

United States Vs. Seaman

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Decided On : 1854

Appeal No. : 58 U.S. 225

Appellant : United States

Respondent : Seaman

Judgement :

United States v. Seaman - 58 U.S. 225 (1854)

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United States v. Seaman

58 U.S. (17 How.) 225

ERROR TO THE CIRCUIT COURT OF THE UNITED

STATES FOR THE DISTRICT OF COLUMBIA

SYLLABUS

By the Act of Congress passed on the 26th of August, 1852, ch. 91, it was made the duty of the superintendent of public printing to receive all matter ordered by Congress to be printed and to deliver it to the public printer or printers.

In 1854, Beverly Tucker was printer to the Senate, and O. A. P. Nicholson, printer to the House of Representatives.

The act further provided that when any document should be ordered to be printed by both Houses of Congress, the entire printing of such document should be done by the printer of that House which first ordered the printing.

In January, 1854, the Commissioner of Patents communicated to the Senate that portion of his Annual Report for 1853, which related to arts and manufactures, and on the ensuing day the same communication was made to the House of Representatives. Each House having ordered it to be printed, the printing was assigned to Mr. Tucker.

In March, 1854, the agricultural portion of the report was sent to both Houses, and both of them, on the same day, ordered it to be printed. In actual priority of time, the order of the House was passed first. The printing of it was given to Mr. Nicholson.

A writ of mandamus will not lie from the circuit court of the United States, commanding the superintendent to deliver the printing to Mr. Tucker.

Whether the two portions of the report constituted one document and which House passed the order first were questions requiring the exercise of judgment and discretion in the public officer, who had something more than a mere ministerial duty to perform.

The cases upon this point examined.

The question was whether the Report of the Commissioner of Patents relating to arts and manufactures and also to agriculture, which was divided into the two branches and made to Congress at different times, was or was not one document, and

whether the delivery of it to the public printer of one or the other House of Congress was or was not a mere ministerial duty.

The facts are stated in the opinion of the Court.

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

The defendant in error, at the times hereinafter mentioned, was and still is superintendent of public printing of the two Houses of Congress, and the relator printer to the Senate, and O. A. P. Nicholson printer to the House of Representatives.

By the Act of August 26, 1852, it is made the duty of the superintendent to receive, from the Secretary of the Senate and the Clerk of the House of Representatives, all matter ordered by Congress to be printed, and to deliver it to the public printer or printers. And the 12th section provides that when any document shall be ordered to be printed by both Houses of Congress, the entire printing of such document shall be done by the printer of that House which first ordered the printing.

On the 31st of January, 1854, the Commissioner of Patents communicated to the Senate that portion of his annual report for 1853 which relates to arts and manufactures, which that body on the same day ordered to be printed, and on the following day it was communicated to the House of Representatives, who passed a similar order. This communication was delivered by the superintendent to the relator.

On the 20th of March, 1854, the Commissioner communicated to both Houses the agricultural portion of his report, which each House, on the same day, ordered to be printed; the order of the House of Representatives being, it is admitted, first made.

The relator claimed that the report of the Commissioner of Patents was but one document within the meaning of the act of Congress above referred to, and that by virtue of the order of the Senate of the 31st of January, 1854, he was entitled to

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the printing of the agricultural portion of the report, although the printing of this part was first ordered by the House of Representatives. The superintendent, however, refused to deliver it, and the relator thereupon applied to the Circuit Court for the District of Columbia for a mandamus to compel the delivery. That court was of opinion that it had not jurisdiction of the case and refused the mandamus, and this writ of error is brought by the relator.

The power of the circuit court of this District to issue writs of mandamus to an officer of the government in Washington has frequently been the subject of discussion in this Court. It was before the Court in [*Kendall v. Stokes*](#), 12 Pet. 524; in [*Decatur v. Paulding*](#), 14 Pet. 497; in [*Brashear v. Mason*](#), 6 How. 92; and again in [*Goodrich v. Guthrie*](#) at the present term. The rule to be gathered from all of these cases is too well settled to need further discussion. It cannot issue in a case where discretion and judgments are to be exercised by the officer, and it can be granted only where the act required to be done is merely ministerial, and the relator without any other adequate remedy.

Now it is evident that this case is not one in which the superintendent had nothing to do but obey the order of a superior authority. He had inquiries to make before he could execute the authority he possessed. He must examine evidence -- that is to say, he must ascertain in which House the order to print was first passed. He may, it is true, generally obtain this from the journals of the two Houses, but yet he must examine them, and compare the dates of the orders; and in this particular case it may even have been necessary to take oral testimony, before he could determine the fact of priority, as the order was passed in each House on the same day. And after he had made up his mind upon this fact, it was still necessary to examine into the usages and practice of Congress, in marking a communication in their proceedings as a document, and to make up his mind whether separate

communications upon the same subject, or on different subjects from the same office, when made at different times, were, according to the usages and practice of Congress, described as one document, or different documents, in printing and publishing their proceedings. He was obliged, therefore, to examine evidence and form his judgment before he acted, and whenever that is to be done, it is not a case for a mandamus.

Nor is there any reason of public policy or individual right which requires that this remedy should be extended beyond its legitimate bounds in order to embrace cases of this description, for it would embarrass the operations of the legislative and

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executive departments of the government if the court of this district was authorized to interfere, by this summary process, in controversies between officers, in their respective employments, whenever differences of opinion as to their respective rights may arise. If these differences cannot be adjusted by the authorities under which they are acting, an ordinary action at law would be an adequate remedy for any injury sustained.

It seems to be supposed that the case of *Kendall v. Stokes* justified this application, but it is altogether unlike it. The award of the Solicitor of the Treasury in that case was an official act; he was the officer appointed by act of Congress to settle that account and determine the amount of credit to which Stokes was entitled, if to any, and all that the Postmaster General was required to do was, to enter it in the books of the department, when reported to him by the solicitor of the Treasury. He was merely to record it. His duty under that act of Congress was like that of a clerk of a court, who is required to record its proceedings, or of an officer appointed by law to record deeds, which a party has a right by law to place on record, or of the Register of the Treasury of the United States, to record accounts transmitted to him by the proper accounting officers to be recorded. The duty in such cases is merely ministerial -- as much so as that of a sheriff or marshal to execute the process of a court.

This was the point decided in *Kendall v. Stokes* and the subsequent cases have all been decided upon the same principles. They are in no degree in conflict with it; on the contrary, they have followed it.

But the case before us, for the reasons above stated, is unlike that of *Kendall v. Stokes*, and the circuit court was right in refusing the mandamus.

The judgment must therefore be affirmed.

ORDER

This cause came on to be heard on the transcript of the record from the Circuit Court of the United States for the District of Columbia, holden in and for the County of Washington, and was argued by counsel. On consideration whereof it is now here ordered and adjudged by this Court that the judgment of the said circuit court in this cause be and the same is hereby affirmed with costs.

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