

## The Rachel.

cause she was seized by the collector of that port as forfeited. The libel in the case of the Alligator was a copy of that against the Juliana.

The words of that part of the 3d section of the act of January 9th, 1808 (2 U. S. Stat. 453), upon which these libels were founded, are as follows: "And be it further enacted, that if any ship or vessel shall, during the continuance of the act to which this act is a supplement, depart from any port of the United States, without a clearance or permit; or if any ship or vessel shall, contrary to the provisions of this act, or of the act to which this act is a supplement, proceed to a foreign port or place, or trade with or put on board of any other ship or vessel, any goods, wares or merchandise, of foreign or domestic growth or manufacture, such ships or vessels, goods, wares, and merchandise shall be wholly forfeited."

*Harper and Martin*, for the appellants, contended, that the sentence ought to be reversed—

1. Because it appears from the libel, that if any goods were put on board the Alligator, it was after the Juliana had been seized and brought back, and while the Alligator was at the wharf, a perfect hulk, totally unfit to proceed on a voyage, and entirely passive as to any improper use made of her.

2. The libel does not charge that the goods put on board the Alligator were the same which were on board the Juliana, when she was seized and brought back.

3. It does not charge that the owner of the Alligator had any knowledge of, or concern in, the business.

4. The evidence is insufficient to prove any cause of condemnation.

\*5. It is not averred, that the goods were put on board the Alligator, with intent to export them; which is the offence contemplated by the act. [\*329]

6. The libel does not allege that the seizure was made within the district of the seizing officer; nor upon the water. It does not appear to be a case of admiralty jurisdiction.

The *Attorney-General*, on the next day, abandoned the causes as untenable.

Sentence reversed, and restitution ordered.

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The RACHEL.

The Schooner RACHEL v. UNITED STATES.

*Expiration of penal law.*

No sentence of condemnation can be affirmed, if the law under which the forfeiture accrued has expired, although a condemnation and sale had taken place, and the money had been paid over to the United States, before the expiration of the law.

This court, in reversing the sentence, will not order the money to be repaid, but will award restitution of the property, as if no sale had been made.

THIS was an appeal from the sentence of the district court of the United States for the district of Orleans, which condemned the schooner Rachel for having traded with certain prohibited ports of St. Domingo, contrary to the act of congress.

The sentence of condemnation was passed, and the vessel sold, and the

The Amiable Lucy.

proceeds paid over to the United States, while the act was in force. The act had since expired. It was a case within the principle decided at last term, in the case of *Yeaton and Young v. United States* (*The General Pinkney*, 5 Cr. 281), but it having been made a question whether the sale and payment over of the money did not prevent the operation of that principle, and there being also a question of jurisdiction, the cause stood over to this term for consideration.

The general question of jurisdiction of that court having been settled at this term, in the case of *Seré and Laralde v. Pitot and others* (*post*, p. 332), and the fact of the sale and payment over of the money being admitted—

\*330] \**Martin and P. B. Key*, for the claimants, prayed the court to direct that the proceeds should be paid over to the claimants. But—

THE COURT said, that it was a matter to be left to the consideration of the court below. This court will only make a general order for restitution of the property condemned.

#### The AMIABLE LUCY.

The Brigantine AMIABLE LUCY v. UNITED STATES.

#### *Slave trade.*

The act of congress of the 28th of February 1803, to prevent the importation of certain persons into certain states, where, by the laws thereof, their admission is prohibited, is not in force in the territory of Orleans.

ERROR to the District Court of the United States for the district of Orleans, to reverse the sentence of that court, which condemned the brigantine Lucy, for importing a slave from the West Indies, contrary to the act of congress of the 28th of February 1803 (2 U. S. Stat. 205), entitled "an act to prevent the importation of certain persons into certain states, where, by the laws thereof, their admission is prohibited;" by the first section of which it is enacted, that no master of a vessel, "or any other person, shall import or bring, or cause to be imported or brought, any negro, mulatto or other person of color, not being a native, a citizen, or registered seaman of the United States, or seamen, natives of countries beyond the Cape of Good Hope, into any port or place of the United States, which port or place shall be situated in any state which by law has prohibited, or shall prohibit, the admission or importation of such negro," &c.

And by the second section, it is enacted, "that if any such negro or mulatto, or other person of color, shall be landed from on board any ship or vessel, in any of the ports or places aforesaid, or on the coast of any state prohibiting the admission or importation as aforesaid, the said ship or vessel," &c., "shall be forfeited to the United States."

\*331] By the 7th section of the act of March 26th, 1804, \*\*"erecting Louisiana, into two territories, and providing for the temporary government thereof" (2 U. S. Stat. 285), it is enacted, that the above act of 28th of February 1803, "shall extend to, and have full force and effect in, the above-mentioned territories." And the 10th section of the same act (Ibid. 286), prohibits the importation of slaves into the territory of Orleans,