no small difficulty. The case was argued at a time when there were six judges on the bench; at the time of the decision, there were but five judges living who had heard the cause; of these five, three were against the demandant, upon the construction of the will, being a minority of the whole court. Under these circumstances, as counsel for the demandant, in a foreign country, the counsel feel it their duty to ask for a re-argument; the more particularly, as it appears from an affidavit now submitted to the court, that a sister of the demandant, who is now and long has been a *feme covert*, in case of a decision, upon the construction of the will, in favor of the demandant, is not subject to the disability of alienism, and may, therefore, maintain a suit to recover the property in dispute.

Wirt objected to the re-argument, alleging, that should it be allowed, it would establish a precedent, which would render every decision of the court uncertain; and incumber the court with heavier duties than it could perform. It was without example, in the whole course of the court since its organization.

*Marshall, Ch. J., delivered the opinion of the court.—The court have considered the application for a re-argument in this case. It must be a very strong case, indeed, to induce them to order a re-argument in any of the causes which have been once argued and decided in this court. The present case has been very fully considered, and the court cannot perceive any ground, in the present application, to induce them to consent to the motion. It is, therefore, overruled. [*192

Ex parte Tobias Watkins. [*193

Habeas corpus.—Criminal jurisdiction.

A petition was presented by Tobias Watkins for a *habeas corpus*, for the purpose of inquiring into the legality of his confinement in the jail of the county of Washington, by virtue of a judgment of the circuit court of the United States of the district of Columbia, rendered in a criminal prosecution instituted against him in that court; the petitioner alleged that the indictments under which he was convicted and sentenced to imprisonment, charged no offence for which he was punishable in that court, or of which that court could take cognisance; and, consequently, that the proceedings were *coram non judice*.

The supreme court has no jurisdiction in criminal cases, which could reverse or affirm a judgment rendered in the circuit court in such a case, where the record is brought up directly by writ of error. p. 201.

The power of this court to award writs of *habeas corpus* is conferred expressly on this court, by the 14th section of the judiciary act, and has been repeatedly exercised; no doubt exists respecting the power.

No law of the United States prescribes the case in which this great writ shall be issued, nor the power of the court over the party brought up by it; the term used in the constitution is one which is well understood, and the judiciary act authorizes the court, and all the courts of the United States, and the judges thereof, to issue the writ "for the purpose of inquiring into the cause of commitment." p. 201.

The nature and powers of the writ of *habeas corpus*. p. 202.

A judgment, in its nature, concludes the subject on which it is rendered, and pronounces the law of the case; the judgment of a court of record, whose jurisdiction is final, is as conclusive on

all the world, as the judgment of this court would be; it is as conclusive on this court as on other courts; it puts an end to inquiry concerning the fact, by deciding it.[1] p. 202.

With what propriety can this court look into an indictment found in the circuit court, and which has passed into judgment before that court? We have no power to examine the proceedings on a writ of error, and it would be strange, if, under color of a writ to liberate an individual from an unlawful imprisonment, the court could substantially reverse a judgment which the law has placed beyond its control; an imprisonment under a judgment cannot be unlawful, unless that judgment be an absolute nullity; and it is not a nullity, if the court has general jurisdiction of the subject, although it should be erroneous. p. 203.

The circuit court for the district of Columbia is a court of record, having general jurisdiction over criminal cases; an offence cognisable in any court, is cognisable in that court. p. 203.

If the offence be punishable by law, that court is competent to inflict the punishment; the judgment of such a tribunal has all the obligation which the judgment of any tribunal can have; to determine whether the offence charged in the indictment be legally punishable or not, is among the most unquestionable of its powers and duties; the decision of this question is the exercise of its jurisdiction, whether its judgment be for or against the prisoner; the judgment
*194] is equally binding in one case and in the other, and must remain in *full force, unless reversed regularly by a superior court, capable of reversing it; if this judgment be obligatory, no court can ever look behind it. p. 203.

Had any offence against the laws of the United States been in fact commmitted, the circuit court for the district of Columbia could take cognisance of it; the question whether any offence was committed, or was not committed; that is, whether the indictment did or did not show that an offence had been committed, was a question which this court was competent to decide; if its judgment was erroneous, a point which this court does not determine, still it is a judgment; and until reversed, cannot be disregarded. p. 203.

It is universally understood, that the judgments of the courts of the United States, although their jurisdiction be not shown on the pleadings, are yet binding on all the world, and that this apparent want of jurisdiction can avail the party only on a writ of error; the judgment of the circuit court in a criminal case is, of itself, evidence of its own legality, and requires for its support no inspection of the indictment on which it is founded; the law trusts that court with the whole subject, and has not confided to this court the power of revising its decisions; this court cannot usurp that power, by the instrumentality of a writ of *habeas corpus*; the judgment informs us, that the commitment is legal, and with that information, it is our duty to be satisfied. p. 207.

The cases of the United States *v.* Hamilton, 3 Dall. 17; *Ex parte* Burford, 3 Cranch 447; *Ex parte* Bollman, 4 Ibid. 75 and, *Ex parte* Kearney, 7 Wheat. 39, examined. p. 207.

This case came before the court on a petition for a *habeas corpus*, on the relation of Tobias Watkins, setting forth, that at May term 1829, of the circuit court of the district of Columbia, in the county of Washington, certain presentments were found against him; upon three of which trials were had,

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[1] Ex parte Callicot, 8 Bl. C. C. 89, 91.

[2] Whether a matter for which a party is indicted in a district court, be, or be not, a crime against the laws of the United States is a question within the jurisdiction of that court, which it must decide; its decision will not be reviewed by *habeas corpus*. *Ex parte* Parks, 93 U. S. 18. A *habeas corpus* cannot be made to perform the functions of a writ of error; to warrant the discharge of the petitioner, the sentence under which he is held, must be, not merely erroneous, but absolutely void. *Ex parte* Reed, 100 Id. 23. But where the conviction is under an unconstitutional act, the party may be relieved by *habeas corpus*. *Ex parte* Siebold, Id. 371. So, where the sentence is void, in part, as where a court has imposed a fine *and* imprisonment, where the statute only confers power to punish by fine *or* imprisonment, and the fine has been paid, the defendant may be discharged from the latter part of the sentence, by *habeas corpus*. *Ex parte* Lange, 18 Wall. 163. In this last case, the defendant subsequently brought an action in the state court, against the district judge, for false imprisonment; but the court held, that the judge was not liable for a judicial act, in a matter within his jurisdiction, though in excess thereof. Lange *v.* Benedict, 73 N. Y. 12. And the supreme court declined to review the judgment, as not presenting a federal question. Lange *v.* Benedict, 99 U. S. 68.

and verdicts passed against him ; upon which judgments were pronounced, purporting to condemn him to the payment of certain pecuniary fines and costs, and certain terms of imprisonment, for the supposed offences therein. For the nature and terms of the indictments, and of the convictions and judgments thereon, the petition referred to the same. Copies and exemplifications of the records of the proceedings were annexed to the petition.

The petition proceeded to state, that, immediately on the rendition of the judgments, and in the pretended pursuance and execution of the same, the petitioner was, on the 14th of August 1829, committed to the common jail of Washington county, in which he had since been confined, under color and pretence of the authority, force and effect of the said indictments ; that he was well advised by counsel, that the said convictions and judgments were illegal and wholly void, upon *their face, and gave no valid authority or warrant whatever for his commitment and imprisonment ; that the [*195 indictments did not, nor did any one of them, charge or import any offence at common law whatever, cognisable in the course of criminal judicature, and especially, no offence cognisable or punishable by the said circuit court ; and that his imprisonment was wholly unjust, and without any lawful ground, warrant or authority whatever.

The petitioner prayed the benefit of the writ of *habeas corpus*, to be directed to the marshal of the district of Columbia, in whose custody, as keeper of the jail of the district, the petitioner was, commanding him to bring the body of the petitioner before the court, with the cause of his commitment ; and especially, commanding him to return with the writ, the record of the proceedings upon the indictments, with the judgments thereupon ; and to certify whether the petitioner were not actually imprisoned by the supposed authority, and in virtue of the said judgments.

The first indictment referred to in the petition, charged the petitioner, as fourth auditor of the treasury of the United States, and as such having assigned to him the keeping of the accounts of the receipts and expenditures of the public moneys of the United States in regard to the navy department, with having obtained for his private use, the sum of $750, the money of the United States, by means of a draft for that sum on the navy-agent of the United States, at New York, which draft was drawn by him, in the city of Washington, in favor of C. S. Fowler, on the navy-agent at New York, and negotiated in the city of Washington, on the 16th of January 1828 ; the said sum of money having been by him represented to the secretary of the navy as required by the navy-agent, for the uses of the United States, and so represented in a requisition made to the navy-agent for a warrant on the treasury of the United States for the amount of the draft, with other sums included in the requisition.

The second indictment charged the petitioner with having received from the navy-agent of the United States, at New York, the sum of $300, money of the United *States, by means of fraudulent misrepresenta- [*196 tions made to the navy-agent, contained in a letter addressed to him on the 8th of October 1827, in which it was falsely stated, that the said sum of $300 was required for the use of the United States ; and that the same was so obtained from the navy-agent, by a draft on him, in favor of C. S. Fowler, by whom the money was paid to the petitioner, on his having negotiated the draft.

The third indictment charged the petitioner with having procured to be drawn from the treasury of the United States, the sum of $2000, by means of a requisition from the secretary of the navy; a blank requisition left by that officer in his department having, on the representation of the petitioner, that the same was required for the public service by the navy-agent at Boston, been filled up for this purpose; and for which he drew and negotiated drafts, in the city of Washington, at different times, in favor of C. S. Fowler, in different sums, amounting to $2000, and appropriated the same to his own use.

Jones and *Coxe* moved for a rule on the United States, to show cause why a *habeas corpus* should not issue, and proposed that the argument should take place, on the motion, upon all the points involved in the case. *Berrien*, Attorney-General, objected to an argument on the motion. He stated, that he was prepared to go into the argument, on the return of the rule, but was not willing to do so on the motion. The counsel for the petitioner observed, that in *Kearney's Case*, 7 Wheat. 38, the argument took place on the motion; and as, in this case, the petition brought up the indictments and the judgments of the circuit court, the whole matter was now fully before the court.

Marshall, Ch. J., said, that the counsel for the petitioner and the attorney-general might arrange among themselves as they thought proper, when the argument should come on, either on the motion or the return. This not having been done, the rule was awarded, returnable on the following motion-day.

*197] *On the return of the rule, *Coxe* and *Jones*, for the petitioner, contended, that no offence was charged in the indictments, which was within the jurisdiction of the circuit court for the county of Washington, and therefore, all the proceedings of that court were nullities and void. 1. All proceedings of a court, beyond its jurisdiction, are void. *Wise* v. *Withers*, 3 Cranch 331, *Rose* v. *Himely*, 4 Ibid, 241, 268, 552; *Doe* v. *Harden*, 1 Paine 55, 58, 59. 2. In a case where a court acting beyond its jurisdiction has committed a party to prison, a *habeas corpus* is the proper remedy, and affords the means of trying the question. 3 Cranch 448; *Bollman* v. *Swartwout*, 4 Ibid. 75; *Kearney's Case*, 7 Wheat. 38. 3. The writ does not issue of course, but the party must show that he is imprisoned by a court having no jurisdiction. 1 Chit. Crim. Law 124–5; 7 Wheat. 38. A *habeas corpus* is a proper remedy for revising the proceedings of a court in a criminal case. 1 Chitty's Crim. Law 180.

It was argued for the petitioner, that it had been decided in many cases, that a writ of *habeas corpus* may issue, so as to make its action equivalent to that of a writ of error. 1 Chit. Crim. Law 180. The circuit court is a court of general criminal jurisdiction, in cases within the local law, and within the law of Maryland. What is the effect of the clause of the act of congress establishing this court? It is to give it cognisance of "all offences;" but this does not mean that extraordinary powers are given to make new offences, and to punish all acts deemed offences. Offences are the violations of known and established local laws. The statute means offences against the laws of the United States in their sovereignty,

and against the local laws of the district. For the purposes of this inquiry, it is immaterial, whether the circuit court is or is not of limited jurisdiction. However extended its jurisdiction may be, it has defined limits, and these restrain it. Suppose, the court should entertain jurisdiction of cases *certainly not criminal, would not a decision in such a case be a nullity? As if, on the face of an indictment, an act which is of a civil nature should be made criminal. The court is limited to offences committed within its jurisdiction. Should it take cognisance of an act done in England, would not this court interfere?

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It is admitted, that the judgment of a court of competent jurisdiction is conclusive, when the case is one properly submitted to the operation of that jurisdiction. But it is not sufficient to say, that its jurisdiction is general; it should also appear, it had jurisdiction of the offence charged. *Himely* v. *Rose*, 5 Cranch 313; *Griffith* v. *Frazier*, 8 Ibid. 9. It is asked, whether this court will look into any criminal case which has passed under the judgment of the circuit court. Suppose, a sentence imposed, not authorized by law; would not this court interfere by its writ of *habeas corpus?*

It is not contended, that every excess of jurisdiction is within the principle claimed. There is a difference between a rule which is reasonable, and that which goes into extravagance. It may not be defined, but it can be felt; and this is a case where this rule can apply. The position that the decision of an inferior court of the United States, in a criminal case, cannot be inquired into, unless there is an appellate jurisdiction in such cases, goes too far; and runs into the *argumentum in absurdum.* In all the cases which have come before this court, in which a writ a *habeas corpus* has been applied for, the decision has been in favor of the jurisdiction. There has been enough shown here in this preliminary question, to authorize the writ, as the only inquiry is, whether the judgment of the circuit court is conclusive upon all matters before the court.

The counsel for the petitioner proceeded to argue at large, upon authorities, that the offences charged in the indictments were not cognisable in the circuit court. As this point was not noticed in the opinion of the court, the argument is omitted. They cited 7 Cranch 32; 1 Wheat. 415; 1 Gallis. *488; 2 East 814; 2 Maule & Selw. 378; 4 Wheat. 405, 424, 430, 410, 416, 427; 1 Cranch 164.

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The *Attorney General* denied, that it was competent for this court to revise the proceedings of the circuit court in a criminal case, or to award a *habeas corpus* to bring into revision such proceedings. No such case was to be found, since the organization of the court; and as writs of error and appeals are expressly limited to cases which are not criminal, the issuing of such a writ, and for such a purpose, would be contrary to law. He contended, that the case of *Bollman and Swartwout* was not an authority for the claim of the petitioner. That was a case of bail, and not a case in which the judgment of a court had passed. In *Kearney's Case*, the writ of *habeas corpus* was refused; the petitioner being in confinement for contempt, which was considered equivalent to a sentence of the court.

It is now to be decided, in the case before the court, whether they will, through the means of a *habeas corpus*, revise the sentence of an inferior court, in a criminal case, so as to determine whether it had jurisdiction of

the offence charged in an indictment found in that court. The petition asserts: 1. That no offence is charged in the indictment, cognisable by the law of Maryland. 2. That no offence is charged which is cognisable by the laws of the United States.

As to the first, if it is competent to this court to examine the point, the whole case of the petitioner is open, as the circuit court is said to have erred in deciding that the offence was cognisable by it. The circuit court of the district of Columbia has jurisdiction, such as is possessed by all other circuit courts of the United States; and it has also general jurisdiction of offences committed in the district. In the legitimate exercise of this jurisdiction to decide what is an offence, it is said to have exceeded its jurisdiction. By what authority can this decision of a court of general final criminal jurisdiction be re-examined here? The court below has decided, that the facts
*200] of the case amount to a fraud on the *government, committed by false pretences. It may be, they have erred in their judgment; but the error cannot be revised here. They have jurisdiction to decide that the offence was committed in the district, and they have so decided. The power of the court is, 1.: To try the offender. 2. To determine what the offence is. 3. To punish after conviction. These are exclusive and final powers.

There is no power or authority in this court to re-examine a decision of a circuit court, as to its jurisdiction in a criminal case. The proposition that the decisions of a court, in a case beyond its jurisdiction, are void, although true in the abstract, is practically false. Such decisions must stand, unless there is power in another court to reverse them. The truth of this is maintained in civil as well as criminal cases. It must appear, that there is jurisdiction in a superior court to award a writ of error, or a *habeas corpus*, which may bring up the question; not alone that the judgment of the court was erroneous.

If this court possesses such powers, it must be derived from one of three sources: 1. From the act of congress appropriating and regulating the powers of this court. No powers are given by the act, to revise the proceedings of the circuit court in criminal cases. 2. From the powers of this court, as the supreme court, to exercise supervision over all inferior courts. In the case of *Bollman and Swartwout*, the court have said they have no such powers. 3. Can those powers be derived from the power to issue writs of *habeas corpus*, and by this to revise the judgments of inferior judicatures exercising criminal jurisdiction? Congress have carefully guarded against this: they have given appellate powers in civil, admiralty and maritime cases, and have refused them in criminal cases. It cannot be supposed, that when thus refused, they can be exerted under the writ of *habeas corpus*, which this court is authorized to issue. There are many cases for the employment of this writ, without claiming for it the rights asserted to belong to it by the counsel for the petitioner.

*201] *Marshall, Ch. J., delivered the opinion of the court.—This is a petition for a writ of *habeas corpus* to bring the body of Tobias Watkins before this court, for the purpose of inquiring into the legality of his confinement in jail. The petition states that he is detained in prison, by virtue of a judgment of the circuit court of the United States, for the county of

Washington, in the district of Columbia, rendered in a criminal prosecution carried on against him in that court. A copy of the indictment and judgment is annexed to the petition, and the motion is founded on the allegation, that the indictment charges no offence for which the prisoner was punishable in that court, or of which that court could take cognisance; and consequently, that the proceedings are *coram non judice*, and totally void.

This application is made to a court which has no jurisdiction in criminal cases (3 Cranch 169); which could not revise this judgment; could not reverse or affirm it, were the record brought up directly by writ of error. The power, however, to award writs of *habeas corpus* is conferred expressly on this court by the 14th section of the judiciary act, and has been repeatedly exercised. No doubt exists respecting the power; the question is, whether this be a case in which it ought to be exercised. The cause of imprisonment is shown as fully by the petitioner, as it could appear on the return of the writ; consequently, the writ ought not to be awarded, if the court is satisfied that the prisoner would be remanded to prison.

No law of the United States prescribes the cases in which this great writ shall be issued, nor the power of the court over the party brought up by it. The term is used in the constitution, as one which was well understood; and the judiciary act authorizes this court, and all the courts of the United States, and the judges thereof, to issue the writ "for the purpose of inquiring into the cause of commitment." This general reference to a power which we are required to exercise, without any precise definition of that power, imposes on us the necessity of making some inquiries into its use, *according to that law which is in a considerable degree incorporated into our own. [*202

The writ of *habeas corpus* is a high prerogative writ, known to the common law, the great object of which is, the liberation of those who may be imprisoned without sufficient cause. It is in the nature of a writ of error, to examine the legality of the commitment. The English judges, being originally under the influence of the crown, neglected to issue this writ, where the government entertained suspicions which could not be sustained by evidence; and the writ, when issued, was sometimes disregarded or evaded, and great individual oppression was suffered, in consequence of delays in bringing prisoners to trial. To remedy this evil, the celebrated *habeas corpus* act of the 31 Car. II. was enacted, for the purpose of securing the benefits for which the writ was given. This statute may be referred to, as describing the cases in which relief is, in England, afforded by this writ to a person detained in custody. It enforces the common law. This statute excepts from those who are entitled to its benefit, persons committed for felony or treason, plainly expressed in the warrant, as well as persons convicted or in execution. The exception of persons convicted applies particularly to the application now under consideration. The petitioner is detained in prison by virtue of the judgment of a court, which court possesses general and final jurisdiction in criminal cases. Can this judgment be re-examined upon a writ of *habeas corpus?*

This writ is, as has been said, in the nature of a writ of error, which brings up the body of the prisoner, with the cause of commitment. The court can undoubtedly inquire into the sufficiency of that cause; but if it be the judgment of a court of competent jurisdiction, especially, a judgment

withdrawn by law from the revision of this court, is not that judgment in itself sufficient cause? Can the court, upon this writ, look beyond the judgment, and re-examine the charges on which it was rendered? A judgment, in its nature, concludes the subject on which it is rendered, and pronounces the law of the case. The judgment of a court of record, whose jurisdiction is final, is as conclusive on all *the world as the judgment of this court would be. It is as conclusive on this court, as it is on other courts. It puts an end to inquiry concerning the fact, by deciding it.

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The counsel for the prisoner admit the application of these principles to a case in which the indictment alleges a crime cognisable in the court by which the judgment was pronounced; but they deny their application to a case in which the indictment charges an offence not punishable criminally, according to the law of the land. But with what propriety can this court look into the indictment? We have no power to examine the proceedings, on a writ of error, and it would be strange, if, under color of a writ to liberate an individual from unlawful imprisonment, we could substantially reverse a judgment which the law has placed beyond our control. An imprisonment under a judgment cannot be unlawful, unless that judgment be an absolute nullity; and it is not a nullity, if the court has general jurisdiction of the subject, although it should be erroneous. The circuit court for the district of Columbia is a court of record, having general jurisdiction over criminal cases. An offence cognisable in any court, is cognisable in that court. If the offence be punishable by law, that court is competent to inflict the punishment. The judgment of such a tribunal has all the obligation which the judgment of any tribunal can have. To determine whether the offence charged in the indictment be legally punishable or not, is among the most unquestionable of its powers and duties. The decision of this question is the exercise of jurisdiction, whether the judgment be for or against the prisoner. The judgment is equally binding in the one case and in the other; and must remain in full force, unless reversed regularly by a superior court, capable of reversing it.

If this judgment be obligatory, no court can look behind it. If it be a nullity, the officer who obeys it is guilty of false imprisonment. Would the counsel for the prisoner attempt to maintain this position?

Questions which we think analogous to this have been frequently decided in this court. *Kemp's Lessee* v. *Kennedy*, 5 Cranch 173, was a writ of error to a judgment in *ejectment, rendered against her in the circuit court of the United States for the district of New Jersey. An inquisition taken under the confiscating acts of New Jersey, had been found against her, on which a judgment of condemnation had been rendered by the inferior court of common pleas for the county of Hunterdon. The land had been sold under this judgment of condemnation, and this ejectment was brought against the purchaser. The title of the plaintiff being resisted under those proceedings, his counsel prayed the court to instruct the jury, that they ought to find a verdict for him. The court refused the prayer, and did instruct the jury to find for the defendants. An exception was taken to this direction, and the cause brought before this court by writ of error. On the argument, the counsel for the plaintiff made two points. 1. That the proceedings were erroneous. 2. That the judgment was an absolute nullity. He contended, that the individual against whom the inquest was found, was not

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comprehended within the confiscating acts of New Jersey; consequently, the justice who took the inquisition had no jurisdiction as regarded her. He contended also, that the inquisition was entirely insufficient, to show that Grace Kemp, whose land had been condemned, was an offender under those acts. He then insisted, that the tribunal erected to execute these laws, was an inferior tribunal, proceeding by force of particular statutes, out of the course of the common law; it was a jurisdiction limited by the statute, both as to the nature of the offence, and the description of persons over whom it should have cognisance. Everything ought to have been stated in the proceedings, which was necessary to give the court jurisdiction, and to justify the judgment of forfeiture. If the jurisdiction does not appear upon the face of the proceedings, the presumption of law is, that the court had not jurisdiction, and the cause was *coram non judice;* in which case, no valid judgment could be rendered. The court said, that however clear it might be, in favor of the plaintiff, on the first point, it would avail him nothing, unless he succeeded on the second. The court admitted the law respecting the proceedings *of inferior courts, in the sense in which that term was used in the English books; and asked, "was the court in which [*205 this judgment was rendered, an inferior court, in that sense of the term?" "All courts from which an appeal lies, are inferior courts in relation to the appellate courts, before which their judgment may be carried; but they are not, therefore, inferior courts, in the technical sense of those words. They apply to courts of special and limited jurisdiction, which are erected on such principles, that their judgments, taken alone, are entirely disregarded, and the proceedings must show their jurisdiction. The courts of the United States are all of limited jurisdiction, and their proceedings are erroneous, if the jurisdiction be not shown upon them. Judgments rendered in such cases may certainly be reversed; but this court is not prepared to say, that they are absolute nullities, which may be totally disregarded."

The court then proceeded to review the powers of the courts of common pleas of New Jersey. They were courts of record, possessing general jurisdiction in civil cases, with the exception of suits for real property. In treason, their jurisdiction was over all who could commit the offence. After reviewing the several acts of confiscation, the court said, that they could not be fairly construed to convert the courts of common pleas into courts of limited jurisdiction. They remained the only courts capable of trying the offences described by the laws. In the particular case of Grace Kemp, the court said, that "the court of common pleas was constituted according to law; and if an offence had been, in fact, committed, the accused was amenable to its jurisdiction, so far as respected her property in the state of New Jersey. The question whether this offence was, or was not, committed, that is, whether the inquest, which is substituted for a verdict on an indictment, did, or did not, show that the offence had been committed, was a question which the court was competent to decide. The judgment it gave was erroneous; but it is a judgment, and, until reversed, cannot be disregarded." *This case has been cited at some length, because it is thought to be [*206 decisive of that now under consideration.

Had any offence against the laws of the United States been, in fact, committed, the circuit court for the district of Columbia could take cognisance of it. The question whether any offence was, or was not, committed, that

is, whether the indictment did, or did not, show that an offence had been committed, was a question which that court was competent to decide. If its judgment was erroneous, a point which this court does not determine, still it is a judgment, and, until reversed, cannot be disregarded.

In *Skillern's Executors* v. *May's Executors*, 6 Cranch 267, a decree pronounced by the circuit court for the district of Kentucky had been reversed, and the cause was remanded to that court, that an equal partition of the land in controversy might be made between the parties. When the cause again came on, before the court below, it was discovered, that it was not within the jurisdiction of the court; whereupon, the judges were divided in opinion, whether they ought to execute the mandate, and their division was certified to this court. The court certified, that the circuit court was bound to execute its mandate, "although the jurisdiction of the court be not alleged in the pleadings." The decree having been pronounced, although in a case in which it was erroneous, for want of the averment of jurisdiction, was, nevertheless, obligatory as a decree.

The case of *Williams et al.* v. *Armroyd et al.*, 7 Cranch 423, was an appeal from a sentence of the circuit court for the district of Pennsylvania, dismissing a libel which had been filed for certain goods which had been captured and condemned under the Milan decree. They were sold by order of the governor of the island into which the prize had been carried, and the present possessor claimed under the purchaser. It was contended, that the Milan decree was in violation of the law of nations, and that a condemnation, professedly under that decree, could not change the right of property. This court affirmed the sentence of the circuit court, restoring the property to the
*207] claimant, and said, "that *the sentence is avowedly made under a decree subversive of the law of nations, will not help the appellant's case, in a court which cannot revise, correct or even examine that sentence. If an erroneous judgement binds the property on which it acts, it will not bind that property the less, because its error is apparent. Of that error, advantage can be taken only in a court which is capable of correcting it." The court felt the less difficulty in declaring the edict under which the condemnation had been made, to be "a direct and flagrant violation of national law," because the declaration had already been made by the legislature of the Union. But the sentence of a court under it, was submitted to, as being of complete obligation.

The cases are numerous, which decide, that the judgments of a court of record, having general jurisdiction of the subject, although erroneous, are binding, until reversed. It is universally understood, that the judgments of the courts of the United States, although their jurisdiction be not shown in the pleadings, are yet binding on all the world; and that this apparent want of jurisdiction can avail the party only on a writ of error. This acknowledged principle seems to us, to settle the question now before the court. The judgment of the circuit court, in a criminal case, is, of itself, evidence of its own legality, and requires for its support, no inspection of the indictment on which it is founded. The law trusts that court with the whole subject, and has not confided to this court the power of revising its decisions. We cannot usurp that power, by the instrumentality of the writ of *habeas corpus*. The judgment informs us, that the commitment is legal, and with that information, it is our duty to be satisfied.

The counsel for the petitioner contend, that writs of *habeas corpus* have been awarded, and prisoners liberated, in cases similar to this. In the *United States* v. *Hamilton*, 3 Dall. 17, the prisoner was committed upon the warrant of the district judge of Pennsylvania, charging him with high treason. He was, after much deliberation, admitted to bail. This was a proceeding contemplated by the 33d section of the judiciary act, which declares, that in cases where the punishment *may be death, bail shall not be admitted, but by the supreme or circuit court, or by a justice of the [*208 supreme court, or a judge of the district court. In the case *Ex parte Burford*, 3 Cranch 447, the prisoner was committed, originally, by the warrant of several justices of the peace for the county of Alexandria. He was brought by a writ of *habeas corpus* before the circuit court, by which court he was remanded to jail, there to remain until he should enter into recognisance for his good behavior for one year. He was again brought before the supreme court, on a writ of *habeas corpus*. The judges were unanimously of opinion, that the warrant of commitment was illegal, for want of stating some good cause certain, supported by oath. The court added, that "if the circuit court had proceeded *de novo*, perhaps, it might have made a difference; but this court is of opinion, that that court has gone only on the proceedings before the justices. It has gone so far as to correct two of the errors committed, but the rest remain." The prisoner was discharged. In the case of *Bollman and Swartwout*, the prisoners were committed by order of the circuit court, on the charge of treason. The *habeas corpus* was awarded in this case, on the same principle on which it was awarded in the case of 3 Dall. 17. The prisoners were discharged, because the charge of treason did not appear to have been committed. In no one of these cases was the prisoner confined under the judgment of a court. The case *Ex parte Kearney*, 7 Wheat. 39, was a commitment by order of the circuit court for the district of Columbia, for a contempt. The prisoner was remanded to prison. The court, after noticing its want of power to revise the judgment of the circuit court, in any case where a party had been convicted of a public offence, asked, "if then this court cannot directly revise a judgment of the circuit court, in a criminal case, what reason is there to suppose, that it was intended to vest it with the authority to do it indirectly?" The case *Ex parte Kearney* bears a near resemblance to that under consideration.

The counsel for the prisoner rely mainly on the case *of *Wise* v. [*209 *Withers*, 3 Cranch 330. This was an action of trespass *vi et armis*, for entering the plaintiff's house and taking away his goods. The defendant justified as collector of the militia fines. The plaintiff replied, that he was not subject to militia duty, and on demurrer, this replication was held ill. This court reversed the judgment of the circuit court, because a court-martial had no jurisdiction over a person not belonging to the militia, and its sentence in such a case being *coram non judice*, furnishes no protection to the officer who executes it. This decision proves only that a court-martial was considered as one of those inferior courts of limited jurisdiction, whose judgments may be questioned collaterally. They are not placed on the same high ground with the judgments of a court of record. The declaration, that this judgment against a person to whom the jurisdiction of the court could not extend, is a nullity; is no authority for inquiring into the judgments of a court of general criminal jurisdiction, and regarding them as

nullities, if, in our opinion, the court has misconstrued the law, and has pronounced an offence to be punishable criminally, which, as we may think, is not so.

Without looking into the indictments under which the prosecution against the petitioner was conducted, we are unanimously of opinion, that the judgment of a court of general criminal jurisdiction justifies his imprisonment, and that the writ of *habeas corpus* ought not to be awarded.

On consideration of the rule granted in this case, on a prior day of this term, to wit, on Tuesday the 26th of January, of the present term of this court, and of the arguments thereupon had; it is considered, ordered and adjudged by this court, that the said rule be and the same is hereby discharged, and that the prayer of the petitioner for a writ of *habeas corpus* be and the same is hereby refused.

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*210] *James Boyce's Executors, Appellants, *v.* Felix Grundy, Appellee.

Equity jurisdiction.—Rescission of contracts.

The courts of the United States have equity jurisdiction to rescind a contract, on the ground of fraud, after one of the parties to it has been proceeded against, on the law side of the court, and a judgment has been obtained against him, for a part of the money stipulated to be paid by the contract.

This court has been often called upon to consider the 16th section of the judiciary act of 1789, and as often, either expressly, or by the course of its decisions, has held, that it is merely declaratory, making no alteration whatever in the rules of equity on the subject of legal remedy.

It is not enough, that there is a remedy at law; it must be plain and adequate, or in other words, as practical and as efficient to the ends of justice and its prompt administration, as the remedy in equity.[1] p. 215.

It cannot be doubted, that reducing an agreement to writing is, in most cases, an argument against fraud; but is is very far from a conclusive argument; the doctrine will not be contended for, that a written agreement cannot be relieved against, on the ground of false suggestions. p. 219.

It is not an answer to an application to a court of chancery for relief in rescinding a contract, to say, that the fraud alleged is partial, and might be the subject of compensation by a jury; the law, which abhors fraud, does not permit it to purchase indulgence, dispensation or absolution. p. 220.

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[1] Wylie *v.* Cox, 15 How. 415; Garrison *v.* Memphis Ins. Co., 19 Id. 312; Brown *v.* Pacific Mail Steamship Co., 5 Bl. C. C. 525; Crane *v.* McCoy, 1 Bond 423. In determining whether there be a plain, adequate and complete remedy at law, recourse is to be had to the principles of English equity, not to the laws of the state in which the court sits. Robinson *v.* Campbell, 3 Wheat. 212; Barber *v.* Barber, 21 How. 583; Gordon *v.* Hobart, 2 Sumn. 401; Noyes *v.* Willard, 1 Woods 187. And equity will entertain jurisdiction, notwithstanding there be no adequate remedy at law, if the peculiar machinery of a court of equity, as a discovery, or an injunction, be necessary to do complete justice between the parties. Gass *v.* Stinson, 2 Sumn. 454; Pierpont *v.* Fowle, 2 W. & M. 23; Sullivan *v.* Portland & Kennebec Railroad Co., 94 U. S. 811. So also, if the questions of fraud, trust and partnership are involved. Taylor *v.* Rasch, 5 Bank. Reg. 399. And see Oelrichs *v.* Spain, 15 Wall. 228. It is on the ground that equity will not entertain jurisdiction, where there is an adequate remedy at law, that a mere ejectment bill cannot be sustained. Lewis *v.* Cocks, 23 Wall. 466; Messimer's Appeal, 92 Penn. St. 168, Long's Appeal, Id. 171; Barclay's Appeal, 93 Id. 50. Such objection goes to the jurisdiction of the court, and may be enforced by the judges *sua sponte.* Hipp *v.* Babin, 19 How. 278; Parker *v.* Winnipiseogee Lake Cotton and Woollen Co., 2 Black 545; Wright *v.* Ellison, 1 Wall. 22; Oelrichs *v.* Spain, 15 Id. 227–8; Lewis *v.* Cocks, 23 Id. 466.