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Thirty Hogsheads of Sugar Vs. Boyle

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Court : US Supreme Court

Decided On : 1815

Appeal No. : 13 U.S. 191

Appellant : Thirty Hogsheads of Sugar

Respondent : Boyle

Judgement :

Thirty Hogsheads of Sugar v. Boyle - 13 U.S. 191 (1815)
U.S. Supreme Court Thirty Hogsheads of Sugar v. Boyle, 13 U.S. 9 Cranch 191 191 (1815)

Thirty Hogsheads of Sugar v. Boyle

13 U.S. (9 Cranch) 191

APPEAL FROM THE CIRCUIT COURT

FOR THE DISTRICT OF MARYLAND

SYLLABUS

The produce of an enemy's colony is to be considered as hostile property so long as it belongs to the owner or the soil, whatever may be his national character in

other respects, or whatever may be his place of residence.

An island in the temporary occupation of the enemy is to be considered as an enemy's colony.

In deciding a question of the law of nations, this Court will respect the decisions of foreign courts.

The law of nations is the great source from which we derive these rules respecting belligerent and neutral rights which are recognized by all civilized and commercial states throughout Europe and America. This law is in part unwritten and in part conventional. To ascertain that which is unwritten, we resort to the great principles of reason and justice, but, us these principles will be differently understood by different nations under different circumstances, we consider them as being in some degree fixed and rendered stable by a series of judicial decisions. The decisions of the courts of every country, so far as they are founded upon a law common to every country, will be received not as authority, but with respect. The decisions of the courts of every country show how the law of nations in the given case is understood in that country, and will be considered in adopting the rule which into prevail in this.

Without taking a comparative view of the justice or fairness of the rules established in the British courts and of those established in the courts of other nations, there are circumstances not to be excluded from consideration, which give to those rules a claim to our attention that we cannot entirely disregard. The United States having at one time formed a component part of the British empire, their prize law was our prize law. When we separated, it continued to be our prize law, so far as it was adapted to our circumstances, and was not varied by the power which was capable of changing it.

It will not be advanced, in consequence of this former relation between the two countries, that any obvious misconstruction of public law made by the British courts will be considered as forming a rule for the American courts, or that any recent rule of the British courts is entitled to more respect than the recent rules of

other countries. But a case professing to be decided on ancient principles will not be entirely disregarded, unless it be very unreasonable or be founded on a construction rejected by other nations.

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Appeal from the sentence of the Circuit Court for the District of Maryland condemning 30 hogsheads of sugar, the property of the claimant, a Danish subject, it being the produce of his plantation in Santa Cruz and shipped after the capture of that island by the British to a house in London for account and risk of the claimant, who was a Danish officer and the second in authority in the government of the island before its capture, and who, shortly after the capture, withdrew and has since resided in the United States and in Denmark. By the articles of capitulation, the inhabitants were permitted to retain their property, but could only ship the produce of the island to Great Britain. This sugar was captured in July, 1812, after the declaration of war by the United States against Great Britain, and libeled as British property.

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MR. CHIEF JUSTICE MARSHALL delivered the opinion of the Court as follows:

The Island of Santa Cruz, belonging to the Kingdom of Denmark, was subdued, during the late war, by the arms of his Britannic Majesty. Adrian Benjamin Bentzon, an officer of the Danish government, and a proprietor of land therein, withdrew from the island on its surrender, and has since resided in Denmark. The property of the inhabitants being secured to them, he still retained his estate in the island under the management of an agent, who shipped thirty hogsheads of sugar, the produce of that estate, on board a British ship, to a commercial house in London, on account and risk of the said A. B. Bentzon. On her passage, she was captured by the American privateer *The Comet,* and brought into Baltimore, where the vessel and cargo were libeled as enemy property. A claim for these sugars was put in by Bentzon, but they were condemned with the rest of the

cargo, and the sentence was affirmed in the circuit court. The claimant then appealed to this Court.

Some doubt has been suggested whether Santa Cruz, while in the possession of Great Britain, could properly be considered as a British island. But for this doubt there can be no foundation. Although acquisitions made during war are not considered as permanent until confirmed by treaty, yet to every commercial and belligerent purpose, they are considered as a part of the domain of the conqueror, so long as he retains the possession and government of them. The Island of Santa Cruz, after its capitulation, remained a British island until it was restored to Denmark.

Must the produce of a plantation in that island, shipped by the proprietor himself, who is a Dane residing in Denmark, be considered as British, and therefore enemy property?

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In arguing this question, the counsel for the claimants has made two points.

1. That this case does not come within the rule applicable to shipments from an enemy country, even as laid down in the British courts of admiralty.

2. That the rule has not been rightly laid down in those courts, and consequently will not be adopted in this.

1. Does the rule laid down in the British courts of admiralty embrace this case?

It appears to the Court that the case of the *Phoenix* is precisely in point. In that case, a vessel was captured in a voyage from Surinam to Holland, and a part of the cargo was claimed by persons residing in Germany, then a neutral country, as the produce of their estates in Surinam.

The counsel for the captors considered the law of the case as entirely settled. The counsel for the claimants did not controvert this position. They admitted it, but

endeavored to extricate their case from the general principle by giving it the protection of the Treaty of Amiens. In pronouncing his opinion, Sir William Scott lays down the general rule thus:

"Certainly nothing can be more decided and fixed, as the principle of this court and of the Supreme Court, upon very solemn arguments, than that the possession of the soil does impress upon the owner the character of the country, as far as the produce of that plantation is concerned, in its transportation to any other country, whatever the local residence of the owner may be. This has been so repeatedly decided, both in this and the superior court, that it is no longer open to discussion. No question can be made on the point of law, at this day."

Afterwards, in the case of the *Vrow Anna Catharina,* Sir William Scott lays down the rule and states its reason. "It cannot be doubted," he says,

"that there are transactions so radically and fundamentally national as to impress the national character, independent of peace or war, and the local residence of the parties. The

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produce of a person's own plantation in the colony of the enemy, though shipped in time of peace, is liable to be considered as the property of the enemy, by reason that the proprietor has incorporated himself with the permanent interests of the nation as a holder of the soil, and is to be taken as a part of that country, in that particular transaction, independent of his own personal residence and occupation."

This rule laid down with so much precision does not, it is contended, embrace Mr. Bentzon's claim, because he has not "incorporated himself with the permanent interests of the nation." He acquired the property while Santa Cruz was a Danish colony, and he withdrew from the island when it became British.

This distinction does not appear to the Court to be a sound one. The identification of the national character of the owner with that of the soil, in the particular transaction, is not placed on the dispositions with which he acquires the soil, or on

his general character. The acquisition of land in Santa Cruz binds him, so far as respects that land, to the fate of Santa Cruz, whatever its destiny may be. While that island belonged to Denmark, the produce of the soil, while unsold, was, according to this rule, Danish property, whatever might be the general character of the particular proprietor. When the island became British, the soil and its produce, while that produce remained unsold, were British.

The general commercial or political character of Mr. Bentzon could not, according to this rule, affect this particular transaction. Although incorporated, so far as respects his general character, with the permanent interests of Denmark, he was incorporated, so far as respected his plantation in Santa Cruz, with the permanent interests of Santa Cruz, which was at that time British, and though as a Dane he was at war with Great Britain and an enemy, yet, as a proprietor of land in Santa Cruz, he was no enemy; he could ship his produce to Great Britain in perfect safety.

The case is certainly within the rule as laid down in the British courts. The next inquiry is how far will that rule be adopted in this country?

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The law of nations is the great source from which we derive those rules respecting belligerent and neutral rights which are recognized by all civilized and commercial states throughout Europe and America. This law is in part unwritten and in part conventional. To ascertain that which is unwritten, we resort to the great principles of reason and justice, but as these principles will be differently understood by different nations under different circumstances, we consider them as being in some degree fixed and rendered stable by a series of judicial decisions. The decisions of the courts of every country, so far as they are founded upon a law common to every country, will be received not as authority, but with respect. The decisions of the courts of every country show how the law of nations, in the given case, is understood in that country and will be considered in adopting the rule which is to prevail in this.

Without taking a comparative view of the justice or fairness of the rules established in the British courts, and of those established in the courts of other nations, there are circumstances not to be excluded from consideration, which give to those rules a claim to our attention that we cannot entirely disregard. The United States having at one time formed a component part of the British empire, their prize law was our prize law. When we separated, it continued to be our prize law so far as it was adapted to our circumstances and was not varied by the power which was capable of changing it.

It will not be advanced, in consequence of this former relation between the two countries, that any obvious misconstruction of public law made by the British courts, will be considered as forming a rule for the American courts, or that any recent rule of the British courts is entitled to more respect than the recent rules of other countries. But a case professing to be decided on ancient principles will not be entirely disregarded unless it be very unreasonable, or be founded on a construction rejected by other nations.

The rule laid down in the *Phoenix* is said to be a recent rule, because a case solemnly decided before the lords commissioners in 1783, is quoted in the margin

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as its authority. But that case is not suggested to have been determined contrary to former practice or former opinions. Nor do we perceive any reason for supposing it to be contrary to the rule of other nations in a similar case.

The opinion that ownership of the soil does in some degree connect the owner with the property, so far as respects that soil, is an opinion which certainly prevails very extensively. It is not an unreasonable opinion. Personal property may follow the person anywhere, and its character, if found on the ocean, may depend on the domicile of the owner. But land is fixed. Wherever the owner may reside, that land is hostile or friendly according to the condition of the country in which it is placed. It is no extravagant perversion of principle, nor is it a violent offense to the course of human opinion, to say that the proprietor, so far as respects his interest in this

land, partakes of its character, and that the produce, while the owner remains unchanged, is subject to the same disabilities. In condemning the sugars of Mr. Bentzon as enemy property, this Court is of opinion that there was no error, and the sentence is

Affirmed with costs.

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