

PENROSE *v.* PENROSE.

*Circuit Court, E. D. New York.*      March 26, 1880.

REMOVAL OF CAUSES – COSTS IN STATE COURT – STAY OF PROCEEDINGS – JURISDICTION.—A State court is without jurisdiction to award costs in an action, or to make any order whatever, after the case is duly removed to the U. S. circuit court. A motion for stay of proceedings in this court, because costs so awarded without jurisdiction have not been paid, denied.

*H. C. Place*, for plaintiff.

*Pertsham & Tyler*, for defendant.

BENEDICT, J. This cause was removed to this court by filing of the papers required by law. After the requisite papers had been filed in this court, and the jurisdiction of the court over the cause had attached, the defendant obtained from the state court an order directing the removal of the cause to this court, and awarding him \$10 costs of the motion. From this order the plaintiff appealed to the general term of the state court, where the order appealed from was affirmed, and costs again awarded to the defendant. These costs not having been paid, the defendant now moves this court for a stay of proceedings until the costs so awarded be paid.

The motion cannot be granted, for the reason that the state court was without jurisdiction to award the costs in question. Upon the filing of the petition and bond the state court could proceed no further with the cause. An order of the state court directing the removal of the cause, if made, and an order refusing the removal, would be equally without effect. The power of the state court to make any order whatever was gone, and, by necessary consequence, its award of costs against the plaintiff was void. *Mayor v. Cooper*, 6 Wall. 250.

The motion is denied.

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

through a contribution from [Tim Stanley](#). 