

## \*DOBYNES and MORTON v. UNITED STATES.

*Summary judgment.*

To support a judgment on a collector's bond, at the return-term, it must appear by the record, that the writ was executed fourteen days before the return-day.

THIS writ of error came up at last term from the District Court of the United States for the Kentucky district, which, by law, has the jurisdiction of a circuit court of the United States.

The suit was originally brought by the United States against Lewis Moore, as principal, and Dobynes and Morton, as sureties, in a bond given by Moore, as a collector of the revenue. The writ of *capias ad respondendum* was issued on the 12th of February 1803, returnable to the 2d Monday of March following; and judgment was recovered by default, at the return-term, on motion.

The error insisted upon was, that it did not appear by the record that the writ had been "executed fourteen days before the return-day thereof," according to the 14th section of the act of congress of July 11th, 1798. (1 U. S. Stat. 594.)

The record contained a copy of the bail-bond given by Morton, dated the 11th of March 1803; and a receipt from the jailer, for the body of Dobynes, dated the 12th of March 1803. The 2d Monday of March could not have been later than the 14th of the month.

\*242] \*Mason, for the United States, suggested diminution in this, that the writ was served on Dobynes and Morton, on the 20th of February, as appeared by the record of the district court; and obtained a *certiorari*. But now, at this term, the return of the *certiorari* not showing anything more than what appeared on the first transcript—

Breckenridge, Attorney-General, admitted, that the judgment could not be supported, as there was nothing in the record by which the return of the marshal could be amended, so as to show that the writ had been executed fourteen days before the return-day.

C. Lee, for the plaintiffs in error.

Judgment reversed.

## HANNAY v. EVE.

*Illegal contract.*

The courts of the United States will not enforce an agreement entered into in fraud of a law of the United States; although that agreement was made between persons who were then enemies of the United States, and the object of the agreement a mere stratagem of war.

The duty of a master of a vessel to his owners, will not oblige him to violate the good faith even of an enemy, in order to preserve his ship, nor to employ fraud, in order to effect that object.

THIS was a writ of error to the Circuit Court of the United States for the district of Georgia, sitting in chancery, to reverse a decree, which dismissed the complainant's bill, on a demurrer.

The complainant, as assignee of Cruden & Company, alleged in his bill, that on the 24th of December 1782, during the war between the United States and Great Britain, the British armed ship Dawes, owned by Cruden