As to the residue of the decree, amounting to $576,707.92, founded on the judgments recovered against persons in possession of various portions of the property, claiming under sales made by the city of New Orleans, whilst those persons would have been proper parties to the suit, in order that it might appear that the sums recovered against them had not been released or compromised for less amounts than the face of the judgments, and that they might be bound by the decree, still, as the objection of want of parties was not specifically made, and as it would be a great hardship on all the parties concerned to have to begin this litigation over again, we do not think that the bill should be dismissed on that ground, but that the said sum of $576,707.92 should be allowed to the complainant, with interest thereon, as provided in the decree of the Circuit Court, subject, however, to the qualification that if the defendant can show that any of the said judgments have been compromised and settled for any less sums than the face thereof, with interest, the defendant should be entitled to the benefit of a corresponding reduction in the decree; and a reasonable time should be allowed for the purpose of showing such compromises if any have been made.

The result is that the decree of the Circuit Court must be

Reversed and the cause remanded, with instructions to enter a decree in conformity with this opinion.

The Chief Justice and Mr. Justice Lamar were not members of the court when this case was argued, and took no part in its decision.

New Orleans v. *United States ex rel.: Gaines's Administrators; New Orleans* v. *United States ex rel.: Gaines's Administrators.* Appeals from and in error to the Circuit Court of the United States for the Eastern District of Louisiana. Nos. 2, 3. Argued October 13, 14, 1887. Decided May 13, 1889. Mr. Justice Bradley delivered the opinion of the court. The decision just made in the case of *The City of New Orleans* v. *Myra Clark Gaines* renders it necessary that the judgment or decree in this case should be reversed, and

Counsel for Parties.

it is reversed accordingly, and the cause remanded with instructions to dismiss the petition.

Reversed.

Mr. Henry C. Miller and *Mr. J. R. Beckwith* for appellant. *Mr. John A. Campbell, Mr. Thomas J. Semmes* and *Mr. Alfred Goldthwaite* for appellees.

HOLLON PARKER, Petitioner.

ORIGINAL.

No. 5. Original. Submitted April 26, 1889. — Decided May 13, 1889.

An appeal taken from the judgment of a District Court in Washington Territory to the Supreme Court, under the territorial act of November 23, 1883, in relation to the removal of causes to the Supreme Court, is a matter of right, if taken within the prescribed time, and no notice of intention to take it need be given.

Rights, under our system of law and procedure, do not rest in the discretionary authority of any officer, judicial or otherwise.

The chambers of a district judge of Washington Territory, who is also a judge of the Supreme Court of the Territory, may be held whilst he is in attendance upon the Supreme Court at the place where such court is sitting, although it be without the territorial limits of his district, and at such chambers he may receive notice of an appeal from a judgment rendered by him within his district.

Mandamus lies where an inferior court refuses to take jurisdiction, when by law it ought to do so, or when, having obtained jurisdiction, it refuses to proceed in its exercise. *Ex parte Brown*, 116 U. S. 401, distinguished.

A writ of mandamus to correct a mistake of an inferior court as to its jurisdiction may issue to the court and to its judges, although the court is composed of different members from those by whom the error complained of was commiited.

Petition for a writ of mandamus. The case is stated in the opinion.

Mr. John H. Mitchell for the petitioner.

Mr. W. W. Upton, Mr. C. B. Upton, Mr. John B. Allen, Mr. B. L. Sharpstein and *Mr. J. L. Sharpstein* opposing.