

Van Ness Vs. Buel

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Court : US Supreme Court

Decided On : 1819

Appeal No. : 17 U.S. 74

Appellant : Van Ness

Respondent : Buel

Judgement :

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Van Ness v. Buel

17 U.S. (4 Wheat.) 74

ERROR TO THE CIRCUIT

COURT OF VERMONT

SYLLABUS

A collector of the customs, who makes a seizure of goods for an asserted forfeiture and, before the proceedings *in rem* are consummated by a sentence of condemnation, is removed from office, acquires an inchoate right by the seizure

which by the subsequent decree of condemnation gives him an absolute vested right to his share of the forfeiture under the Collection Act of 2 March, 1799.

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This was an action of assumpsit, in which the defendant in error, Buel, declared against the plaintiff in error, Van Ness, on the money counts and gave evidence that the sums of money for the recovery of which this suit was brought were the proceeds of a moiety of a certain seizure of goods, as forfeited, which seizure was made in the District of Vermont on 6 July, 1812, while the plaintiff below was collector of the

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customs for said district, &c.;, which goods were libeled in September, 1812, in the district court and condemned at the October term of the circuit court, 1813. That the plaintiff below was appointed collector on 16 March 1811, and remained in office until 15 February, 1813, when he was removed from office by the President and the defendant below appointed to the same office and received the proceeds of the goods condemned. That various other parcels of goods were seized and libeled while the plaintiff below was collector, but were condemned after his removal from office and the proceeds received by the defendant below.

The court below charged the jury that the defendant in error was entitled to recover a moiety of the seizures so made by him during his continuance in office and condemned after his removal. The jury found a verdict, and judgment was rendered for the plaintiff below, and a bill of exceptions having been taken to the charge of the court below, the cause was brought by writ of error to this Court. The cause was submitted, without argument.

STORY, JUSTICE, delivered the opinion of the Court.

This case differs from that of *Jones v. Shore's Executors* in two circumstances -- first that this is the case of a seizure of goods for an asserted forfeiture, and secondly that before the proceedings *in rem* were consummated by a sentence,

the collector who made the seizure was removed from office. In our

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judgment, neither of these facts affords any ground to except this case from the principles which were established in *Jones v. Shore's Executors*. It was there expressly held that the collector acquired an inchoate right by the seizure which, by the subsequent decree of condemnation, gives him an absolute vested title to his share in the forfeiture. Without overturning the doctrine of that case, the present is not susceptible to argument, and we therefore unanimously affirm the decision of the circuit court.

Judgment affirmed.

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