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difficult and complicated. The necessity of such determination or investigation would very often render utterly useless and impracticable the remedy provided as the means of securing indemnity to the town, by affording abundant opportunity for the escape of the offender long before it could be resorted to.

Upon the whole, therefore, we entertain no doubt that the town wherein a woman pregnant with a bastard child, and liable to become a county pauper, dwells and has her home, is by law liable for the maintenance of such child, within the meaning of the fifth, seventh, eighth and ninth sections of the sixty-eighth chapter of the Revised Statutes, and so authorized and empowered, in case the mother abandon when made, or neglect and refuse to make and prosecute, a complaint against the putative father, themselves to institute and prosecute such complaint, for the purpose of obtaining full and complete indemnity against such liability.

Under this view of the proper construction of the statute, the judgment of the Common Pleas, dismissing the complaint in the present case, was erroneous, and the exceptions thereto are sustained. The judgment must, therefore, be vacated, and the complaint stand for trial in that court.

Exceptions sustained — judgment vacated.

HARTWELL v. HARRIS, Appellant.

On appeal from a justice of the peace, the plaintiff, if he recovers a judgment, is entitled to full costs, though the amount recovered in the court above may be less than was recovered before the justice.

IN this action, brought before a justice of the peace, a judgment was rendered for the plaintiff for six dollars two cents, damages, and for costs.

Upon appeal to the Court of Common Pleas, a judgment was

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rendered for the plaintiff, for two dollars, forty-six cents; and thereupon, upon motion of the defendant, it was adjudged that the defendant is entitled to costs of the proceedings upon the appeal, as the prevailing party; and that the plaintiff is entitled to recover his costs of proceedings before the appeal.

A bill of exceptions was filed by the plaintiff to this judgment, and allowed by the court.

Westgate, for the defendant.

J. S. Bryant, for the plaintiff.

BELL, J. The right of appeal from justices of the peace has always been favored, because the Constitution guarantees a right of trial by jury in such cases, which can be had in no other mode than by appeal. By the Revised Statutes, (chap. 175, sec. 11,) "If the plaintiff appeal in any action founded on contract, and shall not recover damages to a greater amount than were awarded by the justice, the defendant shall recover his costs on such appeal." There is no other statute on the subject, except the general provision that "costs follow the event of every action and petition, unless otherwise directed by the law or by the court."

The application of the general rule is not necessarily attended with any peculiar hardship or inconvenience. The plaintiff, if he thinks his case requires it, may always remit any part of his damages, or strike out any part of his claim; and the defendant may always narrow the claim to what is really in controversy, by payment of money into court, or by a confession of a judgment; and if neither of these is done, it is not unreasonable that it should be understood that the question upon the appeal is not whether a greater or less amount should be recovered, but whether any thing is due. In such case the plaintiff, if he recovers any thing, is the prevailing party, and the defendant is to be regarded as prevailing only where he defeats the whole claim.

 Scruton & Hand v. Deming.

Upon these views we think the judgment rendered below is erroneous, and must be reversed, and a judgment rendered for the plaintiff for his costs before and after the appeal, and for his costs of this proceeding.

 SCRUTON & HAND v. DEMING.

The indorsement of a writ in a case where there are two plaintiffs, one of whom is a citizen of this State and the other is not, is sufficient, if made by any party and in any form which would render it sufficient if both plaintiffs were citizens of the State.

If a writ is not indorsed in the manner required by the statute, and this appears upon an inspection of the writ, it may be quashed on motion. If any fact is necessary to make the indorsement insufficient, which does not appear upon the writ itself, it must be set forth by plea.

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THE plaintiffs are described in the writ as Charles S. Scruton, of Bath, in said county, (of Grafton) "and John Hand, of Peacham, in the county of Caledonia, in the State of Vermont, yeomen, and partners doing business under the name of Scruton & Hand." The writ is indorsed: "Scruton & Hand: By their attorney, A. P. Carpenter." The defendant moved that the writ be quashed for want of a proper indorser; and in support of the motion offered the testimony of G. W. Chamberlain to the facts that the plaintiff, Scruton, never had his residence in Bath, but that his domicil was in Newbury, in the State of Vermont.

The motion to quash was denied by the court, and the defendant excepted.

Hibbard, for the defendant, argued that as it appeared from the writ that Hand was not an inhabitant of the State, and from