

TERM, 1866.]

Beller vs. Page.

## BELLER vs. PAGE.

The only question in this case was decided in *Hawkins vs. Filkins*, *supra*.

*Appeal from Hempstead Circuit Court.*

HON. THOMAS ELLIOTT, Circuit Judge.

YONLEY, FARRELLY & KNIGHT, for the appellant.

GALLAGHER & NEWTON, for the appellee.

Mr Justice CLENDENIN delivered the opinion of the court.

On the 18th day of November, 1862, James R. Page, as administrator of Thomas Christian, dec'd, recovered in the circuit court of Hempstead county, a judgment by *nil dicit* against Eli V. Collins, Noel G. Neal and Allen T. Beller: on the 18th day of September, 1865, an execution was issued on this judgment, returnable to the October term of said court. The execution was levied on the property of Beller. At the return term of the execution, Beller filed his petition in the circuit court, praying the court to quash the execution upon the ground that the court that rendered the judgment upon which the execution was based, "had no legal jurisdiction or existence." The court overruled the petition and refused to quash the execution, and Beller filed his bill of exceptions and appealed to this court.

The question raised by the record and bill of exceptions in this

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case, is the same as that presented by the case of *Hawkins vs. Wilkins*, decided at the present term of this court, and will be governed by it.

The judgment of the circuit court is affirmed.

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