

GUTWILLIG, EX'X, v. ZUBERBIER AND  
OTHERS.

*Circuit Court, S. D. New York.*      October 6, 1886.

REMOVAL      OF      CASE      TO      FEDERAL  
COURT—BOND—ACT OF 1875.

The provisions of the act of 1875, relative to the bond to be given upon the removal of a cause into a federal court, apply only to cases removed under that act.

Motion to Remand.

*Hall & Blandy*, for plaintiff.

*De Witt C. Brown*, for defendant.

WHEELER, J. This cause was removed from the state court on an affidavit of local prejudice, pursuant to section 639, Rev. St. U. S., on behalf of the defendants. It has now been heard on a motion to remand because the bond does not conform to the act of 1875; because the amount in dispute does not exceed \$500; because the affidavit does not show that both defendants had reason to and did believe there was local prejudice; and because the affidavit was not sufficiently verified.

The bond does conform to the provisions of section 639, under which the cause was removed. The provisions of the act of 1875, relative to the bond, only apply to cases removed under that act. The bond is therefore such as is required by the law under which the cause was removed, and is sufficient.

The amount sought to be recovered, and for which judgment is demanded, is \$633.58. The defendants admitted, for the purposes of the trial had in the state court, that there was \$200 of the amount claimed due the plaintiff. That, however, did not affect the amount for which judgment was claimed, and which was to be adjudicated upon in the action.

The petition for removal, which is sworn to, reads: "And your petitioners further allege and state that they have reason to believe, and do believe, that from prejudice and local influence they will not be able to obtain justice in such state court." This shows belief, and grounds of belief, on the part of both, and obviates the objection made.

This petition is shown to be sworn to before an officer—a notary public—authorized to administer oaths. This constitutes it an affidavit, and that is all which is required by section 639. Motion denied.

This volume of American Law was transcribed for use  
on the Internet

through a contribution from [Google](#). 