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New Jersey Vs. New York

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Court : US Supreme Court

Decided On : 1832

Appeal No. : 31 U.S. 323

Appellant : New Jersey

Respondent : New York

Judgement :

New Jersey v. New York - 31 U.S. 323 (1832)
U.S. Supreme Court New Jersey v. New York, 31 U.S. 6 Pet. 323 323 (1832)

New Jersey v. New York

31 U.S. (6 Pet.) 323

ORIGINAL

SYLLABUS

At January term, 1831, an order was made giving the State of New York leave to appear in this case on the second day of this term and answer the complainants' bill, and if there should be no appearance, that the Court would proceed to hear the cause on the part of the complainants and to decree on the matter of the bill. On the first day of the term, a demurrer to the complainants' bill was filed, which

was signed, "Green C. Bronson, Attorney General of New York." No other appearance was entered on the part of the defendants.

By the Court:

"The demurrer filed in the case by the Attorney General of New York, he being a practitioner in this Court, is considered as an appearance for the state. If the Attorney General did not so mean it, it is not a paper which can be considered as in the cause or be placed on the files of the Court."

The demurrer being admitted as containing an appearance by the State of New York, it amounts to a compliance with the order of the Court.

A demurrer is an answer in law to the bill, though not, in a technical sense, an answer according to the common language of practice.

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MR. CHIEF JUSTICE MARSHALL delivered the opinion of the Court.

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The Court has had the return made in this case under consideration. It considers the demurrer filed in this case by the Attorney General of New York as being an appearance for the state, he being a practitioner in this Court, and therefore that the demurrer is regularly filed. If the Attorney General did not so mean it, it is not a paper which can be considered as in the cause, or be placed on the files of the Court. We say this now that the Attorney General may have due notice if he did not intend to enter any appearance for the state, it being otherwise a paper not to be received.

The demurrer, then, being admitted as containing an appearance by the state, the Court is of opinion that it amounts to a compliance with the order at the last term. In that order, the word "answer" is not used in a technical sense as an answer to the charges in the bill under oath, but an answer in a more general sense to the

bill. A demurrer is an answer in law to the bill, though not in a technical sense an answer according to the common language of practice.

The Court therefore directs the demurrer to be set down for argument on the first Monday of March of this term according to the motion of the plaintiffs.

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