Sup. Ct. Rep. 648; *U. S. v. New Orleans*, 98 U. S. 381; and *Commissioners v. Sellew*, 99 U. S. 627, I am inclined to hold that an alternative writ may be issued when the relators make competent proof of the facts which are necessary to justify the court in acting.

It has not been done in the present case, and the writ must be denied.

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