

**Kimball Vs. Evans**

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**SooperKanoon Citation :** [sooperkanoon.com/83023](http://sooperkanoon.com/83023)

**Court :** US Supreme Court

**Decided On :** 1876

**Appeal No. :** 93 U.S. 320

**Appellant :** Kimball

**Respondent :** Evans

**Judgement :**

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U.S. Supreme Court Kimball v. Evans, 93 U.S. 320 (1876)

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**93 U.S. 320**

*ERROR TO THE SUPREME COURT*

*OF THE STATE OF OHIO*

## **SYLLABUS**

Where a petition for the removal of a suit filed under the Act of March 2, 1867, 14 Stat. 558, was, in accordance with the practice of the state, reserved for the decision of the supreme court, and the latter dismissed the petition, and remanded

the cause to the inferior court for further proceedings according to law, *held* that this Court has no jurisdiction.

Pending a suit in the District Court of Stark County, Ohio, a petition was filed under the Act of March 2, 1867, 14 Stat. 558, for its removal to the Circuit Court of the United States for the Northern District in that state. This petition presenting for consideration, in the opinion of the district court, difficult and important questions, the cause was reserved, in accordance with the practice in Ohio, to the supreme court "for its decision on said petition for the removal of the cause to the circuit court." The supreme court, after hearing, dismissed the petition and remanded the cause to the district court "for further proceedings according to law."

To reverse this judgment the present writ of error was brought.

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MR. CHIEF JUSTICE WAITE delivered the opinion of the Court.

It is clear we have no jurisdiction in this cause. The judgment of the supreme court is not the final judgment in the suit. It disposed finally of one of the questions involved in the suit, but not of the suit itself. The suit is still pending in the district court, and it is not impossible that the parties now complaining may be satisfied with the judgment which they may in the end be able to secure in the state courts. If not, after a final judgment has in fact been rendered by the highest court of the state in which a decision in the suit can be had, the case may be again brought here for a determination of the questions arising upon the petition for removal. But in the present condition of the record, the writ must be

*Dismissed.*