

ROBINSON *vs.* STONE.

Venue changed from Jackson to Lawrence Circuit Court—the latter court proceeded to judgment upon a transcript so defective as not to confer jurisdiction. This court reversed the judgment, and ordered the case dismissed. The court below accordingly dismissed the cause: HELD, That the party who obtained the change of venue, had a right, after dismissal, to bring a perfect transcript into the Lawrence Circuit Court, by mandamus to the clerk of Jackson, and proceed with his cause.

*Writ of Error to Lawrence Circuit Court.*

BEVENS, for the plaintiff.

FOWLER, contra.

Mr. Justice SCOTT delivered the opinion of the Court.

This cause originated in the county of Jackson, and was, by the circuit court of that county, removed to the county of Lawrence, upon an application for a change of venue. Before, however, the circuit court of the latter county had been possessed of

the cause in a manner to be authorized to exercise its jurisdiction over it rightfully, that court assumed irregularly to adjudicate the matters in controversy between the parties, and rendered final judgment, which, upon error, was reversed in this court, and this irregular proceeding remanded, and directed to be dismissed. (4 *Eng. R.* 477.) And upon the filing of the mandate of this court, that was accordingly done. (*Ib.* 474.) Two days afterwards, in accordance with the opinion of this court, as expressed on the determination of that proceeding in error, the plaintiff Robinson proceeded in the Lawrence circuit court by petition for mandamus, to have his cause brought regularly into that court, where it seems to have been afterwards regularly removed and certified, and after some progress to have been improvidently dismissed against his consent upon the motion of Stone.

Let this judgment be reversed, and the cause be remanded, with instructions to the Lawrence circuit court to proceed to hear and determine the cause.

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