

United States v. Barker.

and *that they ever directed any transfer to be made to Patton, which should stipulate to the contrary. Under such circumstances, it must be held, that the shares are responsible for the debts due to the bank.

The next inquiry is, whether the bank has done anything to deprive itself of the lien upon the shares, for the acceptance of Patton, since the same became due, and to let in the equitable title of the plaintiff. The acceptance is not yet paid; and nothing has been done by the bank, affecting its rights, unless the subsequent taking of security for the acceptance, from Smith, can be construed so to do. Certainly, the bank had a right to require additional security from the indorser of the acceptance; and it cannot be perceived, upon what principles this can be construed an extinguishment of its lien upon the shares of the acceptor. A creditor may lawfully take and hold several securities for the same debt from his joint debtors; and he cannot be compellable to yield up either, until his debt is paid. And in this case, there is no want of equity, in holding the shares of Patton, who is the immediate debtor to the bank, liable in the first instance, rather than resorting to the security of an indorser, who is only liable upon the default of the acceptor.

The decree of the circuit court must, therefore, be reversed, and the bill be dismissed.

Decree accordingly.

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Jurisdiction in error.—Costs.

A writ of error does not lie, to carry to this court a civil cause which has been carried from the district to the circuit court, by writ of error.
The United States never pay costs.

March 15th, 1817. *Baldwin*, for the plaintiffs in error, moved to dismiss the writ of error, in this case, as having been improvidently allowed, the cause having been carried up from the district to the circuit court of New York by writ of error; and according to the former decisions of this court, a writ of error does not lie to carry to this court a civil cause, which has been carried from the district to the circuit court, by writ of error. (a)

D. B. Ogden, for the defendant, moved for costs.

MARSHALL, Ch. J.—The United States never pay costs.

Writ of error dismissed, without costs.

(a) *United States v. Goodwin*, 7 Cranch 108; *United States v. Gordon*, Id. 287; *United States v. Tenbroek*, ante, p. 248.