MAYOR & ALDERMEN OF LITTLE ROCK *vs.* BULLOCK ET AL.

At the close of the term at which it is rendered, the judgment of a circuit court becomes final, and passes beyond the control of the court. *Smith vs. Dudley*, 2 *Ark. Rep.* 66. *Walker vs. Jefferson*, 5 *Ark. Rep.* 23. *Ashley vs. Hyde & Goodrich, ante*, 92, *cited.*

A judgment rendered at one term cannot be set aside at a subsequent term of the court, even by consent of the parties: consent cannot confer jurisdiction.

Where judgment is rendered at one term, and by consent of parties set aside at a future term of the court, and the case again determined, all the proceedings subsequent to the first judgment, are *coram non judice*, and void.

Appeal from the circuit court of Pulaski county.

THIS was an action of debt upon the official bond of the constable of the city of Little Rock, brought by the Mayor and Aldermen, against Bullock, the principal of the bond, and Field and Jeffries, securities, determined in the Pulaski circuit court, before Judge CLENDENIN.

The declaration assigned as a breach of the bond, that Bullock had failed to pay over money, which he had collected for the use of the city.

At the return term, (March, 1840,) the case was discontinued as to Bullock, judgment by default as to Field and Jeffries, writ of inquiry, damages assessed, and final judgment against them.

At the March term, 1841, Bullock and Field appeared, and moved to set aside the judgment rendered in the case at the March term, 1840, and filed a resolution of the Board of Aldermen, consenting that the judgment might be set aside, for the purpose of allowing Field to make defence. The court accordingly sustained the motion. At the September term, 1842, Field filed four pleas. The first was stricken out on motion, the plaintiffs demurred to the others, and the cause was then continued. At the May term, 1844, the demurrer was overruled. Jeffries then appeared, and, by leave of the court, made himself a party to the pleas filed by Field; the plaintiffs demurred to them as to him, and the demurrer being overruled, they took issue upon the third and fourth pleas, stood upon

their demurrer to the second, and judgment was rendered for defendants. Plaintiffs appealed.

CUMMINS, for appellants.

TRAPNALL & COCKE, contra.

OLDHAM, J., delivered the opinion of the court.

This case comes within the rule laid down in *Smith vs. Dudley, 2 Ark. Rep.* 66. *Walker vs. Jefferson,* 5 *Ark. Rep.* 23, and *Ashley vs. Hyde & Goodrich, ante,* 92. After the term at which the judgment by default, and writ of inquiry, and final judgment were rendered thereon, the cause was no longer under the jurisdiction and control of the court, or the parties. The court not having the power to re-open the cause, it could not be done by the consent of the parties, for consent cannot confer jurisdiction. All the proceedings had in this cause subsequent to the final judgment at the March term, 1840, must be considered as *coram non judice,* and therefore void. The appeal not having been taken at the term at which that judgment was rendered, the same must be dismissed.