

LOGAN v. PATRICK.

Equity jurisdiction.—Injunction.

The circuit court has jurisdiction, in a suit in equity, to stay proceedings upon a judgment at law between the same parties, although the *subpoena* be served upon the defendant out of the district in which the court sits.¹

THIS was a case certified from the Circuit Court for the 7th circuit and district of Kentucky, in which the judges below differed in opinion upon the following questions :

Whether the complainant (Logan), who is a citizen of the state of Kentucky, and is so stated in the pleadings, can maintain this suit, in this court, against the defendant, who is a citizen and inhabitant of the state of Virginia, and is so stated in the pleadings, upon the following case : John Patrick obtained in this court a judgment in ejectment against David Logan, who filed a bill in equity against him, to be relieved against the judgment, and to compel a conveyance of the land, and obtained an injunction to stay proceedings on the judgment ; but the *subpoena* was not served in the district of Kentucky. Can this court entertain jurisdiction of the cause ? If not, does the defendant's answering the bill, without insisting upon the objection that the process was not served upon him in the district of Kentucky, authorize the court to entertain the cause ?

THE COURT, upon the first opening of the case, *said, there could ^{*289]} be no doubt of the jurisdiction of the court below, and ordered it to be certified accordingly.

RADFORD v. CRAIG.

Dismissal of writ of error.

If the counsel on neither side appear, when the cause is called, the writ of error will be dismissed.

No appearance having been entered on the docket for either party in this cause, no counsel appearing, the court ordered both parties to be called, and neither of them appearing, the court ordered the writ of error to be dismissed.

The same order was made in the cases of *Banks v. Bastrop*, *Tompkins v. Tompkins*, and *Buchanan v. Yeates*.

¹ *S. P. Dunlap v. Stetson*, 4 *Mason* 349. And see *Dunn v. Clarke*, 8 *Pet.* 1; *Freeman v. Howe*, 24 *How.* 451; *St. Luke's Hospital*

v. Barclay, 3 *Bl. C. C.* 259; *Jones v. Andrews*, 10 *Wall.* 327; *O'Brien County v. Brown*, 1 *Dill.* 588.