

Sands Vs. Knox

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Court : US Supreme Court

Decided On : 1806

Appeal No. : 7 U.S. 499

Appellant : Sands

Respondent : Knox

Judgement :

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U.S. Supreme Court Sands v. Knox, 7 U.S. 499 (1806)

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7 U.S. 499

ERROR TO THE COURT FOR THE TRIAL OF IMPEACHMENTS AND

THE CORRECTION OF ERRORS IN THE STATE OF NEW YORK

SYLLABUS

The Court held in this case, on the authority of [Murray v. The Charming Betsey, 6 U. S. 64](#) , that the Nonintercourse Act of the 13 June, 1798, did not intend to affect vessels of the United States or to impose any disability on the vessel after a

bona fide sale and transfer to a foreigner.

Thomas Knox, administrator, with the will annexed, of Raapzat Heyleger, a subject of the King of Denmark, brought an action of trespass *vi et armis* in the Supreme Court of Judicature of the State of New York against Joshua Sands, Collector of the Customs for the port of New York, for seizing and detaining a schooner called the *Jennet*, with her cargo. The defendant Sands pleaded in justification that he was collector, &c.;, and that after 1 July, 1798, *viz.*, on 16 November, 1798, the said schooner, then being called *The Juno*, was owned by a person resident within the United States at Middletown in Connecticut, and cleared for a foreign voyage, *viz.*, from Middletown to the Island of St. Croix, a bond being given to the use of the United States, as directed by the statute, with condition that the vessel should not, during her intended voyage, or before her return within the United States, proceed, or be carried directly or indirectly to any port or place within the territory of the French Republic, or the dependencies thereof, or any place in the West Indies or elsewhere, under the acknowledged government of France unless by stress of weather or want of provisions, or by actual force or violence, to be fully proved and manifested before the acquittance of such bond, and that such vessel was not, and should not be employed during her said intended voyage or before her return as aforesaid in any traffic or commerce with or for any person resident within the territory of that republic or in any of the dependencies thereof. That afterwards, on 8 December, 1798, she did proceed, and was voluntarily carried from Middletown to the Island of St. Croix in the West Indies, and from thence, before her return within the United States, to Port de Paix, in the Island of St. Domingo, being then a place under the acknowledged government of France, without being obliged to do so by stress of weather or

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want of provisions, or actual force and violence, whereby, and according to the form of the statute, the said schooner and her cargo became forfeited, the one-half to the use of the United States, and the other half to the informer, by reason whereof the defendant, being collector, &c.;, on 1 July, 1799, arrested, entered, and took possession of the said vessel and cargo for the use of the United States

and detained them as mentioned in the declaration, and as it was lawful for him to do.

The plaintiff, in his replication, admitted that the defendant was collector, &c.;, that at the time she sailed from Middletown for St. Croix, she was owned by a person then resident in the United States, and that a bond was given as stated in the plea, but alleged that she sailed directly from Middletown to St. Croix, where she arrived on 1 February, 1799, the said Island of St. Croix then and yet being under the government of the King of Denmark. That one Josiah Savage, then and there being the owner and possessor of the said vessel, sold her for a valuable consideration at St. Croix to the said Raapzat Heyleger, who was then and until his death continued to be a subject of the King of Denmark and resident at St. Croix, who, on 1 March following, sent the said vessel, on his own account, and for his own benefit, on a voyage from Port de Paix to St. Croix. Without that, that she was at any other time carried, &c.;

To this replication there was a general demurrer and joinder and judgment for the plaintiff, which, upon a writ of error to the Court for the Trial of Impeachments and Correction of Errors, in the State of New York, was to this Court affirmed.

The defendant now brought his writ of error to this Court under the 25th section of the Judiciary Act of the United States, vol. 1, p. 63.

The only question which could be made in this Court was upon the construction of the Act of Congress, of June 13, 1798, vol. 4, p. 129, commonly called the nonintercourse act, the 1st section of which is in these words:

"That no ship or vessel, owned, hired, or employed

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wholly or in part by any person resident within the United States, and which shall depart therefrom after 1 July next, shall be allowed to proceed directly or from any intermediate port or place to any port or place within the territory of the French Republic or the dependencies thereof or to any place in the West Indies or

elsewhere under the acknowledged government of France, or shall be employed in any traffic or commerce with or for any person, resident within the jurisdiction, or under the authority of the French Republic. And if any ship or vessel, in any voyage thereafter commencing and before her return within the United States, shall be voluntarily carried or suffered to proceed to any French port or place as aforesaid, or shall be employed as aforesaid, contrary to the intent hereof, every such ship or vessel, together with her cargo, shall be forfeited and shall accrue, the one-half to the use of the United States and the other half to the use of any person or persons, citizens of the United States, who will inform and prosecute for the same, and shall be liable to be seized, prosecuted, and condemned in any circuit or district court of the United States, which shall be holden within and for the district where the seizure shall be made."

The condition of the bond, stated in the plea, corresponded exactly with that required by the 2d section of the act.

The 70th section of the act of 2 March, 1799, vol. 4, p. 390, makes it the duty of the several officers of the customs, to seize any vessel liable to seizure, under that or any other act of Congress respecting the revenue.

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MR. CHIEF JUSTICE MARSHALL.

If the question is not involved whether probable cause will justify the seizure and detention; if there are no facts in the pleadings which show a ground to suspect that there was no *bona fide* sale and transfer of the vessel, the Court does not wish to hear any argument on the part of the defendant in error.

It considers the point as settled by the opinion given in the case of the *Charming Betsey*, with which opinion the Court is well satisfied.

The law did not intend to affect the sale of vessels of the United States or to impose any disability on the vessel after a *bona fide* sale and transfer to a foreigner.

Judgment affirmed.

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