remitted to the discretion of congress, which may regulate the same according to its own pleasure. And as a result of these principles it has been held that, when the jurisdiction of a cause depends upon a statute, the repeal of the statute takes away the jurisdiction. "And it is equally clear," says the supreme court, "that, where a jurisdiction, conferred by statute, is prohibited by a subsequent statute, the prohibition is, so far, a repeal of the statute conferring the jurisdiction." *Insurance Co.* v. *Ritchie*, 5 Wall. 544. Upon examining the *Ritchie Case*, it will be seen that the suit, pending when the repealing act of congress was passed, fell with the repeal of the statute authorizing its institution. And the same principle is announced in *Assessor* v. *Osbornes*, 9 Wall. At page 575 the court say:

"Jurisdiction in such cases was conferred by an act of congress, and, when that act of congress was repealed, the power to exercise such jurisdiction was withdrawn, and inasmuch as the repealing act contained no saving clause, all pending actions fell, as the jurisdiction depended entirely upon the act of congress."

To the same effect are the following authorities: *U. S.* v. *Boisdore's Heirs*, 8 How. 120, 121; *Norris* v. *Crocker*, 13 How. 440; *Ex parte McCardle*, 7 Wall. 514; *Morey* v. *Lockhart*, 123 U. S. 56 *et seq.*, 8 Sup. Ct. Rep. 65; *Wilkinson* v. *Nebraska*, 123 U. S. 286 *et seq.*, 8 Sup. Ct. Rep. 120; *Sherman* v. *Grinnell*, 123 U. S. 680, 8 Sup. Ct. Rep. 260. In the case of *Boisdore's Heirs*, *supra*, the court express the rule in these words:

"It is true that this court can exercise no appellate power over this case unless it is conferred upon it by act of congress. And if the laws which gave it jurisdiction in such cases have expired, so far as regards claims in the state of Mississippi, its jurisdiction over them has ceased, although this appeal was actually pending in this court when they expired."

Mr. Chief Justice WAITE, speaking for the court, in *Railroad Co.* v. *Grant*, says:

"It is equally well settled that if a law conferring jurisdiction is repealed without any reservation as to pending cases, all such cases fall with the law." 98 U. S. 401.

The case of *Sherman* v. *Grinnell*, *supra*, arose under the removal act of March 3, 1887, and the question was presented whether the supreme court could take jurisdiction on appeal or writ of error if the order to remand was made while the act of March 3, 1875, was in force, but the writ of error not brought until after the act of March 3, 1887, went into effect. The court was of unanimous opinion that jurisdiction did not attach; and it is said:

"This is the logical result of what has already been decided. Until the act of 1875 there was no such jurisdiction. *Railroad Co.* v. *Wiswall*, 23 Wall. 507. The provision of that act giving the jurisdiction was repealed by the act of 1887 without any reservation as to pending cases, the proviso in the repealing section having reference 'only to the jurisdiction of the circuit court and the disposition of the suit on its merits.' As a consequence of this the repeal operated to take away jurisdiction in cases where the order to remand had been made, but no appeal or writ of error taken, because 'if a law conferring jurisdiction is repealed without a reservation as to pending cases, all such cases fall with the law.' It follows that we have no jurisdiction of this writ of error, and it is accordingly dismissed."

Upon the same subject, says Mr. Cooley:

"If a statute providing a remedy is repealed while the proceedings are pending, such proceedings will be thereby determined, unless the legislature shall otherwise provide; and if it be amended, instead of repealed, the judgment pronounced in such proceedings must be according to the law as it then stands." Cooley, Const. Lim. (4th Ed.) 449.

The above cases seem to furnish a conclusive answer to the position assumed by counsel for the plaintiff in this suit.

They insist a considerable sum of money was expended by their client in the preparation of this cause for trial after the order of court of November 5, 1885, was entered, returning the cause here, and that the act of 1887, which authorizes it to be remanded, deprives him of his property without due process of law. It may be proper to remark in this connection that, as disclosed by the record, all the interrogatories filed by the plaintiff in this suit, and the commissions to take the testimony of witnesses, were filed subsequent to the passage of the act of March 3, 1887. The expense incident thereto was therefore incurred with full knowledge of every provision of that act, including the clause which authorizes the remanding of pending causes to the state courts. In the cases above cited costs had necessarily accumulated with the litigation, of which, by the ruling of the court, litigants were deprived; but it was not intimated by the court that the existence of that fact constituted a valid objection to the constitutionality of the law. Costs are inevitable in the prosecution of judicial proceedings. They follow the litigation "as interest follows principal, or as shadow the substance." And if congress has power to confer jurisdiction upon, and withhold it from, the circuit courts at discretion, and to regulate the manner of its exercise and the practice and procedure of those courts, it cannot be truly said that costs incurred in the circuit court upon removal of a cause are divested "without due process of law" when the same is remanded to the state court pursuant to the legislation of congress; that is to say, legislation enacted in obedience to the authorization of the constitution. That the enactment of the clause of the act of March 3, 1887, assailed by the plaintiff in this suit, was a valid exercise of constitutitional power on the part of congress, admits, in my judgment, of no question.

It is further objected by the plaintiff's counsel that a remanding of the cause will leave him remediless, inasmuch as the state court, upon removal of the suit, was absolutely divested of jurisdiction, which cannot be restored. The decision of the supreme court, to which reference has already been made, would seem to dispose of that objection. But is it true that no remedy remains? To properly appreciate the position assumed by counsel, the proposition submitted by them in argument will be stated in their own words. "By the removal," they assert, "the jurisdiction of the state court was completely divested, obliterated, lost, and as if the suit had never been commenced in that court;" and, in support thereof, reference is made to the following cases: *Gordon* v. *Longest*, 16 Pet. 97 *et seq.; Kanouse* v. *Martin*, 15 How. 208, 209; *Insurance Co.* v. *Dunn*, 19 Wall. 223, 224; *Virginia* v. *Rives*, 100 U. S. 317; *Railroad Co.*