

## TURTON v. UNION PAC. R. CO.

[3 Dill. 366.]<sup>1</sup>

Circuit Court, D. Nebraska.

1875.

FEDERAL JURISDICTION OVER THE UNION  
PACIFIC RAILROAD COMPANY BY REMOVAL  
FROM THE STATE COURT, UNDER THE ACT OF  
JULY 27, 1868. 15 STAT. 227.

Under the legislation of congress, the Union Pacific Railroad Company, sued in a state court for negligence, on making application in due form, stating, inter alia, that it has a defense to the action arising under a law of the United States, viz. under the charter of the company, may remove the suit to the circuit court of the United States, and on such removal the cause may be fully tried on the merits.

This action was originally commenced in one of the state courts of Nebraska, by [George J. Turton] the plaintiff, a citizen of that state, against the defendant, to recover damages alleged to have been sustained by the plaintiff, caused by the negligence of the defendant in operating its road. Answer in denial filed in the state court Afterwards the defendant filed its petition in the state court for the removal of the cause into this court, stating, inter alia, therein, that it was a corporation created and organized under and by virtue of a law of the United States, approved July 1, 1862, and that it is not a banking corporation, and that it has a defense to and in the said action arising under a law of the United States, to-wit: under the act last mentioned. Surety was accepted, and the cause ordered to be removed by the state court in the circuit court the plaintiff filed a plea to the jurisdiction of the court, which the defendant denied. The plea was submitted on an agreed statement of facts, which admitted that no defense is claimed to exist or is sought to be made under any other law of the United States than the charter of the defendant. 12 Stat. 489.

Mr. Marlow, for plaintiff.

Mr. Poppleton, for defendant.

MILLER, Circuit Justice. I am of opinion that the cause was properly removed into this court under the act of congress relating to the removal of suits against federal corporations, and that it may be fully tried here upon its merits. Plea to the jurisdiction overruled. Judgment accordingly.

See Rev. St. § 640.

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

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