

Armstrong's Foundry

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Court : US Supreme Court

Decided On : 1867

Appeal No. : 73 U.S. 766

Appellant : Armstrong's Foundry

Judgement :

Armstrong's Foundry - 73 U.S. 766 (1867)

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73 U.S. (6 Wall.) 766

APPEAL FROM THE CIRCUIT COURT FOR

THE EASTERN DISTRICT OF LOUISIANA

SYLLABUS

1. A full pardon and amnesty by the President for all offenses committed by the owner of property seized under the Act of Congress of August 6, 1861, "to confiscate property used for insurrectionary purposes," and which makes property used in aid of the rebellion, with the consent of the owner, subject to seizure, confiscation, and condemnation, relieves such owner from the forfeiture of the

property seized so far as the right accrues to the United States.

2. The proceedings under the act relating to a seizure of land present a case of common law jurisdiction, the proceedings in which are to be conformed, in respect to trial by jury and exceptions to evidence, to the course of the common law, and a final decision in which can be reviewed here only on writ of error.

Appeal from the Circuit Court for the Eastern District of Louisiana, the proceeding below being one for condemnation of property as used in aid of the rebellion, and resembling in its general features the case just disposed of. It was thus:

An Act of Congress passed August 6, 1861, "to confiscate

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property used for insurrectionary purposes," * enacted that property used in aid of the rebellion with consent of the owner, should be the lawful subject of *prize* and *capture* wherever found, and made it the duty of the President to cause it "to be seized, confiscated, and condemned." It enacted further that

"such *prizes* and *captures* shall be condemned in the district or circuit court of the United States having jurisdiction of the amount, or in *admiralty* in any district in which they may be seized, or into which they may be taken,"

&c.; And the attorney general or any district attorney was to institute proceedings of condemnation himself, or by aid of an informer.

Under this act, a libel of information was filed in the Circuit Court of the United States for the Eastern District of Louisiana in which it was charged that certain property in New Orleans, known as Armstrong's Foundry, had been seized as forfeited to the United States by reason of having been used, with the consent of the owner, in aid of the rebellion. This libel closed with the usual prayer for condemnation. A claim was interposed by John Armstrong as owner, and another claim was interposed by the Citizens' Bank as mortgagee. Armstrong also pleaded the amnesty offered by President Lincoln, and his acceptance of it and compliance with the terms. On the hearing, the plea of pardon was rejected and a decree of

condemnation was rendered. Armstrong alone appealed.

Subsequently, and while the cause was pending in this Court, the President of the United States granted to

"the said *John Armstrong* a full pardon and *amnesty* for all offenses by him committed, arising from participation, direct or implied, in the said rebellion, conditioned as follows."

Certain conditions were annexed. At this term, Armstrong was allowed, in conformity with the usual course in admiralty cases, to plead the new matter and to file with his plea a statement of facts agreed between his counsel and the Attorney General, showing, among other things, that he had complied with all the conditions of the pardon granted to him.

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The question now on the appeal was whether this pardon relieved from forfeiture the property seized.

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THE CHIEF JUSTICE delivered the opinion of the Court.

Upon the case presented, it is necessary to consider a single question only.

It was insisted in argument that the pardon pleaded by the appellant cannot avail to relieve him from the forfeiture of the property seized, because the liability to seizure arose, under the statute, from the mode in which the property was employed, and was not to be regarded as a penal consequence of the act of the owner.

We are unable to concur in this view. We think it clear that the statute regarded the consent of the owner to the employment of his property in aid of the rebellion as an offense, and inflicted forfeiture as a penalty. The general pardon of Armstrong

therefore relieved him of so much of the penalty as accrued to the United States. We think it unnecessary to express any opinion at present in relation to the rights of the informer.

The proceedings below related to a seizure of land, and though conducted under the statute in the forms of admiralty, must be regarded as a case of common law jurisdiction, a final decision in which can be reviewed here only on writ of error.

The decree of the circuit court therefore must be reversed as irregular and the cause remanded with directions to allow a new trial, the proceedings in which shall be conformed, in respect to trial by jury and exceptions to evidence, to the course of the common law.

MR. JUSTICE MILLER dissented.

* Stat. at Large 319.

NOTE

At the same time with the two preceding cases was decided, on appeal from the same circuit (Mr. Durant, for the appellant), the case of *St. Louis Street Foundry*, not distinguishable -- as THE CHIEF JUSTICE stated was the opinion of the Court -- in principle from them.

It appeared in it that Cronan, in the circuit court, pleaded the amnesty proclaimed by President Lincoln on the 8th of December, 1863, and the oath taken by himself in pursuance of the proclamation, but there was no averment in this plea that Cronan was not within any of certain exceptions made by that proclamation. **

THE CHIEF JUSTICE delivered the opinion.

The plea was properly overruled.

Upon proper pleading and proof, however, the claimant of property seized under the act of August 6, 1861, is entitled to the benefit of amnesty to the same extent as, under like pleading and proof, he would be entitled to the benefit of pardon.

The decree of the circuit court must be reversed as irregular and the cause remanded with directions to allow a new trial, the proceedings in which shall be conformed, in respect to trial by jury and exceptions to evidence, to the course of the common law.

** [See the Gray Jacket](#), 5 Wall. 368.

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