Bruen, 1 How. 169; People v. Tazewell Co. 22 Ill. 151; City of Pekin v. Reynolds, 31 Ill. 531; Prellyman v. Tazewell Co. 19 Ill. 406; Sherlock v. Winnetka, 68 Ill. 535.

County Bonds—Nebraska.

DAVENPORT *v.* DODGE Co., U. S. Sup. Ct., Oct. Term, 1881. Error to the circuit court of the United States for the district of Nebraska. The decision in this case was rendered in the supreme court of the United States on March 20, 1882. Mr. Chief Justice *Waite* delivered the opinion of the court reversing the judgment of the circuit court.

A precinct is a mere subdivision of a county, and not a separate political entity, and bonds issued by authority of a vote of the precinct for public purposes must be issued in the name of the county of which the precinct forms a part; and suit on such bonds must be against the county, the judgment to be paid by a tax levied only on the taxable property of the precinct. A suit to obtain such a judgment is maintainable, although the state statute authorizing the issue of the bonds provides the special remedy by *mandamus* for their enforcement; yet inasmuch as a suit to obtain judgment on bonds or coupons is part of the necessary machinery of the federal courts in enforcing the writ of *mandamus*, which is in the nature of an execution, it will not be issued until judgment is obtained.

W. H. Munger and E. Wakely, for plaintiff in error.

William Marshall, for defendant in error.

Cases cited in opinion: State v. Dodge Co. 10 Neb. 20; Cass Co. v. Johnston, 95 U. S. 360; County Com'rs v. Chandler, 96 U. S. 205; Greene Co. v. Daniel, 102 U. S. 195; Graham v. Norton, 15 Wall. 427; Bath Co. v. Amy, 13 Wall. 244.

Bonds in Aid of Railroads—Liability of Town.

AMERICAN LIFE INS. CO. *v.* TOWN OF BRUCE, U. S. Sup. Ct., Oct. Term, 1881. Error to the circuit court of the United States for the northern district of Illinois. The decision of the supreme court of the United States was rendered in this case on April 24, 1882. Mr. Justice *Harlan* delivered the opinion of the court reversing the judgment of the circuit court.

Where a statute authorizes a town to make a subscription in aid of a railroad, to be paid in bonds of the town, subject to the conditions that the road be so constructed as to pass through the town, and that a depot be located and maintained in the town, it cannot, after the bonds have been signed, sealed, and delivered by its constituted authorities to the railroad company, and have passed into the hands of *bona fide* holders for value, escape liability by showing that the conditions, or some of them, imposed by popular vote have not been complied with upon the part of the railroad company, even though the statute authorizing their issue especially provides that they shall not be valid till such conditions are complied with.

Henry Hazlehurst, Isaac Hazlehurst, and G. L. Fort, for plaintiff in error.

Phelps & W. Hallet Phelps, for defendant in error.

Cases cited in the opinion: Town of Eagle v. Kohn, 84 Ill. 292, distinguished; Brooklyn v. Insurance Co. 99 U. S. 370, followed.

JOHNSON *v.* JOHNSON.

(*Circuit Court, S. D. New York.* June 20, 1882.)

1. REMOVAL OF CAUSE—TIME OF APPLICATION.
   Under the act of 1875 the first term during which the cause might have been tried means the first term when the cause is legally triable, not a subsequent term to which it may have been legally postponed by agreement, or by order of the court, and it has no reference to the presence or absence of witnesses, or the crowded state of the docket.
2. SAME—PREJUDICE AND LOCAL-INFLUENCE ACT.
   It is only where a suit is removed on account of prejudice or local influence, under subdivision 3, § 639, Rev. St., which is not repealed by the act of 1875, that a removal may be had at any time before the final hearing.
3. SAME—DIVORCE—REMAND ON MOTION OF COURT.
   An action for divorce *a vinculo* and for alimony, removed from the state court, may be remanded by this court of its own motion on suggestion of the party removing, on the ground of want of jurisdiction in this court over actions of that character.

Robertson, Harman & Cuppia, for plaintiff.

Joseph J. Marrin, for defendant.

BROWN, D. J. The papers show that this cause was at issue and duly noticed for trial and placed upon the calendar of the state court for trial in October, 1881, and that it was on the day calendar and called at several terms prior to the June term, when it was removed to this court.

When a cause is removed on account of the citizenship of the parties, it must, under the act of 1875, be removed at the first term during which the cause might have been tried in the state court. This means the first term when the cause was legally triable, not a subsequent term to which it may have been legally postponed by agreement or by order of the court; and it has no reference to the presence or absence of witnesses, or to the crowded state of the docket. *Ames* v. *Colorado,* 4 Dill. 263; *Sough* v. *Hatch,* 16 Blatchf. 233. The practice is perfectly settled in this circuit and elsewhere. *Whitehouse* v. *The Continental,* 2 FED. REP. 498; *Murray* v. *Holden,* Id. 740; *Cramer* v. *Mack,* 12 FED. REP. 803. It is only where a suit is removed on account of prejudice or local influence, under subdivision 3 of section 639, which is not repealed by the act of 1875, that removal may be had at any time before the final hearing. *Sims* v. *Sims,* 17 Blatchf. 369; *Whitehouse* v. *The Continental, supra.* There has been no order or adjudication of the state court adjudging that