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Statement of the case.

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*Defrees*, reported in the 11th of Wallace, so far as they are applicable to the facts of this case; and on the further ground that the libel of information is fatally defective in charging no one offence positively, but several offences in the alternative.

Mr. Justice DAVIS also dissented.

Mr. Justice BRADLEY, not having heard the argument, took no part in the judgment.

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NOTE.

## CLAIMS OF MARCUARD ET AL.

Holders of liens against real estate sold under the Confiscation Act of July 17th, 1862, should not be permitted to intervene in any proceedings for the confiscation. Their liens will not, in any event, be divested.

IN these cases, which were several appendages to the case just above reported, and which came here on error or appeal from the Circuit Court for the District of Louisiana, Marcuard, the Citizens' Bank of Louisiana, and the Merchants' Bank of New Orleans, alleged that at the time of filing the information mentioned in the foregoing case as the foundation of the sale which was made of the eight hundred and forty-four lots and ten squares of ground in New Orleans, owned by Slidell, they respectively held liens against the said property. And they were permitted by the courts below to intervene for the protection of their claims. Those courts, however—the District Court first, and the Circuit Court affirming its action—refused to let them take the proceeds of the sale.

On the different writs of error or appeals the question was whether this action was right.

*Mr. Thomas Allen Clarke, for the parties appellant or plaintiffs in error, denied that it was.*

*Mr. C. H. Hill, Assistant Attorney-General, contra.*

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Mr. Justice STRONG delivered the opinion of the court.

The parties now before us complain that they were not allowed to take the proceeds of the sales. But they ought not to have been allowed to intervene. They had no interest, even if they were lien holders, in the confiscation proceedings. It was only the right of John Slidell, whatever that right was, that could be condemned and sold, and the sale under the judgment of condemnation in no degree disturbed their liens. By the decree of condemnation the United States succeeded to the position of Slidell, and the sale had no other purpose or effect than to make the thing confiscated available for the uses designated by the Confiscation Act. This was decided in *Bigelow v. Forrest*,\* and more recently in *Day v. Micou*† The District Court, therefore, acted correctly in rejecting the claims of the appellants and plaintiffs in error, even if the reasons given for the rejection were insufficient, and the Circuit Court was not in error in affirming what the District Court did.

The action of the Circuit Court in the premises is, therefore,

AFFIRMED IN EACH OF THE CASES.

Mr. Justice BRADLEY did not sit during the argument, and took no part in the decision of any of the above causes.

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CONRAD'S LOTS.

When, under the Confiscation Act of July 17th, 1862, an information has been filed in the District Court and a decree of condemnation and sale of the land seized been made, and the money has been paid into the registry of the court, and on error to the Circuit Court, that court, reversing the decree, has dismissed the information but confirmed the sale, and ordered the proceeds to be paid to the owner of the land—if on error by the United States to this court, this court reverse the decree of the Circuit Court, and affirm the decree of the District Court, that reversal will leave nothing on which a writ of error by the owner can act. The judgment having been reversed, the confirmation of the sale and order to pay the proceeds fall. The only judgment can be reversal again.

ERROR to the Circuit Court for the District of Louisiana.

On an information very similar to that in Slidell's case, filed in the District Court for Louisiana, by *The United States v. Ten*

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\* 9 Wallace, 339.

† 18 Id. 156.