

**Foxcraft Vs. Nagle**

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**SooperKanoon Citation :** [sooperkanoon.com/78028](http://sooperkanoon.com/78028)

**Court :** US Supreme Court

**Decided On :** 1791

**Appeal No. :** 2 U.S. 132

**Appellant :** Foxcraft

**Respondent :** Nagle

**Judgement :**

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U.S. Supreme Court FOXCRAFT v. NAGLE, 2 U.S. 132 (1791)

2 U.S. 132 (Dall.)

Foxcraft and Galloway

v.

Nagle

Supreme Court of Pennsylvania

September Term, 1791

This was an action of debt, and issue was joined on the plea of payment. It appeared that the defendant had paid the principal and all the interest, except for seven years and a half, which he now contended ought to be deducted, as the plaintiffs were British subjects, and not resident within the American lines during

the war. The defendant's counsel insisted, that the point had been fully settled in the case of Osborn versus Mifflin's Executors; and also, in that of Hoare versus Allen.\* But the plaintiff's counsel endeavoured to distinguish this case, by proving that the parties had an intercourse: That Galloway was with the enemy while they were in Philadelphia, and that Naglee the defendant, then lived within three miles of the city; and might have come in and gone out at pleasure. They cited the case of the Executors of Mease versus Rhodes. There the money let out was the property of infants in Ireland, and the obligees

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were described in the bond as trustees for the infants. An abatement of interest was claimed; but the Court held, that as long as the person in whom the legal interest was vested was here, the interest must run. They also urged, that the Federal Court had lately determined at New Haven, that the treaty between Great Britain and America secured, by its operation, the payment of interest during the whole war.

The defendant's counsel, in reply, stated it as a general rule, that wherever any one is obliged by the law, or by the creditor, to keep the money, and is not allowed to pay it, he shall pay no interest. That the clause in the treaty did not apply, and was intended merely to guard against the operation of certain acts of Maryland and Virginia, which went to the cancelling of the whole debt. It is provided that they shall recover their just debts: but what are their just debts, is a question for the Court here to determine. Now, in a war, all intercourse between enemies is forbidden. The situation of Naglee could not vary the case. Parke. 270. 1. 2 Val. 31. 2 Mag. 257. He was out of the enemy's lines, and he was punishable under our acts of Assembly, if he went within them. In the case of Mease and Rhodes there was express proof, that Rhodes, during the war, promised to pay all the interest, and that put an end to the question.

By the Court: It has been frequently settled, that the debt being suspended during the war, no interest could arise upon it. Of the decision of the Circuit Court we

know little, having no report of it, nor any statement of facts, nor in what manner it came before the Court; nor whether the counsel produced to the Court the treaty; or argued the cause so fully as ought to have been done, if it was intended to have the previous decisions reconsidered. If the plaintiffs mean to make it a point, they will have an opportunity so to do, at the return of the postea. We are all of opinion, however, that the interest during the war should be deducted; that is for seven and a half years.

Verdict accordingly. [\\*](#)

Ingersoll and Tilghman, for the plaintiffs.

Serjeant, for the defendant. Footnotes

[ [Footnote \\*](#) ] Ant. p. 102.

[ [Footnote \\*](#) ] See Vatt: B. 4. C. 2. s. 22. 23.