

The London Packet

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Court : US Supreme Court

Decided On : 1817

Appeal No. : 15 U.S. 371

Appellant : The London Packet

Judgement :

The London Packet - 15 U.S. 371 (1817)

U.S. Supreme Court The London Packet, 15 U.S. 371 (1817)

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SYLLABUS

It is the practice of this Court in prize causes to hear the cause; in the first instance upon the evidence transmitted from the circuit court and to decide upon that evidence whether it is proper to allow further proof.

Affidavits to be used as further proof in causes of admiralty and maritime jurisdiction in this Court must be taken by a commission.

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In the argument of this cause, Mr. Winder, for the claimant, stated that there was an affidavit annexed to the record which was taken under the order for further proof in the court below, but which, not arriving until after the decree of condemnation was pronounced, was ordered by the circuit court, to be transmitted *de bene esse* for the consideration of this Court. He further stated that he had additional proofs, taken since that time, to be used in this Court, and he asked whether he should now be permitted to read these proofs in order to show what was the nature of the evidence which existed, to clear away any former doubts in the cause.

MR. CHIEF JUSTICE MARSHALL.

The Court is of opinion that the affidavit transmitted from the circuit court may be now read. But as to the new proof now offered by the claimant, it is the practice of this Court to hear the cause in the first instance upon the evidence transmitted from the circuit court, and to decide upon that evidence whether it is proper to allow further proof. The new proof cannot, therefore, be now read; but as the opposite party wishes it, the counsel may state the nature of the proof, though not the contents thereof in detail. If the

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case shall ultimately appear entitled to further proof, an order will be made for that purpose.

Farther proof was ordered in the cause.

Mr. D. B. Ogden, for the claimant, offered to read affidavits, as further proof, which had not been taken under a commission. But they were rejected by the Court, the cause was continued to the next term, and the further proof ordered to be taken under a commission, according to the rule of Court of the present term.

Cause continued.

