

WALDMAN *v.* PENNSYLVANIA R. CO.**District Court, S. D. New York.*

1882.

REMOVAL OF CAUSES—PRACTICE.

Where a case is removed into the United States circuit court after it has been put on the calendar and noticed for trial in the state court, it stands ready for trial in the circuit court immediately upon the record being filed therein.

This action was begun in the marine court of the city of New York. On May 29, 1882, the defendant served its answer, whereupon plaintiff filed a note of issue, and on June 7, 1882, noticed the case for trial for June 13th. On June 23d the defendant filed a petition and bond for removal into this court, and a removal was on that day duly had. The defendant filed the record on the first day of the present term of this court, (October 16th,) and it appears that the plaintiff had previously put the case upon the calendar of this court and again noticed it for trial.

The defendant moved to strike the cause from the calendar as improperly on, for the reason that the clerk could not put it upon the calendar, and plaintiff could not notice it for trial in this court, until after the record had been filed. The plaintiff, in opposition, claimed that, the cause standing “for trial” before removal, his practice had been regular, and cited section 6, Act of 1875, and *Railroad Co. v. Koontz*, 104 U. S. 13-18.

B. Lewinson, for plaintiff.

Robinson, Scribner & Bright, for defendant.

SHIPMAN, D. J. Under the rules of the circuit court I think that this case is now in a condition to be assigned for trial at any time at the present term.

* From *N. Y. Daily Register*, November 4, 1882.

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