

\*COLIN MITCHELL, Appellant, v. UNITED STATES.

APPEAL from the Superior Court of East Florida.

MARSHALL, Ch. J., said :—A pamphlet has been sent to the judges touching the questions in controversy in this cause. The court desire it to be understood, that the practice of the court is not to receive or examine such papers, unless they have been presented in court, and shown to the opposite counsel.

It was, afterwards, on the same day, stated to the court by Mr. *White*, of Florida, counsel for the appellant, that the counsel on neither side had any knowledge of the pamphlet's having been sent to the court ; nor did they in any manner countenance the same. The pamphlet was sent to the judges by an agent of the appellant, who was not in any manner aware of the irregularity of the proceeding.

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*Florida land-claims.*

An adjudication made by a Spanish tribunal in Louisiana, is not void, because it was made after the cession of the country to the United States ; for it is historically known, that the actual possession of the country was not surrendered, until some time after the proceedings and adjudication in the case took place. It was the judgment, therefore, of a competent Spanish tribunal, having jurisdiction of the case, and rendered whilst the country, though ceded, was, *de facto*, in the possession of Spanish, and subject to Spanish laws ; such judgments, so far as they affect the private rights of the parties thereto, must be deemed valid.

ERROR to the District Court for the Eastern District of Louisiana.

This case was argued by *Grimes*, for the defendant. No counsel appeared for the plaintiff in error.

THOMPSON, Justice, delivered the opinion of the court.—The writ of error in this case, brings up the record of a judgment rendered against the plaintiff in error, in the district court of the United States for the eastern district of Louisiana. The plaintiff, according to the course of proceedings in that state, presented his petition to the court, stating, that on the 22d of May 1803, in virtue of a lawful purchase, at public sale, duly and legally made by Don Carlos de Grand Pre, governor of the post and establishment of Baton Rouge, he became the owner and proprietor of a tract of land, appertaining to the "*testamentaria*," or succession of the deceased Poussett, particularly describing the same (being the land in question) and annexing to his petition the document or adjudication, by which he alleges that the title to the land was vested in him, of which he was never thereafter legally divested, as he alleges.

A plea to the jurisdiction of the court was interposed by the defendant, alleging that the plaintiff was a citizen of Louisiana, of which state the defendant was also a citizen. Upon the trial of the issue joined upon this plea, the jury found that the plaintiff was not a citizen of the state of Louisiana.

The defendant then filed an answer to the petition, denying all and singular the allegations contained in the petition, and \*averring [\*309