VAUGHAN ET AL. V. NORTHROP.

Case No. 16,899.

{5 Cranch, C. C. 496.}[1]

Circuit Court, District of Columbia. Nov. Term, 1838.[2]

FOREIGN ADMINISTRATORS—ASSETS WITHIN JURISDICTION—ACCOUNTING.

1. An administrator appointed in Kentucky, who has received, in the District of Columbia, money belonging to the estate of his intestate, cannot by a bill in equity be compelled to account for and distribute the same to the nest of kin, citizens of, and residing in Virginia, although the administrator should be found in the District of Columbia.

2. Quære, whether a foreign administrator can be sued, as such, and held to account in the District of Columbia, for assets there received.

The bill in equity in this cause, stated that the plaintiffs, {James Moody Vaughan and others,} all of Virginia, are the lawful and only children of Catharine Moody, deceased, who intermarried with their father, and who was the only child, next of kin, and heir of James Moody, who, in 1802, died intestate in Payette county in Kentucky; and that the plaintiffs are his only next of kin and legal heirs and distributees, and that he left no widow. That the defendant Henry Northrop, obtained letters of administration of his estate in Kentucky, and received assets more than sufficient to pay all his debts and funeral expenses, &c. and particularly, that he received, in the District of Columbia, at least $5,200 from the United States, under the act of congress of July 5, 1832 (4 St. 563), for military services of the said James Moody, in the Revolutionary War, in the naval or military service of the state of Virginia, and that the plaintiffs, by the said act of congress, are entitled to receive the same, as next of kin to the said James Moody, but the said defendant Northrop refuses to account to the plaintiffs for the same; and confederating with Benjamin Moody, and twenty-one others, defendants, (naming them,) all of Kentucky, and two of Maryland, (also naming them,) denies that the plaintiffs are, but affirms that the defendants (except Northrop) are, the next of kin of the said James Moody, and that he has accounted with them therefor, and the plaintiffs charge that the claim of the defendants is fraudulent and against conscience, and pray that an account may be taken of the personal estate of the said James Moody, which came, or ought to have come to the hands and possession of the defendant Northrop, as administrator, and of the debts, funeral expenses, &c., and that the residue, after paying all legal charges and just debts, may be ascertained and distributed among all the plaintiffs as next of kin of the said intestate. The defendant Northrop, in his answer, excepts to the jurisdiction of the court, and prays that his exception may avail him as if he had demurred to the same; and the cause was heard as upon demurrer, and argued by R. S. Coxe, for the defendant, and B. J. Brent, for the plaintiffs. Mr. Coxe, for the defendant, contended that a foreign administrator cannot be compelled to account here. Neither the laws of Kentucky, nor the laws of the District of

Columbia, can be carried into effect here against a Kentucky administrator. He has given his bond to account there, and there only. The act of congress of the 24th June, 1812, § 11 (2 Stat. 755), which enables administrators appointed in the states and territories of the United States to sue here, does not oblige foreign administrators to account here; and no suit can be maintained against them here as administrators. Chancellor Kent has decided that the courts of New York cannot hold jurisdiction against a foreign executor or administrator. Morrell v. Dickey, 1 Johns. Ch. 153; Doolittle v. Lewis, 7 Johns. Ch. 45; Sears v. Fenwick, 1 Cranch {5 U. S.} 259; Champlin v. Tilley, 3 Day, 303; Story, Confl. Laws, 422, §§ 513, 514.

R. J. Brent, for plaintiffs.

The administrator is liable in Kentucky, for assets received there only. He is liable to account here for assets received here. Bryan v. McGee, Coxe, Dig. 16, § 54; Id. {Case No. 2,066}; Penn v. Lord Baltimore, referred to in Carroll v. Lee, 3 Gill & J. 509; Freeman v. Fairlie, 3 Mer. 24, 45; 8 Com. Dig.; Sandilands v. Innes, 3 Sim. 263; Story, Confl. Laws, 515; Story, Eq. Jur. 505, 507; 4 Ves. 73. A trustee is liable to account wherever found. Massie v. Watts, 6 Cranch {10 U. S.} 148. The act of congress of the 27th of February, 1801 (2 Stat. 103), gives this court jurisdiction in all cases where either of the parties is found here.

Mr. Coxe, in reply.

This court has not jurisdiction of every case in which one of the parties is found here; but it is necessary to the jurisdiction of this court that one of the parties should be found here. It is a limitation, not an extension, of the jurisdiction. The India cases do not apply. Where there are bona notabilia in divers dioceses, administration must be obtained from the provincial prerogative court, but they are all under one allegiance, and one jurisdiction. Godol. 71; Trecothick v. Austin {Case No. 14,164}. The money must be remitted to Kentucky, to be administered there. Pratt v. Northam {Id. 11,376}; Harvey v. Richards {Id. 6,184}.

THE COURT (nem. con.) was of opinion, that as the defendant's intestate died in Kentucky, and the defendant's letters of administration were granted in Kentucky; as the complainants resided in Virginia, and all the defendants in Kentucky, this court had not, or if it had, ought not to assume jurisdiction

in this case, although the administrator received the money here in 1833, and was found here in 1837.

Bill dismissed, with costs.

{Upon being taken to the supreme court on appeal, the decree of this court was affirmed, with costs. 15 Pet (40 U. S.) 1.}

[1] {Reported by Hon. William Cranch, Chief Judge.}

[2] {Affirmed in 15 Pet. (40 U. S.) 1.}