

Cook v. Moffat et al.

*295] *JAMES INNERARITY, PLAINTIFF IN ERROR, v.
THOMAS BYRNE.

A citation is not necessarily a part of the record, and the fact of its having been issued and served may be proved *aliunde*.

Mr. Bagby moved to dismiss the writ of error in this case for the want of a citation. None appeared in the record.

Mr. Justice McLEAN delivered the opinion of the court, saying, that the citation was not necessarily a part of the record, it forming no part of the proceedings of the court below. The presumption is, that one was issued when the writ of error was allowed, and it may be proved *aliunde*.

Motion overruled, and case continued to next term.

WILLIAM G. COOK, PLAINTIFF IN ERROR, v. JOHN L. MOFFAT AND JOSEPH CURTIS, DEFENDANTS IN ERROR.

A contract, made in New York, is not affected by a discharge of the debtor under the insolvent laws of Maryland, where the debtor resided, although the insolvent law was passed antecedently to the contract.¹

The prior decisions of this court upon this subject reviewed and examined.

¹ CITED. *Planters' Bank v. Sharp*, 6 How., 328; *Supervisors v. Galbraith*, 9 Otto, 218; *Gebhard v. Canada Southern R'y Co.*, 17 Blatchf., 418.

See also *Hills v. Carlton*, 74 Mo., 160; *Bedell v. Scruton*, 54 Vt., 495.

A non-resident plaintiff who has brought suit in the courts of the State where the defendant resides has subjected himself to the jurisdiction of that State, and is bound by a discharge afterwards granted under the insolvent laws of that State. *Davidson v. Smith*, 1 Biss., 346. By obtaining a judgment in the Circuit Court of the United States for another State, upon a record of the judgment of the State court, the plaintiff has not changed his position. A satisfaction of the judgment in the State court would operate as a satisfaction of that in the United States court; and whatever would bar the former, would also bar the latter. Although a State insolvent law has no force or validity outside of the State, except such as may be given it by comity, the principle of the Con-

stitution of the United States, that full faith and credit shall be given in each State to the judicial proceedings of every other State, requires that judgments when sued on in another State shall be considered of the same force and effect as in the State wherein they were originally rendered. *Ib.*

A discharge of a debtor under a State insolvent law is invalid against a creditor or citizen of another State who has never voluntarily subjected himself to the laws of the State where the discharge was obtained, otherwise than by the origin of his contract, and the plea of such discharge is insufficient to bar the rights of the plaintiff. *Hale v. Baldwin*, 1 Cliff., 511; *Stevenson v. King*, 2 Id., 1; *Byrd v. Badger*, McAll., 263; *Kendall v. Badger*, Id., 523.

Such discharges are valid as to alien creditors residing in the State at the time the contract was made. *Von Glahn v. Varrenue*, 1 Dill., 515.

A negotiable note endorsed to a non-resident of the State wherein the