13/33. Distgd. in Nunn v. Sturges, 22/393.

BUFORD & PUGH *vs.* KIRKPATRICK.

The record of a judgment of a sister State, is entitled to the same credit here, and alike conclusive, as if rendered in the courts of this State.

A judgment was recovered, by default, in the State of Georgia, on a writ returned thus—"Served the defendant by leaving a copy of the original at his most notorious place of abode, July 19th, 1848." Debt was brought upon the judgment in this State, and on the plea of *nul tiel record,* the court below found for defendant: HELD, That the finding was erroneous—that a judgment taken upon such a service of the writ, in our courts, would not be void, though it might be reversible, and that judgment upon such service in a sister State, must be regarded as equally valid, under the

plea of *nul tiel record,* though the defendant might, by special plea, question the sufficiency of the service, as held in *Barkman v. Hopkins,* 6 *Eng. R.* 157.

Writ of Error to Ashley Circuit Court.

THIS was an action of debt, brought by Buford & Pugh, against Kirkpatrick, on a judgment recovered by the plaintiffs against the defendant, in the "Inferior Court for the county of Stewart, in the State of Georgia," at February Term, 1849. There was a second count in the declaration, upon an account stated.

The defendant pleaded *nil debit* to both counts, and *nul tiel record* to the count on the judgment. After demurring to the first plea, plaintiffs entered a *nol pros.* as to the second count in the declaration, and issue being made up to the second plea, it was submitted to the court. The plaintiffs read in evidence, a transcript of the judgment sued on, the court found for defendant, plaintiffs excepted, put the transcript on record, and brought error. The objection taken to the transcript appears in the opinion of the Court.

PIKE & CUMMINS, for the plaintiffs, contended, that under the plea of *nul tiel record,* the Circuit Court ought to have found for the plaintiffs; the record offered in evidence showing a regularly certified judgment of a sister State, which is entitled to the same effect, under the Constitution and acts of Congress of the United States, as in the State where rendered; that the judgment, if irregular, in consequence of constructive notice, was not void, (*Borden et al. v. State use Robinson,* 6 *Eng.,*) and no special plea raised the question of notice; (*Barkman v. Hopkins & McMechen,* 6 *Eng. May v. Jamison,* 6 *Eng.,*) and the judgment cannot be questioned in this court under the pleadings. *Holt v. Alloway,* 2 *Blackf. R.* 108. 2 *Cow. & Hill's notes,* 304-5. *McRae v. Matton,* 13 *Pick.* 53. *Poorman v. Crane's ad., Wright Ohio R.* 347.

Mr. Justice WALKER delivered the opinion of the Court.

We do not very readily perceive the grounds upon which the Circuit Court held the record in this case to be insufficient to sustain the issue on the part of the plaintiffs. From the argument of the counsel, however, we may infer that the objection was, that the judgment was void for the want of service or appearance of the defendant to that action.

The return on the writ is in the following words: "Served the defendant by leaving a copy of the original at his most notorious place of abode, July 19, 1848." It is true, this would not be a sufficient service under our statute, but it may, notwithstanding, have been valid under the statute of Georgia. The question is not, however, whether the service was so defective as to furnish grounds for reversing the judgment upon error or appeal, but whether the judgment is a mere nullity; for, unless void, it is conclusive of the rights of the parties in that suit until reversed or set aside. As a judgment of this court, it would, clearly, only be erroneous and reversible on error, but, until reversed, valid and obligatory. *Borden v. State,* 6 *Eng.* 525. And we have held in *Barkman v. Hopkins et al.,* and *May v. Jamison,* 6 *Eng.* 372, that the record of a sister State is entitled to the same credit here, and alike conclusive, as if rendered in the courts of this State. It is true that judgment was taken upon constructive notice, and that the defendant failed to appear to the action. In case the defendant had been a non-resident of the State of Georgia, he might, by special plea, (as was done in the case of *Barkman v. Hopkins,*) have questioned the sufficiency of the service and the validity of the judgment. But this he has not done, and under the plea of *nul tiel record,* the court could not look beyond the record, but as we have remarked, it is to be received as a record, entitled to the same credit that the records of our own courts are. It was, in other respects, informal, but is, nevertheless, the judgment of the court of a sister State, regularly certified, and corresponding with the declaration. The Circuit Court should therefore have received it as evidence under the issue of

nul tiel record, and for as much as the court decided against the sufficiency of the record, its judgment must be reversed, and the cause remanded, to be proceeded in according to law; and with instructions to dispose of the issue at law, upon the plea of *nil debet,* which, as appears of record, remains in that court undetermined.