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The St. Lawrence

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Court : US Supreme Court

Decided On : 1815

Appeal No. : 13 U.S. 120

Appellant : The St. Lawrence

Judgement :

The St. Lawrence - 13 U.S. 120 (1815)
U.S. Supreme Court The St. Lawrence, 13 U.S. 9 Cranch 120 120 (1815)

The St. Lawrence

13 U.S. (9 Cranch) 120

APPEAL FROM THE CIRCUIT COURT

FOR THE DISTRICT OF NEW HAMPSHIRE

SYLLABUS

If, upon the breaking oat of a war with this country, our citizens have a right to withdraw their property from the enemy's country, it must be done within a reasonable time. Eleven months after the declaration of war is too late.

Appeal from the sentence of the Circuit Court for the District of New Hampshire condemning the ship *St. Lawrence* and cargo. All the claims in this case, except those of McGregor and Penniman for certain parts of the cargo, where settled at the last term, and with regard to these further proof was ordered.

No further proof having been produced, the case was submitted to the Court without argument.

STORY, J. delivered the opinion of the Court as follows:

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The only claims in this case now remaining for the consideration of the Court are those of Mr. Penniman and McGregor. Further proof was directed at the last term to be made in respect to those claims, and no additional evidence having been produced beyond that which was then disclosed to the Court, the causes have been submitted for a final decision.

In respect to the claim of Mr. Penniman, the evidence is very strong that the goods were purchased sometime before the war by his agent in Great Britain on his sole account. They were not, however, shipped for the United States until the latter part of May, 1813.

It is not the intention of the Court to express any opinion as to the right of an American citizen, on the breaking out of hostilities, to withdraw his property purchased before the war from an enemy country. Admitting such right to exist, it is necessary that it should be exercised with due diligence and within a reasonable time after the knowledge of hostilities. To admit a citizen to withdraw property from an enemy country a long time after the war under the pretense of its having been purchased before the war would lead to the most injurious consequences and hold out strong temptations to every species of fraudulent and illegal traffic with the enemy. To such an unlimited extent we are all satisfied that the right cannot exist. The present shipment was not made until more than eleven months had elapsed after war was declared, and we are all of opinion that it was then too late for the

party to make the shipment so as to exempt him from the penalty attached to an illegal traffic with the enemy. The consequence is that the property of Mr. Penniman must be condemned.

And this decision is fatal also to the claim of Mr. McGregor. Independent indeed of this principle, there are many circumstances in the case unfavorable to the latter gentleman. In the first place, it is not pretended that the goods included in his claim were purchased before the war. In the next place, he was the projector of the present voyage, and became, as to one moiety, the charterer or purchaser of the ship.

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Nearly all the cargo consisted of goods belonging (as it must now be deemed) exclusively to British merchants. He was therefore engaged in an illegal traffic of the most noxious nature, a traffic not only prohibited by the law of war but by the municipal regulations of his adopted country. His whole property, therefore, embarked in such an enterprise must alike be infected with the taint of forfeiture.

The judgment of the circuit court must therefore, as to these claims, be affirmed with costs.

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