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the same property. Common prudence would have directed Mrs. Peter to search the records of the county, before she paid the purchase-money. Had she done so, she would ^{*39} have found the deed to Mr. Beale. It is not in proof, that he has done any act to deceive or mislead her; he has been merely silent respecting a deed which was recorded as the law directs.

We are of opinion, that there is no error in the decree of the circuit court. It is affirmed, with costs.

THIS cause came on to be heard, on the transcript of the record from the circuit court of the United States for the district of Columbia, holden in and for the county of Washington, and was argued by counsel: On consideration whereof, it is the opinion of this court, that there is no error in the decree of the said circuit court in this cause; whereupon, it is considered, ordered and decreed by this court, that the decree of the said circuit court in this cause be and the same is hereby affirmed, with costs and damages, at the rate of six per cent. per annum.

MORGAN BYRNE, Plaintiff in error, *v.* STATE OF MISSOURI. [*40]

Error to state court.—Bills of credit.

The case of *Craig v. Missouri*, 4 Pet. 410, in which it was decided, that the act of the legislature of the state of Missouri, passed 27th July 1821, entitled an act for establishing loan-offices, was repugnant to the constitution of the United States, revised and confirmed.

The pleadings in the cause bring the question, whether the act of the state of Missouri, by virtue of which the certificates which form the consideration of the writing obligatory, on which the judgment of the state court was rendered, be constitutional or not, directly and plainly before the court; and the decision of the state court was in favor of its validity; consequently, the case is within the 25th section of the judiciary act.

ERROR to the Supreme Court for the fourth judicial district of Norfolk in the state of Missouri.

This case was submitted to the court, by *Benton*, for the defendant. No counsel appeared for the plaintiff in error.

MARSHALL, Ch. J., delivered the opinion of the court.—This is a writ of error to a judgment rendered in the supreme court for the state of Missouri.

In 1826, an action of covenant was instituted in the circuit court for the county of Cape Girardeau, by the state of Missouri, against Morgan Byrne, the plaintiff in error. The declaration charges, that the defendant, on the 26th of October 1822, executed his certain writing obligatory, by which he promised to pay to the state of Missouri, on the 26th day of October, in the year 1823, the sum of \$135, and the two per centum per annum on the said amount, it being the interest accruing on the certificates borrowed (by the said Byrne, of the state), from the first day of October 1821, at the Jackson loan office, for value; which said sum the defendant refuses to pay, &c.

The defendant appeared and pleaded in bar of the action, that the said state of Missouri, by an act of the legislature thereof, entitled an act for the establishment of loan-offices, ^{*41} approved by the governor of the said state on the 27th day of June 1821, divided said state into five districts, in each of which districts was established a loan-office; and by said

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act the auditor of public accounts and treasurer of said state, under the governor thereof, were required to issue certificates, signed by the said auditor and treasurer to the nominal amount of \$200 000, of denominations not exceeding ten dollars, nor less than fifty cents, in the following form, to wit, "This certificate shall be receivable at the treasury, or any of the loan-offices of the state of Missouri, in discharge of taxes or debts due to the state, for the sum of —— dollars, with interest for the same, at the rate of two per centum from this date, the —— day of —— ;" and that by said act, said certificates were made receivable at the treasury of said state, and by all the tax-gatherers and other public officers, in payment of taxes, and other moneys, then due or to become due to said state, or any county or town therein, and by all officers, civil and military, in said state, in discharge of salaries ; and by said act, it was further made the duty of said auditor and treasurer, according to the provisions of said act, to deliver to the clerk of said general loan-offices a proportional amount of the certificates, by the said act required to be issued as aforesaid ; and certain commissioners, by said act required to be appointed, were, by said act, empowered to loan said certificates to the citizens of said state, residing whithin their respective districts, at interest not exceeding six per centum per annum on the amount, and to secure the repayment of the said loans by mortgages or personal security ; and by said act, the salt-springs belonging to the state were to be leased out, on the condition that the lessee or lessees should receive said certificates in payment for salt, not exceeding that which might be prescribed by law ; and that the proceeds of said salt-springs, the interest accruing to the state, and all estates purchased by the said loan-offices under the provisions of said act, and all debts then due and to become due to the said state, were, by said act, pledged and made a fund for the redemption of the said certificates ; and by the same act, the faith of the state was also pledged for the same purpose. And the defendant further saith, &c., a large sum was deposited at the loan-office at Jackson, &c., and that he has *43] received from said loan-office *the nominal sum of \$135 in said certificates, for the loan of which certificates, and no other consideration whatever, the said defendant made and executed to said state said writing obligatory mentioned. And said defendant avers, that said loan-office certificates, so loaned to said defendant as aforesaid, were bills of credit, emitted by said state, in violation of the constitution of the United States ; all which said defendant is ready to verify : wherefore, &c.

The plaintiff demurred generally to this plea, and the defendant joined in demurrer. The court sustained the demurrer, and rendered judgment for the plaintiff. This judgment was brought by writ of error into the supreme court of the judicial district in which it was rendered, the highest tribunal in that state which could take cognisance of it, where it was affirmed. The defendants have prosecuted this writ of error, under the 25th section of the judiciary act.

The pleadings in the cause bring the question, whether the act of the state of Missouri, by virtue of which the certificates which form the consideration of the writing obligatory, on which the judgment of the state court was rendered, be constitutional or not, directly and plainly before the court ; and the decision of the state court was in favor of its validity. Consequently, the case is within the 25th section of the judiciary act ; and

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the only question before this court is, did the state court err in pronouncing that judgment? Is the act in question repugnant to, or consistent with, the constitution of the United States?

This question was ably argued, and fully considered by the court in the case of *Craig v. State of Missouri*, 4 Pet. 410. In that case, a majority of the court were of opinion, that the act was repugnant to the constitution; and the judgment of the state court was reversed. That decision is expressly in point, and on its authority, the judgment in this case also must be reversed and the cause remanded, that judgment may be rendered for the defendant in that court, the plaintiff in error.

THIS cause came on to be heard, on the transcript of the *record from the supreme court of the state of Missouri for the fourth judicial district, and was argued by counsel: On consideration whereof, this court is of opinion, that there is error in the rendition of the judgment of the said court, in this, that in affirming the judgment rendered by the circuit court of the county of Cape Girardeau, in the state of Missouri, that court has given an opinion in favor of the validity of the act of the legislature of Missouri, passed on the 27th of June 1821, entitled "an act for the establishment of loan-offices," which act is, in the opinion of this court, repugnant to the constitution of the United States: whereupon, it is considered by the court, that the said judgment of the said supreme court of the state of Missouri for the fourth judicial district, ought to be reversed and annulled; and the same is hereby reversed and annulled, and the cause remanded to that court, with directions to enter judgment in favor of the defendant to the original action.

* SAMUEL LEE and BARBARA LEE, Plaintiffs in error, v. ELIZABETH [*44 LEE.

Slavery.

The plaintiffs in error filed a petition for freedom, in the circuit court of the United States for the county of Washington, and proved, that they were born in the state of Virginia, as slaves of Richard B. Lee, now deceased, who moved, with his family, into the county of Washington, in the district of Columbia, about the year 1816, leaving the petitioners residing in Virginia, as his slaves, until the year 1820, when the petitioner Barbara was removed to the county of Alexandria, in the district of Columbia, where she was hired to Mrs. Muir, and continued with her, thus hired, for the period of one year; that the petitioner Sam was, in like manner, removed to the county of Alexandria, and was hired to General Walter Jones, for a period of about five or six months; that after the expiration of the said periods of hiring, the petitioners were removed to the said county of Washington, where they continued to reside as the slaves of the said Richard B. Lee, until his death, and since, as the slaves of his widow, the defendant.

On the part of the defendant in error, a preliminary objection was made to the jurisdiction of this court, growing out of the act of congress of the 2d of April 1816, which declares, that no cause shall be removed from the circuit court for the district of Columbia to the supreme court, by appeal or writ of error, unless the matter in dispute shall be of the value of \$1000 or upwards. The matter in dispute in this case is the freedom of the petitioners; the judgment of the court below is against their claims to freedom; the matter in dispute is, therefore, to the plaintiffs in error, the value of their freedom, and this is not susceptible of a pecuniary valuation. Had the judgment been in favor of the petitioners, and the writ of error brought by the party claiming to be the owner, the value of the slaves, as property, would have been the matter in dispute, and affidavits might be admitted to ascertain such value; but affidavits, estimating the value