general jurisdiction, for an act done by him in a judicial capacity. *Yates* v. *Lansing, supra; Bradley* v. *Fisher, supra; Randall* v. *Brigham*, 7 Wall. 523. In the last cited case it is said of judges of superior courts: They are not liable to civil actions for their judicial acts, even when such acts are in excess of their jurisdiction, unless, perhaps, they are done maliciously or corruptly. Pages 536, 537; and in the other cases a distinction is observed and insisted upon, between excess of jurisdiction and a clear absence of all jurisdiction over the subject-matter. And to the same effect is this: "For English judges, when they act *wholly without* jurisdiction * * * have no privilege." Per Parke, B, *Calder* v. *Holket*, 3 Moore's P. C. C. 28, 75.

Now it may be conceded that the Circuit Court is not a court of general jurisdiction; that in a sense it is a court of limited and special jurisdiction, *Kempe's Lessee* v. *Kennedy*, 5 Cranch, 173, inasmuch as it must look to the acts of Congress for the powers conferred. But it is not an inferior court. It is not subordinate to all other courts, in the same line of judicial function. It is of intermediate jurisdiction between the inferior and Supreme Courts. It is a court of record; one having attributes, and exercising functions independently of the person of the magistrate designated generally to hold it. Per Shaw, C. J. *Ex parte Gladhill*, 8 Metc. 168, 170. It proceeds according to the course of common law; it has power to render final judgments and decrees which find the persons and things before it, conclusively, in criminal as well as civil cases, unless revised on error or appeal. *Grignon's Lessee* v. *Astor*, 2 How. (U.S.) 341. See *Ex parte Tobias Watkins*, 3 Peters, 193. "Many cases are to be found wherein it is stated generally that when an inferior court exceeds its jurisdiction, its proceedings are entirely void and afford no protection to the court, the party, or the officer who executes its process. I apprehend that it should be qualified when the subject-matter of the suit is within the jurisdiction of the court, and the alleged defect of jurisdiction arises from some other cause." Per Marcy, J., *Sessacool* v. *Boughton*, 5 Wend. 172. How much more so, when the court is not inferior.

There are analogies in the law. Take the case of a removal of a cause from a State court to the Circuit Court of the United States. When the party petitioning for a removal has presented his papers in due form and sufficiency to the State court, and has in all respects complied with the terms of the act of Congress, the State court cannot refuse. Though it does, all subsequent proceedings in it are *coram non judice*. See *Fisk* v. *U. P. R. R. Co.*, 6 Blatchf. 362; *Matthews* v. *Leyall*, 6 McLean, 13. Though the judge of the State court has a legal discretion to exercise as to the right of removal (*Ladd* v. *Tudor*, 3 Woodb. & M. 325), if the facts entitle to a removal, it may not be withheld; and when they are shown it is the duty of the State court to proceeed no further; each step after that is *coram non judice*. *Gordon* v. *Longest*, 16 Peters, 101. Yet, in case a judge did, in the honest exercise of his judgment, refuse a removal and proceed with the case in the State court, would it be contended that he was liable in a civil action? He had jurisdiction of the cause originally. That jurisdiction had ceased. His further acts were beyond or in excess of his jurisdiction.

A plea of title put in a court of a justice of the peace in accordance with statute ousts it of jurisdiction. That court had jurisdiction of the cause originally, and the power to pass upon the sufficiency of the plea and accompanying papers. If it should err, and hold that jurisdiction had not been taken away, when it had, would the magistrate be liable in a civil action—always allowing for the difference in that that court is of limited and special jurisdiction. See *Striker* v. *Mott*, 6 Wend. 465.

For these reasons we are of the opinion that defendant is protected by his judicial character from the action brought by the plaintiff.

We have not gone into a written consideration of all the matters urged by the learned and zealous counsel for the plaintiff in the very elaborate and exhaustive brief and printed argument. We have read them with great interest and benefit. To follow them in an opinion, and to comment upon all the cases cited and positions taken, would be to write a treatise upon this subject. That would be no good reason why they should not be followed and discussed, if the requirements of the case demanded it. The case turns upon a question more easily stated than it is determined—was the act of the defendant done as a judge?