

United States v. Crosby.

Dallas, contra.—There is no limitation of time for the seizure ; the vessel has actually been seized, and thereby the United States have relinquished their claim to the double value. If the vessel could be seized, it is probable, the United States *could not have recovered the double value ; and in [*115 an action therefor, it would have been necessary for the United States to prove that the vessel could not have been seized. This could not be proved, while the vessel was lying in a port of the United States, liable to seizure.

March 5th, 1812. All the judges being present, MARSHALL, Ch. J., stated, that it was the opinion of the court, that the vessel was liable to seizure ; but that a majority of the court was of opinion, that the offence was not complete, until the arrival of the vessel in a foreign port ; but the facts of the case do not appear so as to enable the court to decide that point ; the cause is, therefore, continued, for further proof.

UNITED STATES v. CROSBY.

Conflict of laws.

The title to land can be acquired and lost only in the manner prescribed by the law of the place where such land is situate.¹

THIS case is fully stated in the following opinion of this court, which was delivered by—

STORY, Justice, on the 24th of February, all the judges being present.

A writ of intrusion was brought by the United States against the defendant in error, to recover possession of an undivided part of certain land lying within the district of Maine. Upon the trial of the cause in the district court of that district, a special verdict was found by the jury, upon which the same court gave judgment in favor of the defendant in error. This judgment was afterwards affirmed in the circuit court of Massachusetts, and is now before the supreme court for a final decision.

By the special verdict, it appears, that the claim of the United States to the land in controversy is under one *Nathaniel Dowse, who derived [*116 his title, if any, from an instrument stated at large in the same verdict, and executed in his favor, by one John Nelson. The instrument is without a seal, and was executed at the Island of Grenada, in the West Indies, before a notary-public, according to the mode prescribed, by the existing laws, to pass real estate in that colony ; and both parties were, at that time residents therein.

By the laws of Massachusetts, no estate of freehold in land can be conveyed, unless by a deed or conveyance under the hand and seal of the party ; and to perfect the title as against strangers, it is further requisite, that the deed should be acknowledged before a proper magistrate, and recorded in the registry of deeds for the county where the land lies.

The question presented for consideration, is, whether the *lex loci contractus* or the *lex loci rei sitæ* is to govern, in the disposal of real estates.

¹ Clark v. Graham, 6 Wheat. 577 ; Kerr v. Perry Manufacturing Co. v. Brown, 2 W. & M. Moon, 9 Id. 565 ; Watts v. Waddle, 6 Pet. 389 ; 450 ; Root v. Brotherson, 4 McLean 230.

The Exchange.

The court entertain no doubt on the subject ; and are clearly of opinion, that the title to land can be acquired and lost only in the manner prescribed by the law of the place where such land is situate. The judgment of the circuit court must, therefore, be affirmed.

Judgment affirmed.

 The EXCHANGE. (a)

The Schooner EXCHANGE v. McFADDON and others.

International law.—Exemption of foreign vessel of war from domestic jurisdiction.

A public vessel of war of a foreign sovereign at peace with the United States, coming into our ports, and demeaning herself in a friendly manner, is exempt from the jurisdiction of the country.¹

The Exchange, 4 Hall's L. J. 231, reversed.

THIS being a cause in which the sovereign right claimed by Napoleon, the reigning Emperor of the French, and the political relations between the United States and France, were involved, it was, upon the suggestion of the Attorney-General, ordered to a hearing, in preference to other causes which stood before it on the docket.

*It was an appeal from the sentence of the Circuit Court of the
 *117] United States for the district of Pennsylvania, which reversed the sentence of the district court, and ordered the vessel to be restored to the libellants.

The case was this : On the 24th of August 1811, John McFaddon and William Greetham, of the state of Maryland, filed their libel in the district court of the United States, for the district of Pennsylvania, against the schooner Exchange, setting forth that they were her sole owners, on the 27th of October 1809, when she sailed from Baltimore, bound to St. Sebastian, in Spain. That while lawfully and peaceably pursuing her voyage, she was, on the 30th of December 1810, violently and forcibly taken by certain persons, acting under the decrees and orders of Napoleon, Emperor of the French, out of the custody of the libellants, and of their master and agent, and was disposed of by those persons, or some of them, in violation of the rights of the libellants, and of the law of nations in that behalf. That she had been brought into the port of Philadelphia, and was then in the jurisdiction of that court, in possession of a certain Dennis M. Begon, her reputed captain or master. That no sentence or decree of condemnation had been pronounced against her, by any court of competent jurisdiction ; but that the property of the libellants in her, remained unchanged and in full force. They, therefore, prayed the usual process of the court, to attach the vessel, and that she might be restored to them.

Upon this libel, the usual process was issued, returnable on the 30th of August 1811, which was executed and returned accordingly, but no person appeared to claim the vessel in opposition to the libellants. On the 6th of

(a) February 24th, 1812. Present, all the judges.

¹ The Santissima Trinidad, 7 Wheat. 283. s. p. L'Invincible, 1 Id. 238 ; The Pizarro, 10 N. Y. Leg. Obs. 97.