

The Caledonian

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Court : US Supreme Court

Decided On : 1819

Appeal No. : 17 U.S. 100

Appellant : The Caledonian

Judgement :

The Caledonian - 17 U.S. 100 (1819)

U.S. Supreme Court The Caledonian, 17 U.S. 4 Wheat. 100 100 (1819)

The Caledonian

17 U.S. (4 Wheat.) 100

APPEAL FROM THE CIRCUIT

COURT OF RHODE ISLAND

SYLLABUS

A vessel and cargo which is liable to capture as enemy's property or for sailing under the pass or license of the enemy or for trading with the enemy may be seized after her arrival in a port of the United States and condemned as a prize of war. The *delictum* is not purged by the termination of the voyage.

Any citizen may seize any property forfeited to the use of the government, either by the municipal law, or as a prize of war, in order to enforce the forfeiture, and it depends upon the government whether it will act upon the seizure; if it proceeds to enforce the forfeiture by legal process, this is a sufficient confirmation of the seizure.

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STORY, JUSTICE, delivered the opinion of the Court.

This is the case of an American ship which sailed from Charleston, South Carolina, with a cargo of rice, bound to Lisbon, about 28 May, 1813, under the protection of a British license. In the course of the voyage, the ship was captured by a British frigate and sent into Bermuda for adjudication. Upon trial, she was acquitted and her cargo, being prohibited from exportation, was afterwards sold by the agent of the claimant at Bermuda, and the proceeds were remitted for his use. The ship sailed from Bermuda for the United States in November, 1813, and upon her arrival at Newport in Rhode Island, was seized by the collector of that port as forfeited to the United States. The libel contains four articles propounding the causes of forfeiture -- first for the ship's having on board and using a British license; secondly for the ship's being engaged in trade with the enemy; and thirdly and fourthly for using a British license, contrary to the Act of Congress of 2 August, 1813, ch. 56, prohibiting the use of British licenses.

It is unnecessary to consider the last two articles,

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which are founded upon statutable prohibitions, because it is clear, that the two preceding articles, founded on the general law of prize, are sufficient to justify a condemnation *jure belli*, the proof of the facts being most clearly established.

The only questions which can arise in the case are whether the ship was liable to seizure for the asserted forfeiture after her arrival in port, and if so whether the collector had authority to make the seizure. And we are clearly of opinion in favor

of the United States on both points. It is not necessary, to enable the government to enforce condemnation in this case, that there should be a capture on the high seas. By the general law of war, every American ship sailing under the pass or license of the enemy or trading with the enemy is deemed to be an enemy's ship and forfeited as prize. If captured on the high seas by a commissioned vessel, the property may be condemned to the captors as enemy's property; if captured by an uncommissioned ship, the capture is still valid and the property must be condemned to the United States. But the right of the government to the forfeiture is not founded on the capture; it arises from its general authority to seize all enemies' property coming into our ports during war, and also from its authority to enforce a forfeiture against its own citizens whenever the property comes within its reach. If, indeed, the mere arrival in port would purge away the forfeiture, it would afford the utmost impunity to persons engaged in illegal traffic during war, for in most instances the government

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would have no means of ascertaining the offense until after such arrival.

In respect to the other point, it is a general rule that any person may seize any property forfeited to the use of the government, either by the municipal law or by the law of prize, for the purpose of enforcing the forfeiture. And it depends upon the government itself whether it will act upon the seizure. If it adopts the acts of the party and proceeds to enforce the forfeiture by legal process, this is a sufficient recognition and confirmation of the seizure, and is of equal validity in law with an original authority given to the party to make the seizure. The confirmation acts retroactively, and is equivalent to a command.

Decree affirmed with costs.