

Syllabus.

and elaborate. Two eminent American law writers have taken the same view of the subject.* They hold that the prohibition in question does not apply to suits in admiralty.

DECREE OF THE CIRCUIT COURT REVERSED, and the case remanded with directions to

AFFIRM THE DECREE OF THE DISTRICT COURT.

Dissenting, Justices MILLER and STRONG.

Note.

At the same time was argued the case of *The New England Mutual Insurance Company and others v. The Detroit and Cleveland Steam Navigation Company*, a case from the Circuit Court for the Northern District of Ohio, and involving the question arising in the preceding case, under the eleventh section of the Judiciary Act of 1789. It was decided in favor of the appellants; the court referring to the opinion above printed as controlling it. Dissenting, Justices MILLER and STRONG. The briefs filed in this last case, by *Messrs. Willey, Cary, and Terrill, for the appellants*, and by *Mr. G. B. Hibbard, contra*, were, by leave of the court, filed also in the preceding case.

LAMB v. DAVENPORT.

1. Unless forbidden by some positive law, contracts made by actual settlers on the public lands concerning their possessory rights, and concerning the title to be acquired in future from the United States, are valid as between the parties to the contract, though there be at the time no act of Congress by which the title may be acquired, and though the government is under no obligation to either of the parties in regard to the title.
2. The proviso of the Oregon Donation Act of September 27th, 1850, which forbade the *future* sale of the settler's interest until a patent should

* 2 Parsons's Maritime Law, 686, note; 2 Parsons's Shipping and Admiralty, 390; Benedict's Admiralty, § 425.