

The CATHARINE.

The Schooner CATHARINE v. UNITED STATES. (a)

Dismissal of appeal.

If the counsel for the appellant neglect to furnish the court with a statement of the points of the case, the appeal will be dismissed.

THIS case was dismissed, because the counsel for the appellant had not furnished the court with a statement of the points of the case, agreeable to the general rule on that subject.

It was afterwards reinstated, by consent of parties.

BINGHAM and others v. MORRIS and others.

Motion to file and dismiss.

The rule to dismiss a writ of error, for not filing the transcript of the record, within the first six days of the term, does not apply to cases where the transcript shall have been filed before the motion to dismiss.

February 18th, 1812. *Meredith* moved the court to dismiss this appeal, because the transcript of the record was not filed within the first six days of the term, agreeably to the general rule. (3 Cr. 239.) The transcript was filed on the 13th day of the term, and before the motion to dismiss.

THE COURT (Washington, Justice, absent) said, that they did not consider the rule as applying to any case where the transcript shall have been filed, before the motion for dismissal.

Motion overruled.

*The ACTIVE. (b)

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The Sloop ACTIVE v. UNITED STATES.

Violation of embargo.—Forfeiture of licensed vessel.

The departure of a vessel from the wharf of a port, and proceeding a mile and a half therefrom, with intent to go to sea, is not a departure from the port, within the meaning of the 3d section of the supplementary embargo act of January 9th, 1808, if the vessel had not actually gone out of the port, before seizure.

A licensed fishing vessel is liable to forfeiture (under the 32d section of the act of the 18th of February 1793, for enrolling and licensing vessels), for sailing, laden with goods, with intent to carry them to another place, without a license therefor, although the goods are wholly of domestic growth and manufacture and not liable to any duty.¹

But such cargo is not liable to forfeiture, unless it belong to the master, owner or a mariner of the vessel.

The Active, 1 Paine 247, reversed, in part.

THIS was an appeal from the sentence of the Circuit Court of the district of Connecticut, which affirmed that of the district court, condemning the sloop Active and cargo.

(a) February 13th, 1812. Absent, WASHINGTON, Justice.

(b) February 19th, 1812. Present, all the judges.

¹ The Nymph, 1 Ware 257; s. c. 1 Sumn. 516.