

deeds, or by the record of a realty mortgage in the town-clerk's office. Before taking a mortgage of the land, the plaintiff was not bound to examine the record of chattel mortgages for the title of machinery that was annexed to the land in a manner that made it apparently as much a part of the land as the removable doors and windows of the mill. The defendant, being bound to know this, should have taken a mortgage of the land or other security consistent with the safety intended to be given to innocent purchasers by the registry law. By taking no mortgage of the realty, of which, with his assent, the machinery became an apparent part, he gave Waterhouse and Frost apparent authority to convey the machinery as realty. The purpose of the registry law would be defeated, if the county record could not be relied upon in such a case by a subsequent purchaser having no notice of a defect in the apparent title. The town record not being constructive notice of such a defect, the defendant's chattel mortgage became a secret claim when the annexation of the machinery to the land had referred all inquirers to the registry of land titles for information.

*Decree for the plaintiff.*

CARPENTER, J., did not sit: the others concurred.

---

STATE v. KENNEDY.

An injunction decree under c. 77, Laws 1887, cannot be impeached collaterally.

ATTACHMENT, for violation of an injunction decree made with the defendant's written consent, under c. 77, Laws 1887. The defendant took exceptions, based on a claim that his consent was obtained by duress, intimidation, and threats of criminal prosecution, and that the petition for the injunction was defective.

*Dodge & Caverly*, for the defendant.

*J. Kivel*, solicitor, for the state.

DOE, C. J. The decree rendered by a court having jurisdiction is not void. It can be impeached only in a direct proceeding seasonably instituted by a party asking that it be reversed, quashed, or vacated. *State v. Richmond*, 26 N. H. 232, 237, 242, 243, 246; *Wingate v. Haywood*, 40 N. H. 437; *Horne v. Rochester*, 62 N. H. 347; *Charles v. Davis*, 62 N. H. 375; *Blanchard v. Webster*, 62 N. H. 467; *Fowler v. Brooks*, 64 N. H. 423; *McDonald v. Drew*,

64 N. H. 547; *Kittredge v. Martin*, 141 Mass. 410; Freeman Judg., cc. 6, 13, 21, and ss. 134, 135, 285-287; High Inj., ss. 1416-1418, 1425. If the validity of a judgment could be contested collaterally, a second judgment, avoiding the effect of the first without a direct and express annulment of it, would be subject to a like attack, and there would be no termination of litigation by a final decision.

*Exceptions overruled.*

CARPENTER, J., did not sit: the others concurred.

---

AYER & Co., *Apt's*, v. WEEKS.

For jurisdictional purposes, a legal domicile once existing continues until another is acquired elsewhere.

Domicile or residence to give jurisdiction to the probate court in insolvency proceedings is not lost by departure from the state until another is gained.

INSOLVENCY APPEAL. The controversy arises between creditors of the defendant, Weeks, having attachments of his property made October 5, 1888, and other creditors who filed a petition against him in insolvency, February 1, 1889; and the only question is, whether Weeks, at the time of the petition, was a resident of this state so as to give the probate court jurisdiction of the insolvency proceedings.

October 5, 1888, Weeks was residing and doing business in Great Falls, but on that day he left with his wife and all his household goods for the West, and has never returned to this state. His attorney, who is also attorney for the petitioning creditors, offered in evidence a document containing nine interrogatories addressed by him to Weeks in December, 1888, and the answers thereto, in which Weeks states his residence to be Somersworth, N. H.; that his absence is temporary; that he intends to return, etc. The paper was not sworn to. If this document is competent evidence upon the question of the defendant's residence, it is found that he was, at the time of the filing of the petition and ever since has been, a resident of Somersworth. If it is not evidence, it is found that he left Somersworth, October 5, 1888, with the intention never to return, but that he has not acquired a domicile or residence elsewhere.

*Russell & Boyer*, for the appellants.

*Mr. Matthews*, for the appellees.