

SAWYER vs. CRAWFORD.

In the absence of an act authorizing it, a judgment of a justice of the peace cannot be removed to the circuit court by *certiorari* for re-adjudication. *Levy vs. Lychinski*, 3 Eng. R., cited

Writ of Error to the Washington Circuit Court.

Sawyer sued Crawford before a justice of the peace of Washington county upon account, in September, 1845, and obtained judgment. Crawford removed the case into the circuit court by *certiorari*, and the judgment of the justice was quashed for irregularities.

BERTRAND & W. WALKER, for plaintiff. The only question by this court to be determined is, can the circuit court issue a writ of *certiorari* to a justice of the peace to bring up a case for re-investigation and re-adjudication? Upon the decision of this question this case must turn and be decided. We understand this court to have decided this question in the negative; and shall do no more, therefore, than to refer to the decision upon this point. *Levy vs. Lychinski*, 3 Eng. R.

The plaintiff in the court below should have appealed from the judgment of the justice of the peace. *Rev. Stat. page 515, sec. 170.*

E. H. ENGLISH, contra.

OLDHAM, J. This was a suit brought originally before a justice of the peace, and after judgment was carried into the circuit court of Washington county by certiorari. In *Levy vs. Lychinski*, decided at the last term of this court, it was held that "there is no act of the legislature by which the circuit courts are authorized to issue writs of certiorari for the purpose of obtaining jurisdiction of causes from inferior courts, and until such power shall be conferred by legislative authority, the circuit courts cannot assume or exercise it." The circuit court acquired no jurisdiction of this cause by the writ of certiorari. The judgment is therefore reversed.
