effect of repealing the provisions of 11 Geo. IV., ch. 3, but left the party to his action at law.—*Ib.*

23. Where, by the injunction issued in a cause, the defendant. his agents, &c., were restrained "from preventing the plaintiff, his counsel, &c., from having, and from in any way in interfering with their having free access at all times to the books and papers of the said co-partnership, and each and every of them, and from removing such books and papers, or either of them, from the usual place of business of the said co-partnership, and from retaining or keeping, or suffering to be retained or kept, any of the said books or papers in any other place than the place of business of the said co-partnership, until, &c." And upon the plaintiff, who had been a partner of the defendant, applying to the brother and clerk of the defendant for access to the said books, and which had usually been kept locked up in a desk in the place of business of the co-partnership, where such application was made; such clerk answered to the effect, either that he had "instructions not to suffer," or that he had "not instructions to suffer" the plaintiff to see the books, when at the same time he was aware that the books and papers had been removed from their accustomed place to the private residence of the defendant, by the defendant, assisted by his said clerk, and subsequently removed by the defendant to Toronto. *Held*, that the clerk was guilty of a contempt of this court, and was ordered to pay the costs of the motion to commit.—Prentiss v. Brennan, 428.

Quære.—Whether a party whose committal has been ordered for breach of an injunction, and against whom a sequestration has been granted for the same contempt, can move against the writ before clearing his contempt.—S. C., 497.

COSTS.

24. Where on the hearing of the cause it appeared from the plaintiff's evidence that certain persons named in the will of the ancestor of the plaintiff were necessary parties, and had not been brought before the court, leave was given to the plaintiff to amend by adding those parties, notwithstanding the fact that the effect of permitting such amendment would be to enable the plaintiff to vary to some extent the case made and the relief prayed, though not to vary the case or to pray any different relief as against the present defendants; and as the defect of parties did not appear by the bill; *Held*, that leave could only be granted on payment of the costs of the day.—Chisholm v. Sheldon, 108.

25. Costs of motion may be given, though not asked for by the notice.—Sanders v. Cristie, 137.

26. Where a plaintiff files a bill for relief, and both parties dying after answer, a new bill setting forth substantially the same facts is filed by the plaintiff's heir against the defendant's heir, praying no relief, but a discovery, and to perpetuate the testimony of witnesses, proceedings in the second suit will not be stayed till the costs of the first are paid.—Street v. Rykman, 215.

27. *Semble.*—That if both suits were instituted by the same individual, and if he were liable to pay the costs of the first, he would not be prevented from prosecuting the second until he had paid those costs.—*Ib.*