

THE CETEWAYO.

(District Court, E. D. New York. March 26, 1881.)

1. SALVAGE—SECURITY FOR COSTS BY SEAMEN.

Where one of the crew of a salving vessel libelled the saved property to recover his share of the salvage, and a motion was made to compel him to file security for costs, upon the ground that the salvage had been paid to the master of the salving vessel:

Held, that in the absence of an agreement on the part of the seaman to waive his right to salvage, he would not be compelled to give security for costs.

In Admiralty.

Beebe & Wilcox, for libellant.

Owen & Gray, for respondent.

BENEDICT, D. J. This is a motion to compel a salvor to give security for costs. The salvor was one of the crew of a tug during the performance of a salvage service by the tug. The defence appears to be that the libellant is not entitled to share the salvage, because he was employed on monthly wages to work on the tug in the performance of salvage services. This defence, it is claimed, has been proved in testimony already taken in this cause, and upon this ground it is now contended that the seaman should give security for costs. But it is evident that there was no written agreement by the seamen to waive the right to share in salvage, and that the existence of such an undertaking will be matter of inference to be drawn from circumstances. It would have been easy to have made an agreement with the crew to that effect, and if that precaution had been taken there would have been some ground for compelling security for costs. In the absence of such a precaution, and where an order to file security is equivalent to dismissing the libel, I am not inclined to give such a direction.

Motion denied.

POND and others v. SIBLEY and others.

(Circuit Court, S. D. New York. April 21, 1881.)

1. REMOVAL—ACT OF MARCH 3, 1875, § 2, CLAUSE 2.

In a suit to enjoin the execution of a lease by a railroad company, the president and directors are not such necessary and substantial parties as will prevent a removal under the second subdivision of section 2 of the act of March 3, 1875.

2. SAME—SAME.

Where two corporations are both parties to the same controversy, upon the same side, the circuit court cannot assume jurisdiction, upon a petition for removal, until both corporations have become parties to the suit.—[Ed.]

Motion to Remand.

David Dudley Field, for plaintiffs.

Joseph H. Choate, for Atlanta Company.

BLATCHFORD, C. J. This is a suit brought in the supreme court of New York. The plaintiff Pond is a citizen of New York. The other plaintiffs, three in number, are citizens of Maryland. The defendant the Atlanta & Charlotte Air-Line Railway Company (and which will be called the "Atlanta Company") is a corporation created by the laws of North Carolina, South Carolina, and Georgia. All of its directors but one are citizens of New York. The defendant Sibley, who is its president, is a director of it, and is a citizen of New York. All the individual defendants are directors of it. One of the individual defendants, who is a director of it, is a citizen of Maryland. The defendant the Richmond & Danville Railroad Company (and which will be called the "Richmond Company") is a corporation created by the laws of Virginia. The defendants are the two corporations and all the directors of the Atlanta Company. The cause of action appears from the complaint in the state court. The Atlanta Company owns and operates a line of railway from Atlanta, in Georgia, to Charlotte, in North Carolina. Its principal office and place of business is in New York. All of its directors but one reside in New York. No director of it resides in North Carolina, South Carolina, or Georgia. The meet-