

The Gray Jacket

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Court : US Supreme Court

Decided On : 1866

Appeal No. : 72 U.S. 370

Appellant : The Gray Jacket

Judgement :

The Gray Jacket - 72 U.S. 370 (1866)

U.S. Supreme Court The Gray Jacket, 72 U.S. 5 Wall. 370 370 (1866)

The Gray Jacket

72 U.S. (5 Wall.) 370

APPEAL FROM THE DISTRICT COURT OF THE UNITED

STATES FOR THE EASTERN DISTRICT OF LOUISIANA

SYLLABUS

As a general rule, where the United States is a party to a cause and is represented by the Attorney General or the Assistant Attorney General or by special counsel employed by the Attorney General, no counsel can be heard in opposition on behalf of any other of the departments of the government.

The case of the [72 U. S.](#) @ reported on the last preceding pages, was argued partly on one occasion and partly on another, Mr. Eames, who spoke for the captors, having been taken suddenly and, as the unfortunate issue proved, fatally ill while addressing the Court, and the case having been adjourned in the midst of the argument.

The case being subsequently called with a view of seeing how far counsel were ready to go on, it was mentioned that

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Mr. Cushing would appear in behalf of the Treasury Department to justify the remission, which the preceding report shows had been granted, of the right accrued to the United States and captors by a decree of condemnation of the vessel as prize. Some remark being made by the court as to the circumstance that the United States were on the side of the captors while the Treasury Department appeared in an antagonistic position, and a doubt being expressed whether it was quite allowable that the Treasury should thus appear, Mr. Cushing referred the matter of his taking part to the pleasure of the Court, observing only that he was prepared to speak in support of the act of the Secretary of the Treasury if desired.

Before the case came to be finally argued in conclusion,

THE CHIEF JUSTICE delivered the opinion of the Court on this point.

The Court has considered the question whether counsel shall be heard in this cause on behalf of the Treasury Department, and has instructed me to say that in causes where the United States is a party and is represented by the Attorney General or the Assistant Attorney General or special counsel employed by the Attorney General, no counsel can be heard in opposition on behalf of any other of the departments of the government.

In the present case, however, the argument has doubtless proceeded under the impression at the bar that counsel would be heard on behalf of the Treasury Department, and the Court is desirous of all the light that can be derived from the

fullest discussion. The counsel for the Treasury Department may be heard, therefore, if he sees fit, on behalf of the claimant, and two hours will be allowed for the argument, without prejudice to the time which remains to the counsel who opened the cause, for reply to the Attorney General and the counsel for the captors.

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