of the amount of loss occasioned by capture and recapture; and is also a case decided before *Hamilton* v. *Mendes*, most obviously upon the principle that the right to abandon, which was vested by the capture, was not divested by the restoration of the vessel. This case serves to show that the verdict in the case of *The Sarah Galley* did not turn on the subsequent loss of the vessel, for this vessel was not lost. There is in it no allusion to any influence which the loss of a cargo might have on the insurance of a vessel.

*382] *The principles laid down by Millar do not militate against those which are contained in this opinion. When he speaks of a loss which defeats the voyage, he alludes to a loss which has befallen the thing insured.

The court can find in the books no case which would justify the establishment of the principle, that the loss of the cargo constitutes a technical loss of the vessel, and must, therefore, construe this contract according to its obvious import. It is an insurance on the ship, for the voyage, not an insurance on the ship and the voyage. It is an undertaking for the ability of the ship to prosecute her voyage, and to bear any damage which she may sustain during the voyage, not an undertaking that she shall, in any event, perform the voyage.

It is the unanimous opinion of the court, that the judgment must be affirmed, with costs.

Judgment affirmed.

Matthews *v.* Zane.

Appellate jurisdiction.

If two citizens of the same state, in a suit in a court of their state, claim title under the same act of congress, this court has an appellate jurisdiction to revise and correct the judgment of that court in such case.

Error to the state court of the state of Ohio, under the 25th section of the judiciary act. (1 U. S. Stat. 85.)

The plaintiff in error claimed title to land in the state of Ohio, under the act of congress, passed in 1800, and the decision of the state court was against him. The defendant in error also claimed title to the same land, under the same act of congress. The question was, whether in such a case this court had an appellate jurisdiction to revise the judgment of a state court.

*383] **Harper*, for the defendant in error, contended, that the reason of bestowing upon this court the power of revising the decisions of the state courts, upon points arising under the laws of the United States, was merely to maintain the authority of the laws of the United States, against the encroachments of the state authorities. But that it was not intended to give this court the power to revise the decision of a state court, in a controversy between two of her own citizens, claiming under the same act of congress; for whether the one or the other recovered, the authority of the laws of the United States was equally supported. The power was given merely to prevent the laws of the United States from being frittered away by state jealousies and state powers.

P. B. Key, contrà, contended, that the intention was to give a uniform

construction to the laws of the United States; and that whenever a state court of the highest grade shall have given a false construction to an act of congress, to the prejudice of a right claimed under such act of congress, this court is empowered to correct the decision; and that it is altogether immaterial, whether both parties are citizens of the same state, or whether both claim under the same act of congress.

The Court at first hesitated as to the jurisdiction, but upon consultation together and deliberation—

Marshall, Ch. J., declared it to be the opinion of a majority of the judges, that this court has jurisdiction. That the third article of the constitution of the United States, when considered in connection with the statute, will give it a more extensive construction than it might otherwise receive. It is supposed, that the act intends to give this court the power of rendering uniform the construction of the laws of the United States, and the decisions upon rights or titles, claimed under those laws.

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*Young *v.* Bank of Alexandria. [*384

District of Columbia.

An appeal or writ of error lies from the judgments of the circuit court of the District of Columbia, to this court, in cases where the Bank of Alexandria is plaintiff, and the judgments below are in its favor, notwithstanding the clause in its charter to the contrary.

The right of Virginia to legislate for that part of the District of Columbia which was ceded by her to the United States, continued until the 27th of February 1801.

The act of Virginia incorporating the Bank of Alexandria is a public law.

Quære? Whether private acts of assembly of Virginia, printed by the public printer of that state, under the authority of law, may be read in evidence, without other authentication.

Error to the Circuit Court for the district of Columbia, sitting at Alexandria.

C. Simms, for the defendant in error, having obtained a rule on the plaintiff in error, to show cause why the writ of error should not be quashed—

Youngs, *E. J. Lee* and *Jones* now showed cause; and read a printed paper, produced by the other side, purporting to be the act of assembly of Virginia, of 1792, incorporating the bank, and giving them a right to obtain judgments against their debtors, at the first term, without appeal or writ of error; another printed paper, also produced by the other side, purporting to be the act of assembly of Virginia, of the 21st of January 1801, continuing the act of 1792 until the year 1811, which would otherwise have expired in the year 1803; the act of congress of the 27th of February 1801, erecting the circuit court for the district of Columbia, and providing for an appeal or writ of error to this court, in all cases where the matter in dispute shall exceed the value of one hundred dollars, with a proviso that nothing in that act should impair the rights granted by, or derived from, the acts of incorporation of any body corporate within the district; the act of assembly of Virginia of 1789, ceding to the United States a territory for the seat of their government, and the act of congress of 1790, accepting the cession.

They contended, 1. That when the legislature of Virginia passed the