

Case No. 17,792.

{4 McLean, 363.}¹

WILSON V. BLODGET ET AL.

Circuit Court, D. Indiana.

May Term, 1848.

REMOVAL OF CAUSES—CITIZENSHIP.

A suit cannot be removed from a state court into the circuit court of the United States, where a part of the plaintiffs or defendants are citizens of the state where the suit is brought, and of some other state.

{Cited in *Field v. Lownsdale*, Case No. 4,769; *Fields v. Lamb*, Id. 4,775.}

{Cited in *Shelby v. Hoffman*, 7 Ohio St. 453; *Bryant v. Rich*, 106 Mass. 192; *Washington, A. & G. R. Co. v. Alexandria & W. R. Co.*, 19 Grat. 601; *Beery v. Irick*, 22 Grat. 488.}

{This was a suit by C. L. Wilson against Blodget and others. Heard on motion to dismiss.}

Mr. Niles, for plaintiff.

Smith & Sullivan, for defendants.

MCLEAN, Circuit Justice. This case was removed from the state court under the act of congress, and a motion is now made to dismiss it, on the ground that some of the defendants are citizens of the state. Blodget & Co. are citizens of Massachusetts; and it appearing that the defendants, who are citizens of the state, are mere agents, and against whom no decree is prayed, and whose names may be stricken out of the pleadings, as they are not necessary parties, it is contended the jurisdiction should be sustained. It is clear that no suit can be removed from the state court by either party where some of the parties, plaintiffs or defendants, are citizens of the state where the suit is brought, and others of a different state. The motion to dismiss is granted.

¹ {Reported by Hon. John McLean, Circuit Justice.}