

## The Sally.

enter within 48 hours after arrival within the district, or the vessel and cargo will be liable for forfeiture.

Six months' credit is given for duties from the time of importation. The uniform construction of the treasury has been, that this six months begins from the time of entry and permit. In this very case, the bond is dated on \*372] the 2d of January 1808, the date of the permit. \*In all cases, too, where additional duties have been imposed, the construction of the treasury has always been, that the additional duties are to be paid, if the vessel arrived at the port, after the day fixed by law, although she arrived within the district before that day.

March 15th, 1809. MARSHALL, Ch. J., delivered the opinion of the court, to the following effect:—The distinction taken by the counsel for the defendants in error, between a district and a port of entry, is correct. The duties did not accrue, in the fiscal sense of the term, until the vessel arrived at the port of entry. If the question had been doubtful, the court would have respected the uniform construction which it is understood has been given by the treasury department of the United States upon similar questions. It is understood, that in case of an increase of duty, the United States have always demanded and received the additional duty, if the goods have not arrived at the port of entry, before the time fixed for the commencement of such additional duty, although the vessel may have arrived within the collection district before that time. The same rule of construction is to be observed when there is a diminution of duty.

Judgment affirmed.

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*Appellate jurisdiction.*

An appeal from the district court of the district of Maine, in a case of admiralty jurisdiction, does not lie directly to the supreme court of the United States, but to the circuit court for the district of Massachusetts.

In all cases where the district court of Maine acts as a district court, the appeal is to the circuit court for the district of Massachusetts.

THIS was an appeal from the sentence of the District Court for the district of Maine, condemning the sloop Sally and cargo, for violation of the revenue laws of the United States. The appeal was directly to this court.

\*373] \*Rodney, Attorney-General.—No appeal lies from that court directly to this, in a case where that court acts in the capacity of a district court. In such cases, the appeal is expressly given to the circuit court for the district of Massachusetts.

By the 10th section of the judiciary act of 1789 (1 U. S. Stat. 78), it is enacted, that the "district court in Maine district, shall, besides the jurisdiction herein before granted, have jurisdiction of all causes (except of appeals and writs of error) hereinafter made cognisable in a circuit court, and shall proceed therein, in the same manner as a circuit court; and writs of error shall lie from decisions therein, to the circuit court in the district of Massachusetts, in the same manner as from other district courts to their respective

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circuit courts." And by the 21st section it is enacted, "that from final decrees in a district court in causes of admiralty and maritime jurisdiction, where the matter in dispute exceeds the sum or value of three hundred dollars, exclusive of costs, an appeal shall be allowed to the next circuit court to be held in such district. Provided, nevertheless, that all such appeals from final decrees as aforesaid, from the district court of Maine, shall be made to the circuit court, next to be holden after each appeal, in the district of Massachusetts."

By the act of March 3d, 1803, § 2 (2 U. S. Stat. 244), it is enacted, "that from all final judgments or decrees rendered or to be rendered in any circuit court, or in any district court, acting as a circuit court, in any cases of equity, of admiralty and maritime jurisdiction, and of prize or no prize, an appeal, where the matter in dispute, exclusive of costs, shall exceed the sum or value of \$2000, shall be allowed to the supreme court of the United States," &c. In this case, the court below could only act in its capacity of a district court, because such causes of \*admiralty and maritime jurisdiction are exclusively cognisable in a district court. [\*374]

*C. Lee*, contra, contended, that there was a repugnance between the act of 1789, and that of 1803, the latter declaring that appeals in such cases should be directly to the supreme court. But—

THE COURT was of opinion, that this not being a case where the district court was acting as a circuit court, the appeal ought to have been to the circuit court of Massachusetts.

Appeal dismissed.

