Armstrong *v.* Carson's executors.

Action on judgment of another state.—Assessment of damages.

The plea of *nil debet* is inadmissible, in an action on the judgment of a court of another state; no plea can be received that would be bad in the courts of the state in which the original judgment was obtained.

The court will not assess the damages; it must be done by writ of inquiry.

A judgment having been obtained in the supreme court of the state of New Jersey, an action of debt was brought upon it here; and the defendants pleaded *nil debent.*

But *Bradford* contended, that, consistently with the federal constitution Art. IV., § 15, and the act of congress of 26th May 1790 (1 U. S. Stat. 122), the plea was inadmissible. The constitution declares that "full faith and credit shall be given, in *each state, to the public acts, records and judicial proceedings of every other state:" and the act provides, that [*303 those records and judicial proceedings, being authenticated in the mode prescribed, "shall have such faith and credit given to them in every court within the United States, as they have, by law or usage, in the courts of the state from whence the said records are, or shall be, taken." It is a general principle, that a debt cannot be denied, without denying the instrument on which it is founded: and the only question left open, by the act of congress, is —whether the courts of New Jersey would sustain any other plea than *nul tiel record*, if the present action had been brought there.

Ingersoll declined arguing the point for the defendant, thinking it clearly against him.

Wilson, Justice.—There can be no difficulty in this case. If the plea would be bad, in the courts of New Jersey, it is bad here: for whatever doubts there might be on the words of the constitution, the act of congress effectually removes them; declaring in direct terms, that the record shall have the same effect in this court, as in the court from which it was taken. In the courts of New Jersey, no such plea would be sustained; and therefore, it would be inadmissible in any court sitting in Pennsylvania.[1]

Bradford then proposed settling the interest, but Wilson, Justice, observed, that he had had more than one occasion to object to the court's interposing, in any form, to assess damages. In some states, he said, it had, indeed, grown into a practice; and the courts had in that, and, perhaps, in many other instances, done the business which ought to go to a jury. *Lewis* referred to a case in the supreme court of the United States, in which this point had been made, though not directly decided; but the judge said, it was not the foundation of the judgment of the court; and that, in his opinion, a writ of inquiry was the regular mode of procedure.(*a*)

It being suggested, however, that the usage in the state courts was to enter the judgment generally; and that the plaintiff must ascertain the

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(*a*) But see Brown *v.* Van Braam, in the supreme court of the United States. (3 Dall. 344.)

[1] Mills *v.* Duryee, 7 Cr. 481; Hampton *v.* McConnell, 3 Wheat. 234; Warren Manufacturing Co. *v.* Ætna Ins. Co., 2 Paine 502; Westervelt *v.* Lewis, 2 McLean 511.

debt, and issue execution at his own peril; that mode was adopted on the present occasion.[1]

Judgment for the plaintiff.

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*304] *APRIL TERM, 1795.

Present, PATERSON and PETERS, Justices.

VANHORNE'S Lessee *v.* DORRANCE.

Erasure in deed.—Indian title.—Constitutional law.—Construction of statutes.—Condition.

An erasure, addition, interlineation, or other alteration, will render void a deed, if done after its execution.

It is the province of the jury to determine, whether such alteration was made after delivery.

In Pennsylvania, the proprietaries had, by their charter, the exclusive right of pre-emption to all lands within the province; a grant from the Indians to any other person, conferred no title.

The constitution is paramount to the power of the legislature; and every statute repugnant to it, is absolutely void.

The judiciary is a co-ordinate branch of the government, and may declare a statute to be void, as repugnant to the constitution.

An act of a state legislature, divesting one person of his property, and vesting it in another, at a fixed compensation, is unconstitutional and void.

A statute shall never have an equitable construction, in order to overthrow or divest an estate.

Every statute, derogatory to the rights of property, or that takes away the rights of a citizen, is to be construed strictly.

Conditions precedent are such as must happen, or be performed, before an estate can vest, or be discharged; they must be strictly, literally and punctually performed.

When a condition copulative precedes an estate, the whole must be performed, before the estate can arise; so, when an act is previous to any estate, and consists of several particulars, every one of them must be performed, before the estate can vest.

THIS was a cause of great expectation, involving several important questions of constitutional law, in relation to the territorial controversy between the states of Pennsylvania and Connecticut. After a trial, which continued for fifteen days, the presiding judge delivered the following charge to the jury, comprising a full review of all the important facts and principles that had occurred during the discussion.[2]

PATERSON, Justice.—Having arrived at the last stage of this long and interesting cause, it now becomes the duty of the court to sum up the evidence, and to declare the law arising upon it. A mass of testimony has been brought forward in the course of the trial, the greater part of which is altogether immaterial, and can be of no use in forming a decision. The great points on which the cause turns, are of a legal nature; they are questions of law; and therefore, for the sake of the parties, as well as for my own sake, they ought to be put in a train for ultimate adjudication by the supreme court. In the administration of justice, it is a consolatory idea,

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[1] If the action be brought for a sum certain, or which may be rendered certain by computation, the court may assess the damages, without a writ of inquiry. Reimer *v.* Marshall, 1 Wheat. 215; McLain *v.* Rutherford, Hemp. 47.

[2] For a history of a Connecticut title in Pennsylvania, and a settlement under it, see Barney *v.* Sutton, 2 Watts 31.