

United States v. Goodwin.

secured, according to law, on goods not liable, by law, to duty. The legislature must be understood, when saying "upon which the duties have been previously paid or secured according to law," to mean, "upon which the duties, if any, have been previously paid," &c.

It is the opinion of the court, that the sentence of the circuit court be reversed as to so much of the cargo of the sloop Active as is claimed as the property of ——— Gates, and be affirmed as to the vessel and the residue of the cargo. And it is directed, to be certified, that there was probable cause of seizure.

---

The CLARISSA CLAIBORNE. (a)

HAWTHORN, Claimant of the Brig CLARISSA CLAIBORNE, v. UNITED STATES.

*Evidence on appeal in admiralty.*

This court will grant a commission to take new evidence to be used here, in a case of admiralty jurisdiction.

THIS was an appeal from the sentence of the District Court at New Orleans, condemning the brig Clarissa Claiborne, for violating a law of the United States.

\*108] *Hare* moved for a *certiorari*, upon a suggestion of diminution of the record, in not sending up the depositions of the witnesses.

MARSHALL, Ch. J.—What prevents you from producing the witnesses here, or taking their depositions *de novo*?

*Hare* suggested a doubt, whether cases for violation of the embargo, are cases of admiralty, or of prize jurisdiction.

However, on a subsequent day he moved for, and obtained a commission to take the depositions of witnesses at New Orleans, to be used on the trial in this court, at the next term.

A like commission was granted in the case of *Williams v. Armroyd*, at this term.

---

UNITED STATES v. JOHN GOODWIN.

*Appellate jurisdiction.*

No writ of error lies to the supreme court of the United States, to reverse the judgment of a circuit court in a civil action, which has been carried up to the circuit court from the district court, by writ of error.<sup>1</sup>

THIS was an action of debt, brought originally in the District Court for the district of Pennsylvania, by the United States, against John Goodwin, for \$15,000, as a penalty for not entering goods agreeable to the prime cost

---

(a) February 20th, 1812. Present, all the judges.

<sup>1</sup> United States v. Gordon, *post*, p. 287; United States v. Barker, 2 Wheat. 395; Sarchet v. United States, 12 Pet. 143. But afterwards remedied by statute, see R. S. § 691.