

The Concord

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Court : US Supreme Court

Decided On : 1815

Appeal No. : 13 U.S. 387

Appellant : The Concord

Judgement :

The Concord - 13 U.S. 387 (1815)

U.S. Supreme Court The Concord, 13 U.S. 9 Cranch 387 387 (1815)

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13 U.S. (9 Cranch) 387

APPEAL FROM THE CIRCUIT OF

THE DISTRICT OF NEW YORK

SYLLABUS

If captured goods claimed by a neutral owner be by consent sold under an order of the court, and afterwards, by the final sentence of the court, the proceeds are ordered to be restored to such owner, the amount of the duties due to the United States upon the importation of the goods must be paid.

This was an appeal from the sentence of the circuit court affirming that of the district court, which restored to the claimants, neutral Spanish merchants at Tenerife, 20 pipes of wine, part of the cargo of the British brig *Concord*, captured by the American privateer *Marengo* in August, 1812, without payment of duties, although the same had been, by consent of the proctors for the parties, sold under an order of the court.

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

This is the case of a shipment made by a neutral house on board of a British ship which was captured on a voyage from Tenerife to London by the private armed ship *Marengo* and brought into the port of New

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York for adjudication. Pending the prize proceedings, the goods were sold by an interlocutory order of the district court and the proceeds brought into the registry. Upon the hearing, the property was decreed to be restored to the claimants without payment of duties, and this decree was afterwards affirmed in the circuit court. The cause has been brought by appeal to this Court for a final decision.

We are all of opinion that the proprietary interest of the claimants is completely proved, and therefore the decree of restoration must be

Affirmed.

With respect to the duties, we are all of opinion that the decree of the courts below was erroneous. Where goods are brought by superior force or by inevitable necessity into the United States, they are not deemed to be so imported, in the sense of the law, as necessarily to attach the right to duties. If, however, such goods are afterwards sold or consumed in the country, or incorporated into the general mass of its property, they become retroactively liable to the payment of duties. In the present case, if the goods had been specifically restored and afterwards withdrawn from the United States by the claimants, they would have been exempt from duties. But having been sold by order of the court, for the

general benefit the duties indissolubly attached, and ought to have been deducted from the proceeds by the courts below. The decree in this respect must be

Reversed.

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