

Parsons
vs.
Pearson.

the original writ becomes liable immediately, and no execution need be sued out in order to charge him. The stipulation of an endorser in such a case is that all costs which the defendant may recover against the plaintiff shall be paid as soon as judgment is rendered.

In the present case it appears that Carr is an inhabitant of Vermont. The liability of the defendant does not, therefore, depend upon the return of the execution, and this objection is not well founded.

J. I. Swan, for the plaintiff.

BURGESS MEDCALF, PLAINTIFF IN ERROR,

versus

BENJAMIN SWETT.

A writ of error does not lie to reverse a judgment of the court of common pleas, from which an appeal might have been claimed.

THIS was a writ of error to the court of common pleas, in this county, brought to reverse a judgment rendered there at February term, 1817, from which judgment it appeared that the plaintiff in error might have claimed an appeal.

J. Bell, of counsel for the defendant in error, moved the court to quash the writ of error, as having issued improperly, and contended that error did not lie in such a case. 4 *Mass. R.* 171. *Savage vs. Gulliver*.—6 *Mass. R.* 4. *Jarvis vs. Blanchard*.—9 *Mass. R.* 228. *Champion vs. Brooks*.

Nelson, for the plaintiff.

Per curiam. The law on this subject is the same in this state as in *Massachusetts*. It has often been decided here that error does not lie to reverse a judgment, from which an appeal might have been claimed.

Writ of error quashed.