

CHADBOURNE *v.* GERMAN-AMERICAN INS. CO.

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

July 28, 1887.

COSTS—TAXATION—REMOVAL OF CAUSE—COSTS IN STATE COURT.

After the removal of a cause into the federal court a party cannot, on recovering judgment, be allowed the costs prescribed by the state statutes up to the time of removal, unless such items are taxable under sections 833,834, Rev. St.

*Roger Foster* and *Samuel Blythe Rogers*, for plaintiff.

*Wm. D. Murray* and *Luke A. Lockwood*, for defendant.

LACOMBE, J. This case was removed from the state court after service of notice of trial. Plaintiff has prevailed, and presents his bill of costs. Upon taxation, he claimed to be entitled to the costs prescribed by the state statutes up to the time of removal. The clerk disallowed these items, and plaintiff seeks to review his action, relying on the report of an anonymous case in 13 Abb. N. C. 54. It is therein stated that in that case Judge WALLACE ordered that “the defendant recover the state court costs up to the time of removal, and the statutory costs in the United States court subsequent to the removal.”

I have communicated with Judge WALLACE, and learn from him that the report given of this case is inaccurate. The order signed by him was one, the form of which was agreed to by both parties, and no decision such as is above indicated was made by him. The rule laid down in this circuit in *Glare v. National City Bank*, 14 Blatchf. 445, has been in no way qualified and is still in force here. The clerk’s taxation is affirmed.