

## La Conception

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**Court :** US Supreme Court

**Decided On :** 1821

**Appeal No. :** 19 U.S. 235

**Appellant :** La Conception

## Judgement :

La Conception - 19 U.S. 235 (1821)

U.S. Supreme Court La Conception, 19 U.S. 6 Wheat. 235 235 (1821)

## La Conception

**19 U.S. (6 Wheat.) 235**

*APPEAL FROM THE CIRCUIT*

*COURT OF SOUTH CAROLINA*

## SYLLABUS

Where a capture is made of the property of the subjects of a nation in amity with the United States by a vessel built, armed, equipped, and owned in the United States, such capture is illegal, and the property, if brought within our territorial limits, will be restored to the original owners.

Where a transfer of the capturing vessel in the ports of the belligerent state under whose flag and commission she sails on a cruise is set up in order to legalize the capture, the *bona fides* of the sale must be proved by the usual documentary evidence in a satisfactory manner.

This was an allegation filed in the District Court of South Carolina by the Vice Consul of his Catholic Majesty, claiming restitution of the ship *La Conception* and cargo as the property of Spanish subjects to him unknown, which had been illegally captured by the armed ship *La Union*, sailing under the flag of Buenos Ayres and pretending to have a commission or letter of marque from that government, but actually built, equipped, armed, and manned in the United States. A claim was interposed

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by one Brown claiming the property as having been taken by him as commander of *La Union* on the high seas under a commission from the government of Buenos Ayres authorizing him to capture the property of the subjects of Spain. The district and circuit courts decreed restitution of the property to the captors, no sufficient evidence being produced of the capturing vessel's having been equipped or having augmented her force in the ports of the United States. On appeal to this Court, further proof was taken showing conclusively that the capturing vessel was originally built, owned, and equipped in this country, and after proceeding to Buenos Ayres, and sailing from that port on a cruise, had touched at the port of New Orleans, and there

illegally augmented her force, since which the capture in question was made. This evidence was attempted to be repelled on the part of the captors by testimony tending to show a transfer of the capturing vessel at Buenos Ayres to domiciled subjects of that country, and that the subsequent augmentation of her force at New Orleans, if any, was very trifling, and only amounted to a replacement of her former equipment.

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MR. JUSTICE STORY delivered the opinion of the Court.

In this case, if the cause had stood solely upon the evidence before the circuit court, we should have no difficulty in affirming its decision. But upon the new proofs which have been since taken and are now produced to this Court, it is apparent that the capturing vessel was originally built, equipped, manned, and armed in the United States for a cruise, being owned by citizens of this country, and

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sailed with the intent of cruising against Spain. It is true that she went to Buenos Ayres and sailed under the colors of that government on a second cruise, during which this capture was made, but there is no satisfactory evidence that the American ownership ever ceased, or that there was a real, *bona fide* sale at Buenos Ayres. If such a sale had really taken place, it was perfectly in the power of the captors to have proved it in the clearest manner. A bill of sale is the customary and universal document by which the ownership of vessels is evidenced, and the want of any document of this nature or of any direct and positive evidence of an actual sale leaves no doubt in the mind of the Court that no such sale ever was made. The consequence is that the capturing vessel must still be considered as owned in the United States, and according to the decisions which have already been made, the capture was illegal and the property must be restored to the original Spanish owners.

*Sentence reversed.*