

BATES v. NEW ORLEANS, B. R. & V. R. Co.

*Circuit Court, N. D. New York.*

1883.

REMOVAL OF CAUSE—NOMINAL PARTIES—CITIZENSHIP.

Where the real contention is between citizens of different states, but some of the parties defendant, who are sued merely in their representative character as trustees, are citizens of the state where the suit is instituted, their citizenship ought not to be considered on the question of removal.

Memorandum of Decision.

*Stanley, Clark & Smith*, for the motion.

*Alexander & Green, John F. Dillon, and William C. Gulliver*, opposed.

COXE, J. The real contention in this case is between the plaintiff and the Louisiana corporations. The defendants McCook and Alexander, who are citizens of New York, are sued merely in their representative character as trustees. Their connection with the controversy is collateral and subsidiary to the main issue. No personal demand is made against them or either of them. Their presence on the record may be necessary to effectuate the relief sought by the plaintiff, but their citizenship ought not to be considered on the question of removal. *Bacon v. Rives*, 106 U. S. 99; [S. C. 1 Sup. Ct. Rep. 3;] *Pond v. Sibley*, 19 Blatchf. 189,196; [S. C. 7 FED. REP. 129;] *Barney v. Latham*, 103 U. S. 205.

The motion to remand should be denied.

See *Deford v. Mehaffy*, 14 FED. REP. 181, and note, 182.

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