

The LANGDON CHEVES : LAMB, Claimant.

Seizure.

A question of fact, upon a seizure in port, as a *droit* of admiralty, for trading with the enemy, and using his license. The circumstance of the vessel having been sent into an enemy's port, for adjudication, and afterwards permitted to resume her voyage, held to raise a violent presumption, that she had a license, which the claimant not having repelled by explanatory evidence, condemnation was pronounced.

February 3d, 1819. APPEAL from the Circuit Court of Rhode Island.

*104] This cause was argued by *Hunter* and * *Wheaton*, for the appellant and claimant, (a) and by the *Attorney-General*, for the United States.

February 16th. STORY, Justice, delivered the opinion of the court.— This case differs in no essential respect, from that of the *Caledonian*. The brig sailed from the United States, on a voyage to Lisbon, with a cargo of provisions, in May 1813, and was captured by a British sloop of war, and sent into Bermuda, where she was either not proceeded against as prize, or was acquitted on trial; and after a detention of about six weeks, was permitted to resume her original voyage; and on the return-voyage from Lisbon, with a cargo of salt, was, on her arrival at Newport, on the 16th of December 1813, seized by the collector of that port, as forfeited to the United States *jure belli*, for using a British license, and trading with the enemy.

There is no positive proof, that the brig had a British license on board; but we think, that under the circumstances, there arises a violent presumption that she had such a license, and that the burden of proof to repel this presumption rests on the claimant. He has not attempted this, in the slightest degree, there being a total absence of all evidence in his favor; and therefore, as the case remains with all its original imperfections, the decree of the circuit court is affirmed, with costs.

Decree affirmed, with costs.¹

*105] * The FRIENDSCHAFT : MOREIRA, Claimant.

Prize.—Domicil.

The property of a house of trade, established in the enemy's country, is condemnable, as prize, whatever may be the personal domicil of the partners.

APPEAL from the Circuit Court of North Carolina. The shipment in this case was made on the 31st of March 1814, at London, by the house of trade of *Moreira, Vieira & Machado*, of that city, on account and risk of the house, to Mr. *Moreira*, one of the partners, who was a native of, and domiciled at, Lisbon, in the kingdom of Portugal. The shares of the two partners, Messrs. *Vieira* and *Machado*, who were domiciled in London, were condemned as prize of war in the court below, without appeal. The share of Mr. *Moreira*, the partner domiciled at Lisbon, was condemned in the court below; but the claimant was allowed to make further proof to be offered to

(a) They cited *The Amina*, 3 Rob. 167; *The Lisette*, 6 Id. 387; *The Joseph*, 8 Cranch 451, to show, that the *delictum* of contraband, of trading with the enemy, and navigating under his license, are all purged by the termination of the voyage.

¹ For a further decision in this case, see 2 Mason 58.