

Case No. 16,999,
[2 N. J. Law]. 57.]

VOORHEES V. ALBRIGHT.

Circuit Court, D. New Jersey.

1879.

REMOVAL OF CAUSES—CONTEMPT PROCEEDINGS.

[Where a rule to show cause why defendant should not be attached for contempt for violating an injunction was granted by the state court before removal of the cause, *held*, that the federal court would remand the contempt proceedings while retaining the main cause for adjudication.]

Voorhees filed a bill in chancery against Albright to restrain him from disposing of certain mortgaged chattels. After answer, an order was made requiring an inventory of the goods, and enjoining the defendant from reducing the stock below its value when mortgaged. About a year after, no proofs having been taken, the complainant obtained an order for further examination of the stock, and that defendant show cause why an attachment should not issue against him for a violation of the injunction. Before the hearing of this rule, Albright filed a petition to remove the case to the United States circuit court, the parties being citizens of different states. A motion was then made to remand, on the ground that a cause could not be removed pending proceedings for contempt, nor as a mode of escaping the consequences of a breach of the injunction. The defendant insisted that his right to remove was absolute, and that the circuit court could deal with the alleged breach of the injunction, which he denied.

THE COURT held that the cause was properly removed, but that any alleged contempt of the court of chancery while the cause was in that court must be disposed of by that court; and an order was thereupon made remanding the proceedings for contempt, and retaining the cause itself for adjudication in the circuit court.