*John Clay, Plaintiff in error, *v.* Abraham Smith.

Bankruptcy.—Entry of judgment.

The plaintiff below, a citizen of the state of Kentucky, instituted a suit against the defendant, a citizen of Louisiana, for the recovery of a debt incurred in 1808, and the defendant pleaded his discharge by the bankrupt law of Louisiana in 1811; under which, according to the provisions of the law, "as well his person, as his future effects" were for ever discharged "from all the claims of his creditors;" under this law, the plaintiff, whose debt was specified in the list of the defendant's creditors, received a dividend of ten per cent. on his debt, declared by the assignees of the defendant: *Held*, that the plaintiff, by voluntarily making himself a party to those proceedings, abandoned his extra-territorial immunity from the operation of the bankrupt law of Louisiana, and was bound by that law, to the same extent to which the citizens of Louisiana were bound.[1]

The plaintiff in error having died, while the cause was held under advisement, the judgment was entered *nunc pro tunc*, as of the first day of this term.

Error to the District Court of the Eastern District of Louisiana. This case was argued at January term 1828, by *Livingston*, and was held under advisement until this term; on the suggestion of counsel, and for information upon the law of the state of Louisiana, referred to in the opinion of the court.

Johnson, Justice, delivered the opinion of the court.—This case comes up from the Louisiana district, by writ of error, to reverse a judgment obtained there by *Smith* v. *Clay*. Smith is a citizen of Kentucky, and Clay of Louisiana; and the action was brought to recover a debt incurred in the year 1808. Clay's defence rests upon the validity of a discharge obtained in a court of the state, under a law of the state, in the year 1811. The plea sets out his petition to the court; his surrender of his effects; the schedule of his debts, in which Smith's debt is specified, as also the payment to him of ten per cent., the dividend declared by the assignees of *the bankrupt; and the judgment of the court, rendered in pursuance of the [*412 consent of more than a majority of his creditors in number and amount, that he be discharged, "as well his person, as his future effects, from all the claims of his creditors." The language of the plea is, "upon which said petition, the usual proceedings being had thereon, the said plaintiff and other creditors, and said defendant, being parties thereto, the said supreme court, by their final decree pronounced in the premises, on the 15th of June 1811, declared the said defendant, as well his person, as his subsequently acquired property and effects, for ever released from all claims, debts and demands," &c., previously due.

This plea is demurred to, and thus the question is raised, whether Smith, by voluntarily making himself party to such proceedings, has not abandoned his extra-territorial immunity from the operation of the bankrupt laws of Louisiana. We are of opinion, that he did; and was bound by the decision of the state court, to the same extent to which the citizens of that state were bound. Judgment reversed. Case remanded, with instructions to enter judgment for defendant there. And in consequence of the death of Clay, while the cause was held under advisement, that it be entered, *nunc pro tunc*, as on the first day of this term.

[1] Baldwin *v.* Hale, 1 Wall. 223; Gilman *v.* Lockwood, 4 Id. 409.

Parsons v. Armor.

This cause came on to be heard, on the transcript of the record from the district court of the United States for the district of Louisiana, and was argued by counsel: On consideration whereof, it is ordered and adjudged by this court, that the judgment of the said district court in this cause be and the same is hereby reversed; and that the cause be and the same is remanded to the said district court, with instructions to the said court to enter judgment for John Clay, the defendant in said court. And it is further ordered by the court, that in consequence of the death of the said Clay, while this cause was held under advisement, that judgment be entered, *nunc pro tunc,* as of the first day of this term.

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*413] *William Parsons, Plaintiff in error, *v.* James Armor and T. W. Oakey, Syndics of the creditors of James Armor.

Error and appeal.—Principal and factor.—Bills of exchange.

The record consisted of the petition, the answer, the whole testimony, as well depositions as documents, introduced by either party, and the *fiat* of the judge, that Armor, the plaintiff below, recover the debt as demanded. The difficulty is, to decide under what character we shall consider this reference to the revising power of this court; if treated strictly as a writ of error, it is certainly not an attribute of that writ, according to the common-law doctrine, to submit the testimony as well as the law of the case to the revision of this court; and then there is no mode in which the court can treat this case, but in the nature of a bill of exceptions; the court is not at liberty to treat this case as an appeal in a court of equity jurisdiction, under the act of 1803; because the party has not brought up his cause by appeal, but by writ of error. p. 425.

F., at New Orleans, was the correspondent of P., at Boston, received goods from him on consignment, and was, from time to time, directed to purchase produce, and ship the same to P., and was instructed to draw on P. for the funds to pay for the same; when he made purchases, "the bills of parcels were made out in the name of F., and the accounts entered in the books of the different merchants, in his name;" the general course of the business was, that P. sent out, in his own vessels, merchandise to F., which was sold by F., and F., at the request of P., purchased from merchants in New Orleans, produce, and shipped the same as ordered by P.; and to put himself in funds for the same, when necessary, drew bills of exchange on P., who had always, until the presentation of the bills on which the suit was brought, accepted and paid the same; but he did not, in his purchases, act under the idea, that he was restricted in his purchases to the drawing of bills for the payment of the articles purchased for P. F. purchased a quantity of tobacco, to be shipped to P., and payment for the same in bills on P. made a particular part of the contract for the purchase; at the time of the purchase, F. showed to the vendor of the tobacco, the letters from P., ordering the purchase and shipment of the same; some of the bills drawn by F. on P., and which were delivered to the vendor of the tobacco, in payment for the same, were refused acceptance and payment, and this suit was instituted for the recovery of the amount of the bills from P.: *Held*, that P. was not liable to pay the bills. p. 426.

The general rule is, that a principal is bound by the act of his agent no further than he authorizes that agent to bind him; but the extent of the power given to an agent is decided as well from facts as from express delegation; in the estimate or application of such facts, the law has regard to public security, and often applies the rule "that he who trusts must pay;" so also, collusion with an agent to get a debt paid, through the intervention of one in failing circumstances, has been held to make the principal liable, on the ground of immoral dealing. p. 428.

A bill of exchange is the substitute for the actual transmission of money by sea or land; power, therefore, to draw on a house in good credit, and to throw the *bills upon the market, *414] is equivalent to a deposit of cash in the vaults of the agent. There is not the least tittle of evidence in this cause, to show that P. meant to use the credit of the drawee of the bills on which the suit is brought, or to authorize him to pledge his credit in anything but the