

## PULASKI COUNTY vs. LINCOLN.

The decision of this court in a case, whether right or wrong, is the law of the case, and the mandate upon the circuit court is obligatory.

*Appeal from the Chancery side of Pulaski Circuit Court.*

THIS was a bill brought by Pulaski county against Lincoln and others, to rescind a contract made by county commissioners with Lincoln, for the purchase of a tract of land as a site for a poor house. The bill prayed a rescission of the contract of purchase, and that Lincoln produce and bring into court a county warrant for \$400, which had been issued to him for the land, to be canceled, &c.

The court dismissed the bill for want of equity, the county appealed, and this court reversed the decision, and remanded the case with instructions to the court below to render a decree for the complainant in accordance with the prayer of the bill. See *Pulaski County v. Lincoln et al.*, 4 *Eng. R.* 320.

After the cause was remanded, the court below decreed a cancellation of the deed from Lincoln to the county for the land, "and that Lincoln do forthwith produce and bring into court here, the said scrip or warrant so illegally issued and delivered to him, *if in his possession*, and that the same is hereby canceled."

Complainant insisted that the decree should require Lincoln to produce and bring into court the scrip absolutely and unconditionally to be canceled, as prayed by the bill, and objected to the insertion of the words in the decree "*if in his possession*," and the court refusing to make the decree absolute in this respect, the complainant excepted and appealed.

WATKINS & CURRAN, for the appellant, contended that the decree of the court, that the defendant bring the scrip into court,

“if in his possession,” is a violation of the mandate and decision rendered in the case, (4 *Eng.* 320,) which is conclusive of the question and imperative upon the court below. (*Porter v. Hanley*, 5 *Eng.* 187. *Boyce's hrs. v. Grundy*, 9 *Pet.* 290. 12 *Pet.* 339, 488.

S. H. HEMPSTEAD, contra.

Mr. Justice WALKER delivered the opinion of the Court.

The earlier history of this case will be found reported in 4 *Eng.* 320. Upon consideration of the case then this court decided that the case be remanded, and a decree rendered therein in accordance with the prayer of the bill. Whether right or wrong, that decision is the law of the case, and the mandate upon the circuit court obligatory. *Porter et al. v. Hanley*, 5 *Eng.* 187.

So far as the defendant's interests were involved, from the state of the issue, and the admissions by the defendant that the bill was true, there is no perceivable error. If there were rents and profits to be accounted for, he should have set them up and made an issue in the pleadings, which would have warranted a decree in regard to them. The only material departure from the prayer of the bill was in making the order to deliver up the scrip conditional. From the state of the pleadings, it was a point conceded that Lincoln had the scrip, and the prayer of the bill was that he should deliver it up to be canceled. The decree should have been rendered accordingly with such further decretal order as might be necessary to enforce its observance. For this error, the decree must be set aside, and the cause remanded for further proceedings to be had according to the equitable rights of the parties, in accordance with the opinion herein delivered.