the directory at the time of writing that letter, nor on that of express direction or permission given at the time of its composition. The letter might have been legal and valid in the absence of either such knowledge or direction, or of both.

The powers of the cashier of a bank are such as are incident to, and implied in, his official character, as generally understood, as cash keeper, cash receiver, or payer, as negotiator and correspondent for the corporation, or as agent for various acts that are necessary and appropriate to the functions of such an officer, and inseparable from the operations of the bank; or those powers and duties may be created by a general or special authority declared in the charter or in the by-laws of the corporation. It would seem inconsistent with these considerations to determine upon an isolated fact or act of the cashier, not absolutely irreconcilable with the customary functions of such an officer, as being decisive of his capacities and duties; and this, irrespective of reference or inquiry as to the powers with which he might have been clothed, but, on the contrary, by cutting off all proofs as to the existence of any such powers, when by the introduction of those proofs the competency of such powers, or the recognition of them by the bank, might perhaps have been shown.

The true character of this cause seems not to have been developed before the Circuit Court, nor is it made apparent upon the certificate now before this court.

We think that all the evidence relevant to the acts and authority of the cashier, either inherent and exercised strictly *virtute officii*, or as an agent, general or special, of the bank, under either the authority of its charter or its by-laws, and proof, if any, of the ratification or rejection by the bank of this or of similar acts of the cashier, should have been fully brought out, to be passed upon by the jury under instructions from the court, or in the mode of a certificate of division, in the event of a disagreement between the judges. This court, therefore, refusing to respond upon the question, as propounded to them upon the certificate from the Circuit Court, remands this case to that court for trial.

PATRICK BURKE, PLAINTIFF IN ERROR, *v.* WILLIAM H. GAINES AND WIFE, ET AL.

Where a party brought an ejectment in a State court, founding his title upon documents showing a settlement claim under the laws of the United States, and the Supreme Court of the State decided in favor of that title, the opposite party cannot bring the case to this court under the 25th section of the judiciary act. This court has no jurisdiction over such a case.

THIS case was brought up from the Supreme Court of the State of Arkansas, by a writ of error issued under the twenty-fifth section of the judiciary act.

The case is stated in the opinion of the court.

It was argued by *Mr. Lawrence* for the defendants in error, no counsel appearing for the plaintiff in error.

Mr. Chief Justice TANEY delivered the opinion of the court.

This is a writ of error to the Supreme Court of the State of Arkansas. A brief summary of the case will be sufficient to show that this court have no jurisdiction.

The defendants in error, who were the plaintiffs in the court below, brought their action of ejectment in the State court to recover certain premises described in the declaration.

By a statute of Arkansas, a party may maintain an ejectment upon an equitable title. And the defendants in error, in order to show such a title in themselves, offered in evidence certain documents tending to prove that a certain Ludovicus Belding had, by settlement in 1829, acquired a pre-emption right to the land in question, and that they are his heirs at law, and have paid to the proper officer the price fixed by the Government.

The plaintiff in error offered no evidence of title in himself, although he was in possession of the land. And at the trial, the defendants in error asked the court to instruct the jury that the papers and documents read in evidence by them were sufficient to maintain the action, if the defendant in error was in possession of any part of the land at the commencement of the suit, and also that they were entitled to recover, by way of damages, reasonable rents and profits.

The plaintiff in error, on his part, asked the court to instruct the jury that the certificates and documents offered by the defendants in error were void, and conferred no title to the premises.

This is the substance of the instructions asked for by the respective parties, although drawn out at greater length, and shows the questions presented for the decision of the court. The court gave the instructions asked for by the defendants in error, and refused those requested by the plaintiff.

Under these instructions, the jury found a verdict in favor of the defendants in error, and a judgment was entered accordingly, which was afterwards affirmed in the Supreme Court of the State; and upon that judgment, this writ of error was brought.

It appears, therefore, that no right was claimed by the plaintiff in error under any act of Congress, or under any authority derived from the United States. He merely objected to the validity of the title claimed by the defendants in error. As the case appears on the record, he was a mere trespasser, holding possession in opposition to a title claimed under the United States. The decision of the State court in favor of the title thus claimed by the defendants in error can certainly give the plaintiff no right to bring this writ under the twenty-fifth section of the act of 1789. He claimed no right under the United States, and consequently can have no foundation for his writ of error.

The case cannot be distinguished from that of Fulton and others *v.* McAffea, (16 Pet., 149,) and the writ must be dismissed for want of jurisdiction.

GEORGE BULKLEY, PLAINTIFF IN ERROR, *v.* CHRISTIAN HONOLD.

The law of Louisiana imposes on the seller the obligation of warranting the thing sold against its hidden defects, which are those which could not be discovered by simple inspection; and the purchaser may retain the thing sold, and have an action for reduction of the price by reason of the difference in value between the thing as warranted and as it was in fact.

Where a vessel was purchased, which was then partly laden as a general ship for an outward foreign voyage, and after she went to sea she was found to be unseaworthy, and had to return, the defects were hidden defects, under the above law.

A vessel is included within the terms of the law.

The purchaser was not bound to renounce the vessel. This privilege is provided for in another and distinct article of the code.

The contract must be governed by the laws of Louisiana, where it was made and performed.

Such a sale is not governed by the general commercial law, but by the civil code of Louisiana.

THIS case was brought up, by writ of error, from the Circuit Court of the United States for the eastern district of Louisiana.

The case is stated in the opinion of the court.

It was argued by *Mr. Taylor* for the plaintiff in error, and by *Mr. Benjamin* for the defendant.

Mr. Taylor contended that, if the law of Louisiana governed, there was error, because—

1. The defect in the ship was an apparent defect, in the legal sense of the term, the existence of which imposed no responsibility on the vendor.

2. Because the obligation of warranty, implied in sales of