TODD, J.—The attachment to compel a performance of the decree was unavailing; and upon the return of it, the *habere facias* was issued in conformity with the practice in that state, as admitted by the counsel on both sides in the court below. It was ordered as a matter of course, and no objection was made. If this motion should prevail, it will make the writ of error operate as a *supersedeas*, contrary to the intention of the act of congress.

Motion overruled.

McKIM *v.* VOORHIES. (*a*)

Conflict of jurisdiction.

A state court has no jurisdiction to enjoin a judgment of the circuit court of the United States.[1]

THIS was a case certified from the Circuit Court for the district of Kentucky, in which the opinions of the judges were opposed.

At the July adjourned term of the court below, in the year 1808, McKim, a citizen of Maryland, recovered a judgment in ejectment against Voorhies, a citizen of Kentucky, for the undivided third part of a water-mill, with its appurtenances, in the county of Franklin, in the state of Kentucky. At the same time, Voorhies filed his bill in chancery, in the court below, against McKim, and John Instone, a citizen of Kentucky, and Hayden Edwards, a citizen of South Carolina, claiming an equitable lien on the said third part of the mill, &c., on account of contracts, &c., between Bennett Pemberton (under whom Voorhies held the premises) and Hayden Edwards and John Instone; Pemberton having *sold the said third part of the mill, &c., [*280
to Edwards, who sold to Instone, who sold and conveyed to McKim. Instone was the only defendant served with process from the court below. McKim and Instone answered the bill, and brought on a motion to dissolve the injunction on the merits, which was overruled by the court below.

At the term next preceding November term 1810 (Edwards not having answered), the court below dismissed the suit as to him; and as to Instone, for want of jurisdiction; after which, Voorhies had leave to discontinue as to McKim, on payment of costs. The suit was accordingly discontinued. Previous to this disposition of the cause, Voorhies filed his bill in chancery, against the same parties, in the state circuit court for the county of Franklin, in the state of Kentucky, in which he set up the same equity as he charged in his bill in the court below. On this bill he, by an order from one of the circuit judges of the state, obtained an injunction, staying all further proceedings on the said judgment in ejectment, until the matters of the said bill were heard in equity. This injunction was dissolved, at the July term of the Franklin circuit court; shortly after which, the said injunction was reinstated by the order of the Honorable Caleb Wallace, one

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(*a*) March 13th, 1812. Present, all the judges.

[1] City Bank *v.* Skelton, 2 Bl. C. C. 14, 26. Nor can a federal court enjoin proceedings in a state court. Diggs *v.* Walcott, 4 Cr. 179; Rogers *v.* Cincinnati, 5 McLean 337; Ex parte Dudley, 1 Clark (Pa.) 96; United States *v.* Collins, 21 Law Rep. 37; Butchers' Association *v.* Slaughter-house Co., 1 Abb. U. S. 338; Ex parte Campbell, Id. 183; Watson *v.* Jones, 13 Wall. 719.

of the judges of the court of appeals of the state of Kentucky, issued under the act of the general assembly of that state, passed at their December session, in the year 1807.

The injunction issued in the cause by the state court, and the order reinstating that injunction, were duly notified to the clerk of the court below, and official copies of each lodged in his office. On the third day of the session of the court below, at its November term 1810, McKim, by his attorney, applied to the clerk of the court below for a writ of *habere facias possessionem* on the said judgment in ejectment, but the clerk refused to issue the writ, in consequence of the injunction and orders aforesaid; whereupon, McKim, by his counsel, moved the court below to instruct and order their clerk to issue a writ of *habere facias possessionem*, on the judgment of that court, the injunction and orders aforesaid notwithstanding. Upon this motion of the plaintiff, the opinions of the judges were opposed.

*281] The case was submitted by *Harper*, for the plaintiff, *without argument. There was no appearance for the defendant.

March 14th, 1812. All the judges being present, Todd, J., stated the opinion of the court to be, that the state court had no jurisdiction to enjoin a judgment of the circuit court of the United States; and that the court below should be ordered to issue the writ of *habere facias*.

Beatty *v.* State of Maryland. (*a*)

Administration account.

A final account settled by the admininstrator with the orphans' court, is not conclusive evidence in his favor, upon the issue of *devastavit vel non*.

Error to the Circuit Court for the district of Columbia, sitting in Washington.

This was an action of debt, brought at the instance and for the use of Thomas Corcoran, against Thomas Beatty, upon the administration bond of Mrs. Doyle, administratrix with the will annexed of Alexander Doyle. The defendant was one of her sureties in that bond.

The defendant, after *oyer*, pleaded a special performance of every item in the condition of the bond. To which the plaintiff replied a judgment *de bonis testatoris* obtained by him, in May 1799, against the administratrix, *fieri facias* upon that judgment and a return of *nulla bona*. The replication also averred, that the administratrix had in her hands, at the time of the judgment, goods of her testator sufficient to satisfy the debt, but that she wasted them. The defendant took issue upon the *devastavit*.

Upon the trial of this issue, the defendant below took a bill of exception, which stated, that the plaintiff offered in evidence the record of the judgment in May 1799, against the administratrix, for $357, and the *fieri facias* returned *nulla bona*. And also the inventory which she had exhibited to the orphans' court of Montgomery county, in Maryland, in Janu-

*282] ary 1795, *amounting to 3701*l.* 2*s.* 7*d.*, Maryland currency, of which 200*l.* was stated in the inventory to be cash. Also an account of the

(*a*) March 13th, 1812. Present, all the judges.