

P. J. L. BRUMSKINE, Appellant, v. **FREDERICK M. VIETOR** of Vietor & Huber,
Appellee.

ARGUED JUNE 5, 1913. DECIDED JUNE 13, 1913.

Dossen, C. J., McCants-Stewart and Johnson, JJ.

1. An enactment of the Legislature modifying previous remedies shall be so construed as not to affect rights of action which have become vested, at the time of the amendatory statutes.
2. A repeal by implication is not favored unless the two acts are irreconcilably inconsistent.
3. If two statutes on the same subject can stand together without destroying the evident intent and meaning of the later one, there shall be no appeal.
4. By the Act approved January 19, 1912, justices of the peace have exclusive jurisdiction in actions of debt up to fifty dollars, and concurrent jurisdiction with the Monthly Court in such actions from fifty dollars to one hundred dollars.

Mr. Justice Johnson delivered the opinion of the court :

Debt—Appeal from Judgment. This is an action of debt brought in the Monthly and Probate Court of Grand Bassa County by appellee against appellant, at its March term, A. D. 1912, to recover a sum of money claimed by appellee to be due on a promissory note executed and delivered to him by appellant, defendant in the court below. When the case was called for trial, appellant submitted for the consideration of the court a motion to dismiss same, on the ground that the court had no jurisdiction over the case. The judge of said court after hearing argument, denied the motion and rendered judgment against appellant and it is from said judgment that this appeal is taken.

There were several exceptions taken and noted against the opinions, rulings and final judgment of the judge of said court, but counsel for appellee have submitted for the consideration of this court, the first point in the bill of exceptions in which the jurisdiction of the court is attacked. The facts essential to a decision of the question presented, appear to be as follows : By an Act entitled : "An Act relating to justices of the peace and city magistrates," (Acts 1901-2) justices of the peace were given jurisdiction over actions of debt to the amount of thirty dollars; the jurisdiction of the Monthly Courts being thereby modified so as to include actions of debt from thirty

dollars to three hundred dollars. Pending the trial of the case, as was admitted by both parties in their arguments before this court, the Joint Resolution approved January 19, 1912, entitled : "An Act to extend the jurisdiction of justices of the peace, and which give them jurisdiction over actions of debt, up to one hundred dollars" was published.

It is contended by appellant that the latter act affected the jurisdiction of the Monthly Courts by implication, over actions of debt for sums between thirty and one hundred dollars. As to this point, we will observe, that it has been held in many instances that enactments of the Legislature modifying previous remedies, shall be so construed as not to affect rights of actions which have become vested under the original law, exist at the time of the repealing statute. We are of the opinion, said Lord Denman, C. J., in a similar case "that the law which existed when the action was commenced must decide the rights of the parties to the suit."

The same learned judge said in regard to a law changing the time that the prior law must control. (*Evans v. Richards*, 2 Dwarris 546.) This principle is firmly established by that clause in the Constitution which declares that the Legislature shall pass no law impairing the obligations of a contract, and which virtually prohibits the enactment of retroactive statutes.

As to the question raised by appellant that the amendatory Act repealed that portion of the prior Act, which referred to justices of the peace, we must observe that ordinarily express language is used where a repeal is intended, and a repeal by implication is not favored, unless the two Acts are irreconcilably inconsistent. The rule is that if two statutes on the same subject can stand together without destroying the evident intent and meaning of the latter one there will be no repeal. "It must be known," says Lord Coke, "that for as much as Acts of Parliament are established with such wisdom and universal consent of the whole realm, they ought not by any constrained construction out of the general and ambiguous words of a subsequent statute to be abrogated (*King v. The Justices*, 2 Dwarris 533). In Sedgwick's work on the Construction of Statutory and Constitutional Law, it is said that "laws are presumed to be passed with deliberation and with full knowledge of existing ones on the same subject ; and it is therefore but reasonable to conclude that the Legislature in passing a statute did not intend to interfere with or abrogate any prior law relating to the same matter unless the repugnancy between the two is irreconcilable; and hence a repeal by implication is not favored. On the contrary courts are bound to uphold the former law if the two Acts can well subsist together." (Sedgwick, p. 106.)

On a careful inspection of the Acts relating to the jurisdiction of the justices of the peace and to that of the Monthly Courts we find as follows : By an Act approved January 15, 1880, the Monthly Court was given jurisdiction in actions of debt from

fifty to two hundred dollars. Subsequently by an Act to amend the Act establishing the judiciary and fixing the powers and jurisdiction of the several courts, approved January 14, 1895, the jurisdiction of said court, was extended to all cases of debt where the amount does not exceed three hundred dollars.

Again, the Act entitled: "An Act relating to justices of the peace and city magistrates" (Acts 1901-2) restored to justices of the peace and other officers having concurrent jurisdiction with them, their original jurisdiction ; that is to say, in actions of debt up to thirty dollars; thereby extending the jurisdiction of the Monthly Courts from thirty to three hundred dollars. The last Act in the statute on this subject is the Act on p. 33 of the Act of 1912, by which the jurisdiction of justices of the peace was again extended to actions of debt up to one hundred dollars (see Act approved January 19, 1912).

"The general rule" says Sedgwick, treating on the construction of statutes, "is that independent of any statutory change, the repeal of a repealing statute revives the original statute and this is so although the repeal is by implication" (Sedgwick, p. 108, note). Following this course of reasoning we are lead to the conclusion that the repeal of that portion of the Acts of 1901-2, above cited which limited the jurisdiction of, justices of the peace to actions of debts up to thirty dollars, and by implication, giving the Monthly Court jurisdiction in such actions for sums from thirty dollars to three hundred dollars, revived the Act approved January 14, 1895. Hence, justices of the peace have exclusive jurisdiction over actions of debt up to fifty dollars and concurrent jurisdiction with the Monthly Court in such actions from fifty to one hundred dollars. This, however, as we have already said does not affect the case under consideration. We are of the opinion, therefore, that the judgment of the court below should be affirmed with costs against appellant.

P. J. L. Brumskine, for appellant.

C. B. Dunbar, for appellee.