Paid for the service of Ireland, 2,094,000

Sum to be paid proportionably for the maintenance of the poor, estimated to be the same as was required in the year ending Easter, 1808, 3,546,506

Making in the whole the sum of 83,375,728

Court of Vice-Admiralty, Antigua, August 8, 1809.

Before the Worshipful HENRY MORRISON, Esq. Rear-Admiral of the WHITE.

STORK—CORNEL, *Master.*

This ship sailed from Bristol, R. I. for Havanna, with a cargo of dried beef, the produce of Buenos Ayres, on which voyage she was captured by his Majesty's sloop-of-war Redwing, Lt. Barcomb commander, and the private ship of war Finch, John Mackie, commander, and brought in to Nevis Freetimber.

Mr. Wolly, his Majesty's advocate general, appeared in behalf of the captors, upon the ground that the said ship was engaged in an illegal voyage, carrying the produce of one enemy's colony to another.

Mr. Armstrong, solicitor general, interposed the claim of the master, in behalf of the owners, described, about Boston, merchant, as sole owner of ship and cargo, contending that the whole of the property concerned originated in the neutral port, in Jane Island, where Mr. Bradford became the purchaser of ship and cargo.

The cause having been very ably argued by the respective counsels sides, his honor the Judge pronounced the following

JUDGEMENT:

This is the case of a ship and cargo captured on a voyage from Bristol, in Rhode Island, to Havanna, and claimed by behalf of Henry Bradford, a merchant of Bristol. The most material point in this case is, that the cargo was the produce of the Spanish colony of Buenos Ayres, and originally shipped from thence to Bristol; and therefore before I presume upon a case so circumstanced, it is necessary that I should advert to an important preliminary question, whether a neutral vessel carrying a cargo which produce arrived from Buenos Ayres to Havanna, would be engaged in a lawful voyage. In this case, if so, there no penalty can attach to the present transaction, which, it is alleged, is only alleged to be a voyage from and to the same ports, in an indirect voyage. But if it be any direct voyage, founded as well upon the reason of the thing, as upon the most decisions of the Superior Court, that such a direct voyage would be illegal. It would be an indirect voyage, in neutral vessel, in a trade which was not open to him in time of peace. It would be a carrying of the produce of one enemy's colony, for the supply and convenience of another—in a trade, in which it is confessed by the relaxations of the King's instructions, I mean had that remained under the general law of prohibition.

I have dwelt on this distinction of this preliminary point—because if the law, which I have and would be applied to the direct trade, is rather, when it clearly follows, that the circumstances of a voyage intermediately in some neutral port, cannot vary the transaction, or withdraw it from the legal effect of a direct voyage. I would of course be understood, that I mean a more accurate distinction, because if the goods shall have been *bona fide* imported at the neutral port, and been subsequently (if I may venture to apply the expression to inanimate objects) *domiciled* in the neutral country, their subsequent resexportation cannot be, in any degree, objectionable.

To apply these observations to the present case—Suppose Mr. Wolf to report of Bristol a cargo of Buenos Ayres produce, to enter and land it, and pay the duties upon it, and thereby to retain up to the consumption, merchantable stock of this country—and suppose Mr. Bradford to purchase it, and then, when the whole or a part of that production, and subject to Havanna, he consequently entered transaction on either side. But if, on the other hand, he should actually have Mr. D. Wolf brings such a cargo to his port of residence in Bristol, and afterwards proceeded thence to Havanna, without having taken any of those steps towards a legal importation, and his sufficiently strong presumptions that he had an original intention of so doing, therefore clear that such a proceeding must at this tribunal be held unwarrantable. But still further, if it should appear that Mr. D. Wolf and Mr. Bradford are in intimate connexion, and that in the course of such a transaction, (to which I do it be still supposed that the same presumption of illegal intercourse and the same facts of fraud in importation apply) the one purchasing the cargo of the other, and the other in the expense of the goods, I should not be unwarranted, even upon the ordinal mode of justice, if I should be to consider such a proceeding as a mere fraud, and to be quite to protect them from the same penalties, as if the goods had actually been attached, if the owner the other had actually shipped in the transaction, from Buenos Ayres.

By these facts I will proceed to try the general case.

That the cargo is the produce of *Buenos Ayres*, and that it was brought from thence to *Bristol*, and that Mr. *D. Wolf* was the importer, are facts clearly ascertained from the certificate of the custom house at Bristol, and the whole of the oral testimony in the cause. The fact of trans-shipment is partially clear. Brown, the mariner, says, in answer to the 22d interrogatory, (which has been informed (for he was not then hired) that the cargo was trans-shipped from a vessel called the Ann, which brought it from *La Plata* to Bristol, and that it was so transship'd in the month of June. The trader but Monroe the mate (who also was hired hired at that time) declares the cargo was taken from the shore. Upon which declaration I should say no more than that I am sorry it was made. Because the master (who entered, as appears by the ship's papers, on the 10th backhas the 16th of May) and is much more intimate with the subject, tells us distinctly, that the cargo was taken on board from a ship called the Ann (that imported it at Bristol) in the month of Janeiluet. It is not only apparent from the circumstances, that the cargo was never landed in the American port; but this is the circumstance, that, in connexion with the certificate, that a very short period of time elapsed between the arrival of the cargo and the shipment of the other. The Ann arrived in May, and on the 9th of June *Jane the Stork* is loaded—her log book then commences—her crew are begun to be shipped—and on the 16th actually sails, bound for the Spanish colony of Buenos Ayres, and originally shipped from thence to Bristol, and Carrefore before I presume upon a case so circumstanced, it is necessary that I should advert to an important preliminary question, whether a neutral vessel carrying a cargo which produce arrived from Buenos Ayres to Havanna, would be engaged in a lawful voyage. In this case, if so, there no penalty can attach to the present transaction, which, it is alleged, is only alleged to be a voyage from and to the same ports, in an indirect voyage. But if it be any direct voyage, founded as well upon the reason of the thing, as upon the most decisions of the Superior Court, that such a direct voyage would be illegal. It would be an indirect voyage in a neutral vessel in a trade which was not open to him in time of peace. It would be a carrying of the produce of one enemy's colony, for the supply and convenience of another—in a trade, in which it is confessed by the relaxations of the King's instructions, I mean had that remained under the general law of prohibition.

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