CONFLICTS OF JURISDICTION.

Carefully as the relations of the State and Federal Judiciary are adjusted, an occasional collision between their respective procedures cannot fail to occur. Our government, however perfect, has still, like the most skillfully constructed machinery, its points of friction. Fortunately, however, these conflicts of jurisdiction are of little danger to the harmony of the system, for neither tribunal, however vigorous in the maintenance of the rights of its suitors, has ever shown itself jealous of the jurisdiction of the other, or eager to establish an imaginary precedence of its own. Such a precedence, indeed, had no foundation in theory or in fact. The Federal and State Courts are but co-ordinate branches of the same general judicature, different in sphere, but equal in origin and dignity. And lawyers and laymen throughout the country, have ever had the same home feeling towards both, and have regarded their decisions and process with an equal respect and confidence. The division of the judiciary has proved, in fact, only another source of pride to us, by showing that the Union is fertile enough in talent to adorn the bench of both Courts with an unvarying series of Judges of lofty integrity and profound learning.
Yet this very equality of dignity and right often renders it hard to determine with exactness the occasions on which the process of one is to yield before that of the other. The rule that in cases of concurrent jurisdiction, that tribunal which first takes possession of a cause must hold it exclusively, solves in practice many difficulties. But there are often cases where, from the subject matter of the suit, or the effect of some constitutional provision, the Court whose machinery has not been the first set in motion, is, nevertheless, the more appropriate forum. Thus it is held that proceedings under a Bankrupt Law of the United States, are necessarily exclusive of similar proceedings in State Courts. So in a matter within the special cognizance of one of these tribunals, the effect of a habeas corpus issued out of the other will be disregarded. Nor is this a characteristic of our peculiar system alone. The division of law and equity in England and this country daily produces similar results. The courts of common law still remain ignorant of equitable rights and liens, and refuse to recognize their existence; while Chancery, disregarding the procedure of the former, annuls its effect in favor of trusts and equities of its own creation. Even the fact that the remedies of the one are more convenient and complete, as under the head of account, is sufficient to destroy the advantage of an accidental priority of time in the other. However simple and easy of application, therefore, the general principle with regard to concurrent jurisdictions, may be, in order to bring any case within its operation, it must always be first determined whether these jurisdictions are, in so far, identical in their nature, authority and extent. This is often a matter of grave difficulty and doubt.

A very important question of this character has recently arisen in Pennsylvania, upon which Judges of the United States and State Courts, have very materially differed in opinion. A vessel which had been previously seized by a foreign attachment out of the State Court, was libelled in Admiralty in that District for wages. A petition for an interlocutory order of sale was presented, which was granted. Judge Kane sustained the jurisdiction of Admiralty on the ground that the lien for wages being a paramount claim, was not affected by the proceedings in foreign attachment,
and therefore could be enforced at any time, whatever might be the result of such proceedings. The same vessel was also sold about the same time under an interlocutory order in the attachment suit. The Sheriff's vendee under this last sale thereupon brought an action of replevin against the vendee of the Marshal for the recovery of the ship, which coming to be tried, was determined in favor of the former, under the charge of the Court, which elaborately and ably sustained the original and exclusive jurisdiction of the Pennsylvania Court in the first instance. We have prepared for our readers the reports of the opinions of both of the learned Judges in this matter; that of Judge Kane, though not very recent in date, having never been published before. It may be remarked here, that Judge Grier, of the Supreme Court of the United States, when a subsequent branch of the same case was before him, held the same doctrine as the District Judge.  

Without entering into any consideration of the weight of the arguments on either side of this controversy, to which others are far more competent, it will be sufficient at present to indicate briefly the principal points on which the two Courts are at variance. This question is, in reality, as to the nature of maritime liens and the extent to which they may be dealt with by a common law Court. For it is clear that proceedings in foreign attachment, for instance, would have the effect of preventing the enforcement of such claims only when the property in suit is turned into money. If bail were given by the defendant or garnishee, and the vessel released, she would still be liable to seamen and others as before. Now the principle that a judicial sale divests liens and incumbrances, is obviously applicable only to such of these as are capable of being enforced against the fund so produced, and in the Court where the sale takes place. Are what are called maritime liens of that nature? In England they are clearly not, because the common law knows of no liens on personal property apart from possession, and it gives, moreover, no means of enforcing them judicially, if it did so recognize their existence: Maritime liens are in fact only the creatures of

1Taylor vs. The Royal Saxón, 1 Wall. jr. 323.