

The Eliza.

might be removed, at once, from the district to the supreme court, by writ of error. So that, as the law stood at that time, a party, in cases at common law, had an election to carry his case, where it exceeded \$2000, by writ of error, from the district to the circuit court, under the 22d section of the act of 1789, but without the privilege of proceeding *farther, or to proceed with his cause, at once, to the supreme court, passing by the circuit court. But it appears not to have been the policy of the legislature, at that time, to subject the decisions of the district court, in civil cases at common law, to more than one re-examination in an appellate court.

Writ of error dismissed.

WHELAN *v.* UNITED STATES.*Jurisdiction of the admiralty.*

Cases of seizure upon waters navigable from the sea, by vessels of more than ten tons burden, for breach of the laws of the United States, are civil cases of admiralty and maritime jurisdiction, and are to be tried without a jury.

THIS cause standing so late on the docket that it was not likely to be called for trial at this term, *Dallas*, for the United States, suggested the propriety of assigning a particular day for the hearing, as it was a case of importance, and involved a question of jurisdiction, viz., whether a seizure of a vessel, on waters navigable from the sea for vessels of ten and more tons burden, for breach of a law of the United States, was to be tried by a jury. This question was said to be important, because the judge of the district of Pennsylvania had refused to try any cases of that kind, until the question was finally settled by this court.

The Court accordingly assigned a day for hearing that question, but intimated an opinion that it was already decided in the cases of *The Vengeance*, 3 Dall. 297; *The Betsey and Charlotte*, 4 Cr. 443; and *Yeaton v. United States*, 5 Ibid. 281.

E. Tilghman, for the appellant, after looking into those cases, abandoned the question as to jurisdiction, considering the cases cited as conclusive against him.

February 20th, 1812. THE COURT (all the judges being present) said, that the question had been certainly settled in this court, upon full argument.

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UNITED STATES *v.* The Brig ELIZA.*Seizure for violation of embargo.*

A vessel which has proceeded to a foreign port, contrary to the embargo act of January 9th, 1808, is liable to be seized, upon her return, although that act gives a penalty of double her value, in case she should not be seized.

THIS was an appeal from the sentence of the Circuit Court for the district of Delaware, which affirmed that of the district court, which dismissed the

(a) February 22d, 1812. Present, all the judges.