

Case No. 16,934.

{5 Blatchf. 128.}¹

VICTOR ET AL. V. CISCO.

Circuit Court, S. D. New York.

Dec. 3, 1862.

REMOVAL OF CAUSES—SUIT AGAINST OFFICER OF UNITED STATES.

A suit against an assistant treasurer of the United States, in a state court, to recover the value of certain bonds issued by the United States, which, when they came into his hands from the plaintiff, he, under instructions from the treasury department of the United States, retained, on the ground that they were unlawfully put into circulation as against the party to whom they were issued, is not a suit which can be removed into this court under the 3d section of the act of March 2d, 1833 (4 Stat 633), which provides for the removal into this court of a suit commenced in a court of any state, against any officer of the United States, or other person, for or on account of any act done under the revenue laws of the United States, or under color thereof, or for or on account of any right, authority, or title, set up or claimed by such officer, or other person, under any such law of the United States.

This was a suit originally brought in the supreme court of New York, and removed into this court. The plaintiffs [Theodore Victor and others], merchants in the city of New York, received from a correspondent in Mexico, five coupon bonds of \$1,000 each, with instructions to collect the overdue coupons and sell the bonds. The bonds were known as Texas indemnity bonds, and were issued to the state of Texas by the United States, under the act of congress of September 9th, 1850 (9 Stat. 446). The plaintiffs, on receiving the bonds, allowed them to go into the hands of the defendant [John J. Cisco], who was assistant treasurer of the United States at New York. He, under instructions from the treasury department of the United States, retained the bonds in his possession, on the ground that they, were unlawfully put into circulation as against the state of Texas. The plaintiffs brought the suit to recover the value of the bonds. [Case unreported.] The proceedings to remove the cause into this court were claimed to be taken under the act of March 2d, 1833 (4 Stat. 633), which provides for the removal into this court of a "suit commenced in a court of any state, against any officer of the United States, or other person, for or on account of any act done under the revenue laws of the United States, or under color thereof, or for or on account of any right, authority, or title, set up or claimed by such officer, or other person, under any such law of the United States." The plaintiffs now moved to remand the case to the state court, on the ground that it was not one embraced by the act of 1833, and that, therefore, this court had no jurisdiction of it.

Benjamin D. Silliman, for plaintiffs.

E. Delafield Smith, Dist Atty., for defendant

THE COURT (SHIPMAN, District Judge) granted the motion on the ground on which it was made.

VICTOR et al. v. CISCO.

¹ {Reported by Hon. Samuel Blatchford, District Judge, and here reprinted by permission.}