

*JOHN S. MITCHELL, Executor and Devisee of ANDREW MITCHELL, deceased, Plaintiff in error, *v.* ROBERT LENOX and others, Defendants in error.

Judgments of state courts.

The fourth article of the constitution of the United States, which declares, that, "full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state," cannot, by any just construction of its words, be held to embrace an alleged error in a decree of a state court, asserted to be in collision with a prior decision of the same court, in the same case.

ERROR to the Court for the Correction of Errors of the state of New York.

Crittenden moved to dismiss this writ of error, on the ground that the court had no jurisdiction. This motion was opposed by the counsel for the plaintiff in error.

TANEY, Ch. J., delivered the opinion of the court.—This case is brought here by a writ of error to revise the decree of the court for the correction of errors of the state of New York. It appears, that a bill was filed in the chancery court of New York, by Andrew Mitchell, the plaintiff's testator, against Robert Lenox and others, in order to obtain an account of a certain estate of the complainant, which he alleged that he had assigned and delivered to them upon certain trusts. The defendants, among other things, insisted, that the said estate of the complainant had, afterwards, with his consent, been assigned to certain other trustees, upon the same trusts expressed in the original deed to them. It is unnecessary to state the nature of the controversy more fully, for the purposes of this motion. The bill, it seems, came to final hearing before the vice-chancellor of the first circuit of the state of New York, who dismissed the bill, without prejudice to the complainant's right to make the same defendants parties to a new bill, if he should think proper to file one against the second trustees, or the survivor of them. The complainant appealed from this decree to the chancellor, who affirmed it; and he appealed from the chancellor's decree to the court for the correction of errors, and that court affirmed the chancellor's decree.

The plaintiff's testator thereupon filed a new bill against the same defendants, in which he made the survivor of the second set of trustees also a party defendant; and upon the final hearing, this second bill was dismissed by the chancellor, and his decree was afterwards affirmed by the court for the correction of errors. It is from this last decree, that the writ of error to this court is brought.

It does not appear from the record, that any of the questions enumerated in the 25th section of the act of congress, of 1789, arose in the court of errors; and consequently, this court is not *authorized to review its ^{*50]} judgment. It has, indeed, been contended by the plaintiff in error, that the second decree is in collision with the first; and that, in this respect, it violates the first section of the fourth article of the constitution of the United States, which declares that "full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other

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state." Now, if it were admitted that the second decree is in collision with the first (which we certainly do not mean to say is the case), yet the article of the constitution above quoted cannot, by any just construction of its words, be held to embrace an error of that description, nor give this court the right to review the decree. The writ of error must, therefore, be dismissed, for want of jurisdiction.

THIS cause came on to be heard, on the transcript of the record of the court of chancery of the state of New York, returned with the writ of error in this case, and was argued by counsel: On consideration whereof, it is ordered and adjudged by this court, that this writ of error to the court of chancery of the state of New York be and the same is hereby dismissed, for the want of jurisdiction; and that this cause be and the same is hereby remanded to the said court of chancery.

*FRANCIS WEST and others, Appellants, *v.* WALTER BRASHEAR, [*51 Appellee.

Mandate.

The mandate of the supreme court to the circuit court must be its guide in executing the judgment or decree on which it issued; the mandate is the judgment of the supreme court, transmitted to the circuit court; and where the direction contained in it is precise and unambiguous, it is the duty of the circuit court to carry it into execution, and not to look elsewhere for authority to change its meaning. But when the circuit court are referred to testimony to ascertain the amount to be decreed, and are authorized to take more evidence on the point, it may sometimes happen, that there will be some uncertainty and ambiguity in the mandate; and in such a case, the court below have unquestionably the right to resort to the opinion of the supreme court, delivered at the time of the decree, in order to assist them in expounding it.

APPEAL from the Circuit Court of Kentucky. This case was before the court on appeals by both the parties; and the proceedings and decision on the case are reported in 7 Pet. 608.

The proceedings in the circuit court of Kentucky, subsequent to the mandate issued from the supreme court, were the only matters in controversy on this appeal. The mandate of the supreme court was as follows:

"Whereas, lately, in the circuit court of the United States for the district of Kentucky, before you or some of you, in a cause between Walter Brashear, complainant, and Francis West and John Lapsley, and Samuel Mifflin and Henry Nixon, trustees of said West, and Thomas M. Willing and Henry Nixon, executors of John Nixon, deceased, defendants in chancery, the decree of the said circuit court was in the following words, to wit: 'It is the opinion of the court, that the complainant is, in equity, entitled to a credit or set-off against the judgments at law obtained against him in the name of West, for the sum of \$4011.68, being the amount of the judgment obtained against the complainant, as special bail for West, by George Anderson; but the complainant is not entitled to any of the other credits or set-offs claimed in his bill, and amended bill. It is, therefore, decreed and ordered, that the said \$4011.68, or so much thereof as will extinguish the same, shall be and is hereby credited and set off as payment, on the 22d of October 1810, against the judgment at law, not against or not