

Eng. Rep.]

PARKER V. SIMPSON—PRENTISS V. SHAW ET AL.

[U. S. Rep.]

he also mean to employ a puffer he must say that a right to bid is reserved. This has not been done in the present case; the purchaser must therefore be discharged, and the deposit returned with interest at four per cent.

PARKER V. SIMPSON.

Res judicata—Staying proceedings—Practice.

The dismissal of a bill by consent, as well as adversely, is a bar to a second suit for the same object, and the defendant may avail himself of this defence by a motion to stay proceedings, or (*semble*) by a motion to take the bill off the file.

If a plaintiff's consent to an order effecting a compromise has been obtained by fraud, his proper course is to move to have the order annulled before the judge who made it.

[V. C. M. 18 W. R. 204.]

The plaintiff in this cause, who was a person with no pecuniary means, had filed a bill in the Rolls Court on the 1st of April, 1869. He then compromised the claim put forward by that bill, and agreed to release his demands against the defendants to it, on their paying his creditors three and fourpence in the pound. The payment was made, and the plaintiff thereupon applied for and obtained the dismissal of his bill, with costs as against some of the defendants, and without costs as against the others, in accordance with the terms of the agreement. It was stated in court that the plaintiff considered that his consent to this compromise was unfairly obtained.

Shortly afterwards the plaintiff filed the present bill, which was a verbatim copy of his former bill, with the single exception that it mentioned the death of one of the former defendants and substituted his personal representatives in his place.

Cotton, Q. C., now moved, on behalf of the defendants, to stay all further proceedings in the suit.

Pearson, Q. C., appeared for the plaintiff.

MALINS, V. C., after hearing the facts, asked if they were admitted, and then said that the point was too clear for argument. A decree deciding against a claim was a bar to the institution of another suit raising the same claim; and the dismissal of a bill by consent had the same effect as an adverse decree. If the plaintiff contended that his consent to the order dismissing his bill had been obtained by fraud, his proper course would be to move to dissolve it before the same judge who had made it. To bring another suit for the same matter in a different branch of the court was a most improper proceeding. He would make the order prayed for, and would also, if desired, take the bill off the file.

UNITED STATES REPORTS.

SUPREME JUDICIAL COURT OF MAINE.

GEO. W. PRENTISS V. ELISHA W. SHAW ET AL.

The plaintiff was unlawfully seized by the defendants, carried thence three miles and confined in a room several hours, and thence to a town meeting, where he took an oath to support the Constitution of the United States, and was discharged. In the trial of an action of trespass, based upon these facts, the plaintiff claimed (1.) Actual damages resulting from his seizure and detention; (2.) Damages for the indignity thereby suffered; (3.) Punitive damages. *Held*—

1. That the plaintiff was entitled to recover full pecuniary indemnity for the actual corporeal injury received, and for the actual damages directly resulting therefrom, such as loss of time, expense of cure, and the like;
2. That the declarations of the plaintiff, made prior to the unlawful arrest and tending to provoke the same, not being a legal justification thereof, are inadmissible in mitigation of the actual damages; but,
3. That such declaration made on the same day, and communicated to the defendants prior to such arrest, together with all the facts and circumstances fairly and clearly connected with the arrest, indicative of the motives, provocations, and conduct of both parties, are admissible upon the question of damages claimed upon the other two grounds.

The writ was dated June 15th 1867, and contained a declaration in trespass, substantially alleging that Elisha W. Shaw (a deputy sheriff), Putnam Wilson, Jr., Oliver B. Rowe, Hollis J. Rowe, and Daniel Dudley, on the 15th April 1865, at Newport, with force and arms, assaulted, beat, and bruised the plaintiff, thereby permanently injuring his hip and back, violently forcing him into and locking him in a room in the Shaw House, subjecting him to remain there five hours, violently taking him from thence into a carriage and carrying him against his will to the town-house in Newport.

The plaintiff introduced evidence tending to show that in April 1865, while he was at a blacksmith's shop in Newport, where he was having his horses shod, Shaw, Dudley, Wilson, and H. J. Rowe seized him, and forcibly putting him into a waggon, transported him a prisoner three miles distant, to Newport village, and confined him for several hours in a room in the hotel there; that a crowd of men accompanied the four defendants to the shop and from thence to Newport village; that the four defendants inflicted injuries upon the person of the plaintiff; and that threats of extreme personal injuries were made to the plaintiff, both at the blacksmith shop and at Newport village, by some persons.

There was conflicting testimony as to the extent of the injuries to the plaintiff's person.

The defendants, against the objections of the plaintiff, introduced evidence tending to show that the four defendants seized the plaintiff in the forenoon of the day on which the news of the assassination of President Lincoln was received; that when the plaintiff stepped into the blacksmith shop, he said, addressing one Gilman (who was a witness in this case): "He that draweth the sword shall perish by the sword, and their joy shall be turned into mourning;" that Gilman (alluding to the assassination of the President) said to the plaintiff: "I suppose there are some who are glad of it," that the plaintiff thereupon replied: "Yes; I am glad of it; and there are fifty more in town who would say so if they dared to;" that Gilman re-

UNITED STATES LEGAL TENDER ACT;—*Held*, per CHASE, C. J., that the Legal Tender Act, passed February, 1862, is inoperative as to all contracts for the payment of money made prior to that date, and such contracts can only be discharged by the payment of gold or silver coin.

—*Leppburn et al. v. Griswold.*