

CASES DETERMINED

IN THE

SUPREME COURT OF THE UNITED STATES.

FEBRUARY TERM, 1804.

WOOD *v.* WAGNON.

Averments to confer jurisdiction.

The courts of the United States have not jurisdiction in cases between citizens of the United States, unless the record expressly states them to be citizens of different states.

ERROR from the Circuit Court of the district of Georgia. The judgment was reversed, because it did not appear upon the record, that the circuit court had jurisdiction of the case.

The proceedings stated, that "the petition of John Peter Wagon, a citizen of the state of Pennsylvania, showeth, that James Wood, of the state of Georgia," &c.

The objection taken was, that it did not appear that the plaintiff and defendant were citizens of different states, and on that ground, the judgment was reversed, upon the authority of *Bingham v. Cabot et al.*, 3 Dall. 382.

WILLIAMS and HODGES *v.* LYLES.

Forthcoming bond. — Variance.

In Virginia, a forthcoming bond which, in reciting the execution, states the costs to be \$20, instead of \$12, is not thereby vitiated, if the aggregate of debts and costs be truly stated, but will support a judgment, on motion.

THIS was a writ of error to a judgment of the Circuit Court of the district of Columbia, sitting at Alexandria, upon a forthcoming bond, taken under the laws of Virginia.

The execution, upon which the bond was taken, was for "\$143.67, also \$12.33, *and 355 pounds of tobacco at the rate of 13 shillings and [*10 four pence per cwt." The recital of the execution in the bond stated it to be for "\$143.67, also \$20.33, and 355 pounds of tobacco, at the

Faw v. Marsteller.

rate of 13 shillings and four pence per hundred weight; and marshal's fees and commissions, and all costs attending the execution of the said writ, \$8.11, making in the whole the sum of \$171.99." This aggregate sum was correct, according to the execution, and not according to the recital, there having been a mistake in writing the word twenty for twelve. The court below, considering the recital as correct in substance, rendered judgment for the plaintiff. The defendants took a bill of exceptions, and brought their writ of error.

Youngs, for the defendant in error, cited *Scott v. Hornsby*, 1 Call 42; *Bell v. Marr*, Ibid. 47; *Worsham v. Egleston*, Ibid. 48; and *Wilkinson v. McLochlin*, Ibid. 49.

Judgment affirmed, with ten per cent. damages and costs.

Faw v. MARSTELLER. (a)

Depreciation.

In a deed, made in the year 1779, of land, rendering an annual rent of 26*l.* current money of Virginia for ever, the rents are not to be reduced by the scale of depreciation, but the actual annual value of the land, at the date of the contract, in specie, or in other money equivalent thereto, is to be ascertained by a jury.¹

Marsteller v. Faw, 1 Cr. C. C. 117, reversed.

THIS was an appeal by Faw, the original defendant, from a decree of the Circuit Court of the district of Columbia, sitting as a court of chancery, at Alexandria, in July 1803 (Reported below, 1 Cr. C. C. 117). The case, as stated by Marshall, Ch. J., in delivering the opinion of the court, was as follows :

*In the month of May 1779, the executors of John Alexander, in
*11] pursuance of a power contained in the will of their testator, set up to the highest bidder, on a ground-rent for ever, certain lots of land lying in the town of Alexandria. One of these lots, containing half an acre, was struck off to a certain Peter Wise, at the rent of 26*l.* per annum, current money of Virginia. Wise bid for Jacob Sly, a citizen of Maryland, who transferred the lot to Abraham Faw, to whom the same was conveyed in fee-simple, by a deed bearing date the 5th of August 1779, in which the said ground-rent of 26*l.* per annum, current money of Virginia, was reserved.

In the year 1784, Abraham Faw divided the said half acre of ground into eight smaller lots, five of which he had sold, reserving a ground-rent

(a) The counsel in this cause had not furnished the court with a statement of the points of the case, according to the rule of the court, ante, vol. 1, p. xvi. Being called upon by the court for such a statement, Swann observed, that there was but a single point in the case, and therefore, they had not supposed it necessary to reduce it to writing.

MARSHALL, Ch. J.—The court will proceed to hear this cause, without having been furnished with a statement of the points; but they wish it to be understood, that they always expect such a statement. If there is only one point, it is the easier to state it.

¹ The obligation of a contract to pay money, *v. Lee*, 12 Wall. 548, STRONG, J. See *Thorington v. Smith*, 8 Id. 1; *Bigler v. Waller*, 14 Id. 297. is to pay that which the law shall recognise as money, when the payment is to be made. Knox