

CURTIN *v.* UNITED STATES.

ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR
THE SOUTHERN DISTRICT OF NEW YORK.

No. 472. Argued December 16, 1914.—Decided January 25, 1915.

Decided on the authority of *Burdick v. United States*, *ante*, p. 79.

THE facts, which are similar to those involved in the preceding case, are stated in the opinion.

Mr. Henry A. Wise, with whom *Mr. Henry W. Sackett* was on the brief, for plaintiff in error.

The Solicitor General for the United States.

MR. JUSTICE MCKENNA delivered the opinion of the court.

This writ of error was argued and submitted at the same time as *Burdick v. United States*, just decided, *ante*, p. 79. Its purpose is to review a judgment for contempt against Curtin upon presentment of the Federal grand jury for refusing to answer certain questions in the same proceeding considered in the *Burdick Case* in regard to a certain article published in the New York Tribune. Curtin is a reporter on that paper. He declined to answer the questions on the ground that the answers would tend to incriminate him. At a subsequent hearing a pardon issued by the President was offered him (it was the same in substance as that offered Burdick) and he was again questioned. He declined to receive the pardon or to answer the questions on the same ground as before. He was, on presentment of the grand jury, adjudged guilty of

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contempt, fined as Burdick was, with the same leave to purge himself of the contempt, the court deciding that the pardon was valid and sufficient for immunity. Upon Curtin again refusing to answer, the judgment was made absolute and he was committed to the custody of the United States Marshal.

It will be observed, therefore, the case is almost identical in its facts with the *Burdick Case* and exactly the same in principle. On the authority of that case, therefore, the judgment is reversed and the case remanded with instruction to dismiss the proceedings in contempt and discharge Curtin from custody.

MR. JUSTICE McREYNOLDS took no part in the consideration and decision of this case.

DUFFY v. CHARAK, TRUSTEE IN BANKRUPTCY
OF JULES & FREDERIC COMPANY.

APPEAL FROM THE CIRCUIT COURT OF APPEALS FOR THE
FIRST CIRCUIT.

No. 120. Argued January 14, 1915.—Decided January 25, 1915.

A taking possession by the mortgagee of the personal property under the power contained in the mortgage is a delivery that satisfies the requirements of the Massachusetts statute in regard to the delivery of goods sold or mortgaged unless recorded.

Goods under attachment may be sold or mortgaged upon notice to the officer, as effectively as though a true delivery took place.

The holder of a recorded mortgage on personal property in Massachusetts, made within four months of the petition, took possession under the power contained in his mortgage after the sheriff had levied under an attachment, and the next day the petition was filed. *Held* that the mortgagee was entitled to his security to the extent that