

CASES DETERMINED
IN THE
SUPREME COURT OF THE UNITED STATES.

FEBRUARY TERM, 1807.

GENERAL RULE.

It is ordered, that where damages are given by the rule passed in February term 1805, the said damages shall be calculated to the day of affirmation of the said judgment in this court.

UNITED STATES *v.* KID & WATSON.

Import duties.

Round copper bars, round copper plates, and round copper plates turned up at the edges, are not subject to duty upon importation.¹

THIS case was certified from the Circuit Court of the district of Pennsylvania, upon a division of opinion between the judges of that court, upon the question whether certain articles of copper, viz., round copper bars, round copper plates, and round copper plates turned up at the edges, imported by the defendants, were subject to duty, within the meaning of the acts of congress, viz., 20th July 1789, and 10th of August 1790 (1 U. S. Stat. 24, 180), by which "copper in plates" is exempt from duty, and the act of the 2d of May 1792, § 2 (1 U. S. Stat. 260), by which "copper in pigs and bars" is also exempt from duty.

The jury found a special verdict, the substance of which was, that such articles as those in question are of no use in the form in which they are imported, but are worked up as a raw material. That the round, the square, and the flat bars are, by the manufacturers and artists, known by the denomination of "bars." That all the articles are sold by weight, and the same price is paid for round as for square or flat bars; and for round plates, and round plates turned up at the edges, as for square or oblong plates. "And that all the aforesaid *articles come under the description of bars and plates." [*2

¹ And see United States *v.* Potts, 5 Cr. 284.

Jennings v. Carson.

Rodney, Attorney-General, admitted that the case was not to be supported, on the part of the United States, and that judgment must be given for the defendants.

JENNINGS v. CARSON.

Prize.

The owner of a privateer, capturing neutral property, is not liable to a decree of restitution, unless the property or its proceeds, came to his hands.¹

The district courts of the United States are courts of prize; and have power to carry into effect the sentences of the old continental courts of appeals in prize causes.²

In all proceedings *in rem*, the court has a right to order the thing to be taken into custody of the law; and it is to be presumed to be in custody of the law, unless the contrary appears.

The thing does not follow the appeal into the superior court, but remains in the court below, which has a right to order it to be sold, if perishable, notwithstanding the appeal.³

Carson v. Jennings, 1 W. C. C. 129, affirmed.

THIS was an appeal from the sentence of the Circuit Court for the district of Pennsylvania, in a cause civil and maritime, in which Jennings was the libellant, and Carson, the respondent; the former claiming to be owner of the sloop *George* and cargo, captured, in the year 1778, by the American privateer *Addition*, commanded by Moses Griffin, of which the respondent, Carson, was part-owner, and which was libelled and condemned, on the 31st of October 1778, as lawful prize, by the court of admiralty for the state of New Jersey; from which sentence of condemnation, there was an appeal to the continental court of appeals, established under authority of the old congress, where the sentence of condemnation was, on the 23d of December 1780, reversed, and restitution ordered, but never obtained. In the meantime, however, the vessel and cargo had been sold by the marshal of the state court of admiralty, for paper money, under an order of the court contained in the sentence of condemnation, and it did not appear what had been done with that money. No measures were taken to enforce the decree of restitution, during the old confederation.

On the 19th of May 1790, after the adoption of the present constitution of the United States, Jennings filed his libel in the district court for the district of Pennsylvania, alleging that he was a subject of the States

*3] *General of the United Provinces, an inhabitant, and domiciled, at the island of St. Eustatius, and owner of the sloop *George* and her cargo, at the time of capture, bound to the port of Egg Harbor in the United States, and consigned to A. & G. Caldwell; in the prosecution of which voyage, she was illegally captured by the privateer *Addition*, owned in part by the respondent, Carson, and praying process for arresting Carson, to answer, &c. A supplemental libel was filed, setting forth the proceedings against the vessel in the court of admiralty of New Jersey; the sentence of condemnation; the appeal; the reversal of that sentence, and the order of restitution.

Neither the original nor supplemental libel prayed any specific or general relief, other than process for arresting Carson, so that he should appear to

¹ The *George*, 1 Mason 24.

² *Penhallow v. Doane*, 3 Dall. 54; The *Amiable Nancy*, 3 Wheat. 546; The *Emulous*, 1 Gallis. 563; The *Amy Warwick*, 2 Spr. 123;

The *Anna*, Bl. Pr. Cas. 337; The *Siren*, 7 Wall. 152.

³ The *Hiawatha*, Bl. Pr. Cas. 198; The *William Bagaley*, 5 Wall. 412.