

\*The ELSINEUR : JONES, Claimant.

*Documents in prize causes.*

Where an inspection and comparison of original documents is material to the decision of a prize cause, this court will order the original papers to be sent up from the court below.

APPEAL from the Circuit Court for the district of Georgia. In this case, which was principally a question of fact, *Pinkney* and *Charlton*, for the claimant, stated, that the condemnation in the court below was partly grounded on a comparison of certain documents in this case, with a paper invoked from *The Stackelburg*, another prize cause brought from the same court; that comparison of hands can never be evidence in a court that has not the two writings before it; and that the original papers might be brought up from the court below, in the same manner as the record is removed upon a writ of error, in England.

March 21st, 1816. The following order was made by the court :—In this case, it is ordered, that the claimant make further proof respecting the letter, dated at St. Barts, September 1st, 1813, and signed Jasper D. Blagge, which is now offered to the court; that he show where he received it, and why it has been so long suppressed. It is further ordered, that the clerk of the \*440] circuit court for the district of Georgia, do, under \*the direction of the judges of that court, transmit, by some safe conveyance, to this court, the original papers following, to wit, the Swedish registers of the *Elsineur*, of the *Allemon*, and the *Stackelburg*; the burgher's brief to Peter Hofstrom, and to Runnels, and the bill of sale to Blagge. The claimant is also required to state the persons to whom the vessel and cargo were consigned at Bath, in the voyages to that place, together with the detailed account of those voyages.

The HIRAM : CORNTHWAIT *et al.*, Claimants.

*Enemy's license.*

An agreement in a court of common law, chancery or prize, made under a clear mistake, will be set aside.<sup>1</sup>

Navigating under a license from the enemy, is cause of confiscation, and is closely connected in principle with the offence of trading with the enemy; in both cases, the knowledge of the agent will affect the principal, although he may, in reality, be ignorant of the fact.

APPEAL from the Circuit Court for the district of Massachusetts. This was a vessel laden with flour, and bound from Baltimore to Lisbon, captured, and finally condemned by this court, at February term 1814, for sailing under a license from the enemy. (8 Cr. 444.) The present case was that of the claimants of a greater part of the cargo.

\*441] The ship was owned, \*and the license procured, by Samuel G. Griffith, a citizen of the United States. Separate bills of lading were at first signed by the master, one for each shipper, and separate letters of instruction were given to Patterson Hartshorne, the supercargo. But, in the expectation, as was alleged, that in case of detention, the delay and

<sup>1</sup> *Daniel v. Mitchell*, 1 Story 172. But the mistake must be established by testimony free from all suspicion. *Willett v. Fister*, 18 Wall. 91.