on board the Bothnea, and the other on board the Janstaff? Are they acquainted with the coasts in or about Long Island sound? Are they capable of being supercargoes? How came they at Halifax?

In both cases, it will be desirable to know, whether any previous acquaintance existed between the captors and the owners of the captured vessels, and whether the captors had had any previous communication with the places from which the captured vessels sailed. In the cases of the Janstaff and Bothnea, all the circumstances attending the capture will be important. If, as is not expected, any further or better reason can be given for putting the whole crew on shore, it may throw some light on the cases. Each case depends, in some degree, on the points which have been suggested. They are stated, for the purpose of showing, that points, on which the judgment of the court may, in some degree, depend, are susceptible of explanation, and therefore, ought to be explained, so far as it may be in the power of the parties to explain them. It is not, however, intended to confine them to the particular points which have been stated. Full liberty is given to both parties to adduce further proof on every point in the case.

Further proof ordered.

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*United States *v.* Coolidge *et al.* [*415

Jurisdiction.

Quære? Whether the courts of the United States have jurisdiction of offences at common law against the United States.[1]

This was an indictment in the Circuit Court for the district of Massachusetts, against the defendants, for forcibly rescuing a prize, which had been captured and taken possession of by two American privateers.

The captured vessel was on her way, under the direction of a prize-master and crew, to the port of Salem, for adjudication. The indictment laid the offence as committed upon the high seas. The question made was, whether the circuit court has jurisdiction over common-law offences againt the United States? on which the judges of that court were divided in opinion.

The *Attorney-General* stated, that he had given to this case an anxious attention; as much so, he hoped, as his public duty, under whatever view of it, rendered necessary. That he had also examined the opinion of the court, delivered at February term 1813, in the case of the *United States* v. *Hudson and Goodwin* (7 Cr. 32). That considering the point as decided in that case, whether with or without argument on the part of those who had preceded him as the representative *of the government in this [*416 court, he desired respectfully to state, without saying more, that it was not his intention to argue it now.

Story, J.—I do not take the question to be settled by that case.

Johnson, J.—I consider it to be settled, by the authority of that case.

Washington, J.—Whenever counsel can be found ready to argue it, I shall divest myself of all prejudice arising from that case.

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[1] See note to United States *v.* Worrall, 2 Dall. 384.

LIVINGSTON, J.—I am disposed to hear argument on the point. This case was brought up for that purpose, but until the question is re-argued, the case of the *United States* v. *Hudson and Goodwin* must be taken as law.

March 21st, 1816. JOHNSON, J., delivered the opinion of the court.—Upon the question now before the court, a difference of opinion has existed, and still exists, among the members of the court. We should, therefore, have been willing to have heard the question discussed, upon solemn argument. But the attorney-general has declined to argue the cause; and no counsel appears for the defendant. Under these circumstances, the court would not choose to review their former decision in the case of the *United* *417] *States* v. *Hudson and Goodwin*, or draw it into doubt. They *will, therefore, certify an opinion to the circuit court, in conformity with that decision.

Certificate for the defendant.(*a*)

The ST. NICHOLAS: MEYER *et al.*, Claimants.

Prize.

A question of proprietary interest. Where enemy's property is fraudulently blended in the same claim with neutral property, the latter is liable to share the fate of the former.

APPEAL from the Circuit Court of Georgia. This vessel and the cargo were libelled as prize of war. The ship was claimed by John E. Smith, the supercargo, in behalf of John Meyer, alleged to be a Russian subject, residing at St. Petersburg. The cargo consisted of logwood and cotton, 200 bales of which were claimed by Smith, in behalf of Platzman & Gosler, also alleged to be Russian merchants, of St. Petersburg. The remainder of the cargo, consisting of 950 bales of cotton, and 58 tons of logwood, were *418] *claimed in behalf of John Inerarity, a Scotchman, domiciled at Pensacola, and an adopted Spanish subject.

The vessel was restored in the district court, and the cargo condemned, except the logwood, which was restored. Both parties appealed to the circuit court, and the cause was then heard and considered; but that court, under the influence of personal considerations, rendered only a *pro formâ* decree, affirming the sentence of the district court, at the same time, expressing a strong opinion, that both vessel and cargo were liable to condemnation. The cause had been continued, at the last term of this court, for further proof, but no further proof was produced at the present term.

The cause was argued by *Key* and *Harper*, for the appellants and claimants, and by *Pinkney* and *Charlton*, for the respondents and captors.

JOHNSON, J., delivered the opinion of the court, as follows:—This case presents itself in this court under a cloud of circumstances unusually threat-

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(*a*) See 1 Gallis. 488, for the learned and elaborate opinion of Mr. Justice STORY, in the circuit court, in this case, tending to show that all offences within the admiralty jurisdiction are cognisable by the circuit court, and in the absence of positive law, are punishable by fine and imprisonment.