

Syllabus.

ing, either statutory or at law or in equity, to bring in, by publication or other substituted service, non-resident defendants interested in or having a lien upon property lying within its territorial jurisdiction, but is not required to place the proof of service upon the record, and the court orders such substituted service, it will be presumed in favor of the jurisdiction that service was made as ordered, although no evidence thereof appears of record; and the judgment of the court, so far as it affects such property, will be valid. The case of *Galpin v. Page*, 18 Wall. 350, cited by counsel for defendant, is not in conflict with this proposition. The judgment set up on one side and attacked on the other in that case was rendered on service by publication. The law permitted service to be made by publication only where certain facts were made to appear to the satisfaction of the court, and the court by a precedent order, which must necessarily appear of record, authorized service to be made by publication. But the record showed no such order, and the publication, therefore, was the unauthorized act of the party, and appeared affirmatively to be invalid and ineffectual. See also *Pennoyer v. Neff*, 95 U. S. 714, 727, 734.

It results from the views we have expressed, that

The judgment of the Circuit Court of Kentucky must be reversed and the cause remanded, with directions to grant a new trial.

BOARDMAN v. TOFFEY.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY.

Argued March 11, 1886.—Decided March 15, 1886.

If the trial below is by the court without a jury, and the findings of facts are general, only such rulings of the court in the progress of the trial can be reviewed as are presented by a bill of exceptions.

The case is stated in the opinion of the court.

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Mr. James B. Vredenburg for plaintiff in error submitted on his brief.

Mr. Preston Stevenson for defendant in error.

MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

This judgment is affirmed. The trial was by the court without a jury and there is no special finding of facts. The only questions presented by the bill of exceptions which we can consider are those which relate to the refusal of the court to allow certain interrogatories to be put to witnesses on the stand, and in these we find no error. The general finding prevents all inquiry by us into the special facts and conclusions of law on which that finding rests. *Norris v. Jackson*, 9 Wall. 125; *Cooper v. Omohundro*, 19 Wall. 65, 69; *Martinton v. Fairbanks*, 112 U. S. 670, 673.

Affirmed.

JEFFERSON, Trustee, *v.* DRIVER, Administrator, &
Another.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE
EASTERN DISTRICT OF ARKANSAS.

Submitted March 1, 1886.—Decided March 15, 1886.

A removal of a cause from a State court on the ground of local prejudice can only be had where all the parties to the suit on one side are citizens of different States from those on the other.

The provision as to the removal of a separable controversy under the second subdivision of Rev. Stat. § 639 has no application to removals under the third subdivision; and the similar provision in the act of March 3, 1875, applies only to removals under that act.

A purchaser *pendente lite* of real estate who becomes party to the suit is subject to the disabilities of the parties at the time he comes in, in respect of removing the cause from a State court to a Circuit Court of the United States.

The case is stated in the opinion of the court.