

v.29F, no.4-11 COOPER v. LEATHER MANUF'RS<sup>1</sup> NAT. BANK.

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

1886.

REMOVAL OF CAUSES—NATIONAL BANKS—22 U. S. ST. AT LARGE, 162.

Under section 4 of the act of congress of July 12, 1882, a national bank cannot remove a suit against it from the state court upon the sole ground that it is a corporation organized under a law of the United States, and that therefore the suit is one arising under the laws of the United States.

Motion to Remand Cause to State Court.

WALLACE, J. Section 4 of the act of congress of July 12, 1882, (22 St. at Large, 162,) declares that the jurisdiction for suits thereafter brought by or against any national banking association, except suits between them and the United States or its officers and agents, "shall be the same as, and not other than, the jurisdiction for suits by or against banks, not organized under any law of the United States, which do or might do banking business where such national banking associations may be doing business when such suits may be begun," and repeals all laws, and parts of laws, of the United States inconsistent with that enactment. This language is so explicit as to seem to leave no room for reasonable doubt that congress intended to prohibit national banks from invoking any jurisdiction, in suits in which they are either plaintiff or defendant, not open to banks not organized under any law of the United States.

The defendant has sought to remove this suit from the state court upon the sole ground that it is a corporation organized under the laws of the United States, and that, therefore, the suit is one arising under the laws of the United States. If its position is correct, the section referred to is practically nugatory legislation by congress, because in all cases a national bank can resort to the jurisdiction of the circuit court by removal,—where it is plaintiff, by bringing its action in the state court, and then removing it to the circuit court, and where it is defendant by removal merely.

The motion to remand is granted.

<sup>1</sup> See *Wabash, St. L. & P. Ry. Co. v. Central Trust Co.*, 22 Fed. Rep. 138, 269, 272: S. C. 23 Fed. Rep. 863, and 25 Fed. Rep. 69, 693.