

## The Monte Allegre.

screen them from the penalties of the laws which forbade their entering into belligerent service. It cannot, then, be questioned, that Almeida now appears before us in the character of a flagrant offender against the laws and neutral obligations of this country. And there is no shadow of a ground for hesitating to apply to this case, the established rule of this court, in cases of illegal outfit, unless it be the condemnation of this vessel and cargo in the court of Margaritta.

This court will, for the present, waive all expression of its opinion on the questions raised upon the validity of that condemnation, or the sufficiency of \*519] the \*document produced to prove it. We will put our decision upon a single and independent ground, that the view of this court, with regard to all such cases, may henceforth be distinctly understood. We find the captured property in the hands of the offender, and hold it to be immaterial, through what circuitry of changes it has come back to him. It is not for him to claim a right springing out of his own wrong. In the hands of a third person, a valid sentence of condemnation, properly authenticated, would present a very different view of the subject. The offender's touch here restores the taint from which the condemnation may have purified the prize. Although a purchaser, without notice, may, in many cases, hold his purchase free from an interest with which it was chargeable in the hands of the vendor, yet it cannot return into the hands of that vendor, without reviving the original lien. Nor will courts of justice ever yield the *locus standi in judicio* to the suitor, who is compelled to trace his title through his own criminal acts.(a)

Decree affirmed.

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\*520] \*The MONTE ALLEGRE, and The RAINHA DE LOS ANJOS : The PORTUGUESE CONSUL-GENERAL, Libellant.

*Prize.—Bonâ fide sale.*

A question of fact upon the *bona fides* of an alleged sale of Portuguese ships, and their cargoes, which had been captured in violation of our neutrality. Restitution to the original owners decreed.

APPEAL from the Circuit Court of Maryland.

March 14th, 1822. These causes were argued by *Winder*, for the appellant and claimant, and by *D. Hoffman*, for the respondent and libellant ; but as the same points were insisted on as in the preceding cases of *The Gran Para* and *The Arrogante Barcelones* (*ante*, pp. 471, 496), it is not thought necessary to report the argument of counsel, in the present case. The facts are stated in the opinion of the court.

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(a) In a case of *The Nereyda*, which was argued at the present term, the court was of opinion, that in cases where a condemnation is relied on, the libel as well as the sentence ought to be produced, in order that the court might judicially see that the final tribunal had jurisdiction, and what was the ground of application for condemnation, and the parties by whom it was sought. The court also thought that the claimant ought to show, by competent evidence, that he was a *bonâ fide* purchaser of the property, for a valuable consideration ; and from the defects of the proofs on both points, the cause was ordered to further proof. It has, therefore, been thought fit to omit a report of the case, until its final decision.

## The Monte Allegre.

March 18th. MARSHALL, Ch. J., delivered the opinion of the court.—The Monte Allegre was captured by the private armed vessel, called La Fortuna, cruising at the time under a commission from the chief of the Oriental Republic. She was completely fitted out, equipped and manned, in Baltimore, from which port she sailed on her first cruise, in December 1816; owned and commanded by citizens of the United States; but commissioned by the government of Buenos Ayres. She sailed again, on her second cruise, in August \*1817, from the port of Baltimore. This cruise terminated at Buenos Ayres, where she was in part dismantled, some of [\*521 her rigging and arms being deposited in a store-ship which lay near her; the crew also were discharged. After lying in port four or five weeks, she sailed on her third cruise, having the same armament with which she sailed from Baltimore, and about twenty or thirty of the same crew. Her commander was changed, but was still a citizen of the United States; and she sailed under a commission from the Oriental Republic. On this cruise, the Monte Allegre was taken, and sent into the port of Baltimore, where she was libelled by the consul-general of Portugal. She was claimed by William Foster, the prize-master, in behalf of the Oriental Republic, who alleged, that while she lay in the port of Buenos Ayres, she was purchased by the government of the Banda Oriental. The reality of this sale constitutes the only question which can arise in this case.

The testimony in support of it is found in the depositions of James Brown, James Williams, William Towson and Alexander Towson. They mention the partial dismantling of the vessel, and speak of a report that she was sold, but they give no positive information on the subject, nor did they even hear to whom the sale was made. This testimony would weigh very little, were it even uncontradicted. But the regular transmission of her prizes to Baltimore, her returning to that port, at the termination of her cruise, the depositions taken to show that the original proprietors had not parted with their interest, \*are proofs of a continuing American [\*522 ownership, which are entirely conclusive. There can, then, be no doubt but that the captures made by the Fortuna are in violation of the laws of the United States, enacted for the preservation of our neutrality, and that they ought to be restored, when brought within our territory.

The Rainha de los Anjos was a Portuguese vessel, captured by the La Fortuna, in the same cruise in which she captured the Monte Allegre. The cases are, in all material respects, the same.

Sentences affirmed, with costs.