

This right of appeal seems to have been conceded to the citizen by the common law, in all civil cases, without check, or control of any kind whatever. *Tidd Prac.* 1074. A writ of error was granted, on demand, as a matter of right; *The Regina v. Paty*, 2 *Salk.* 504; and if the appellant was at all apprehensive, that proceedings in execution of the judgment which had been so taken up by the writ of error, would not be stayed, he might, as of course, sue out a writ of supersedeas for the purpose of having all such proceedings suspended until a decision was had upon the writ of error. *Jac. L. Dic. vide Supersedeas.* The form of the writ of supersedeas, which followed, as the adjunct and auxiliary of the writ of error, was thus, "that if the judgment be not executed before the supersedeas, the sheriff is to stay from executing any process of execution until the writ of error is determined." *Meriton v. Stevens, Willis*, 281. Hence it was, and not from the quaint notion, that an execution being an entire thing which, when once begun, must be completed, that, if the *fieri *facias* had been levied, the sheriff was bound to sell the goods and bring the money into Court to abide the event of the writ of error. And this becomes the more evident on adverting to the fact, that, in many other cases, where no such special directions were given to the sheriff, the proceedings, in execution of the judgment, were intercepted and cut short at the very point at which the writ of error or supersedeas might happen to find them. *Jac. L. Dic. vide Supersedeas.* But it has been long established, that the writ of error, with an approved bond to prosecute it with effect, of itself, operates as a stay of further proceedings to the same extent, that might have been specially directed by a writ of supersedeas; which writ, owing to that, although formerly always sued out in this State, *Land. H. A.* 146, *Chan. Pro. Lib. C. D.* 368, (d) has long since become obsolete, and is now never resorted to as a mere auxiliary to a writ of error in any case whatever. 2 *Bac. Abr.* 477.

But, although the right to appeal, in civil cases at common law, was thus, for a long time, admitted to be absolute and beyond control; yet it was limited in its range to such facts as would have manifestly required a different course of proceeding and judgment, had they been made known to the Court; and to such errors in law as appeared upon the face of the record itself. And these errors in law, according to the common law mode of proceeding, could rarely be anything more than such points of law as arose

(d) A fee was formerly allowed to the Chancellor, which was afterwards directed to be paid into the treasury, for putting the great seal to a writ of error, and also a distinct fee for putting the great seal "to a supersedeas thereupon"—1763, ch. 18, s. 88; Oct. 1777, ch. 13; November, 1779, ch. 25, s. 22.