

Case No. 776.

BAKER v. PETERSON.

[4 Dill. 562, note.]¹

Circuit Court, D. Iowa.

1877.

REMOVAL OF SUIT UNDER ACT OF MARCH 8, 1875—TIME IN WHICH APPLICATION MUST BE MADE TO REMOVE SUITS PENDING WHEN THAT ACT TOOK EFFECT—INFORMAL BOND HELD SUFFICIENT.

1. Where, in a suit pending in a state court at the time of the passage of the act of March 3, 1875, [18 Stat 470,] the non-resident plaintiff applied to the state court, at the first term after that act went into effect for its removal, and his petition showed a case proper for removal, and his bond, with sureties, was accepted by the state court, and the removal ordered to the circuit court in which latter court a copy of the record in the suit was duly filed by the plaintiff and his appearance entered as required—on a motion by defendant to remand the cause to the state court: *Held*, that the petition for the removal was in time, being filed before the trial and at the first term after the passage of the act of March 3, 1875.

[Cited in *Meyer v. Delaware, etc., R. Co.*, 100 U. S. 473.]

2. *Held*, that although the condition of the bond for the removal was in conformity with the act of July 27, 1806, [14 Stat. 306,] and omitted the condition required by the act of March 3, 1875, as to paying costs that may be awarded by the circuit court for a wrongful or improper removal thereto, yet, as the case was one proper for removal, and the bond had been accepted by the state court and the record was filed and the appearance of the plaintiff in the circuit court entered in time, the omitted clause in the condition of the bond was not sufficient ground for remanding the suit to the state court.

Charles A. Clarke, for the motion.

Wright, Gatch & Wright, opposed.

PER CURIAM. Heard before DILLON, Circuit Judge, and LOVE, District Judge.

[Note. Nowhere more fully reported. This case, as here reprinted, was originally published in 4 Dill. 562, as a note to *Atlee v. Potter*, Case No. 636.]

¹ [Reported by Hon. John F. Dillon, Circuit Judge, and here reprinted by permission.]