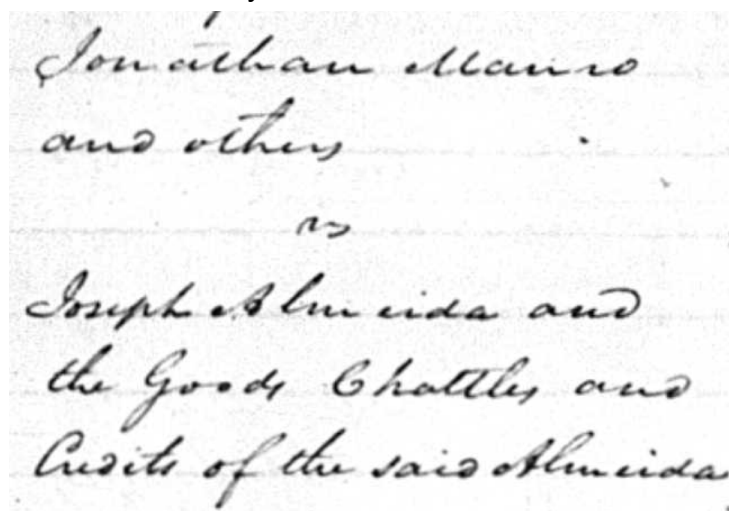


Manro v. Almeida: Piracy, Maritime Torts, and Attachment In Rem



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Document Type

Article

Year

2014

Keywords

1825, Joseph Almeida, attachment *in rem*, Baltimore, *Bolivar*, Jonathan Manro, merchant, piracy, privateer, *Santiago*, Spanish, South American Revolution, Supreme Court, War of 1812

Abstract

In 1820, Captain Joseph Almeida, on the *Bolivar* and under South American colors, pursued and captured the Spanish ship *Santiago* off the coast of the Chesapeake Bay. On board was \$5000 in specie owned by a small group of Baltimore merchants. The Baltimore merchants brought a libel against Captain Almeida and requested an attachment *in rem* to force Captain Almeida to answer for the maritime tort. Although the attachment initially issued, the lower court restored Captain Almeida's goods. In 1825, the United States Supreme Court ruled that attachment *in rem* was a proper remedy for a maritime tort.

Disciplines

Law, History, Maritime History, Maritime Law

Capture of the *Santiago*

In June 1820, the *Bolivar/Wilson*, captained by Joseph Almeida, left Norfolk, Virginia and was sailing off the coast near the Capes of the Chesapeake Bay, reportedly under the flags of Buenos Aires, Artigas, and Venezuela.¹ There, Captain Almeida and his crew spotted the *Santiago*,² a

Spanish barque ship,³ commanded by Don Jose Maria Cabrera.⁴ Captain Almeida began to chase the *Santiago* around 6 A.M. and the chase continued until into the next day, with shots fired throughout that time.⁵ During the chase, the captain and crew on board the



Santiago spotted several pilot boats, including the *Star*, captained by Thomas Preble, but the pilot boats were unable to approach the *Santiago* due to the shots coming from the *Bolivar/Wilson*.⁶ Eventually, the captain of the *Santiago*, short-manned, surrendered

¹ NILES' WEEKLY REGISTER, July 22, 1820. Another earlier account of the *Santiago*'s capture reported that Captain Almeida was sailing his brig under the colors of the French flag. NEW YORK EVENING POST, July 3, 1820.

² The ship name is not reported consistently throughout the different sources nor even throughout the same source. During the research process, this author found the ship listed as the *Santiago*, the *San Jago*, the *St. Jago*, and the *St. Iago*, but chose to use the name *Santiago* throughout this article for the sake of consistency and to distinguish it more easily from a slaver ship, the *St. Jago de Cuba*.

³ Figure is of a barque ship and may be similar to what the *Santiago* looked like. See WIKIPEDIA at <http://en.wikipedia.org/wiki/Barque> (last visited November 29, 2014).

⁴ NEW YORK EVENING POST, July 3, 1820.

⁵ *Id.*

⁶ *Id.*

in order to preserve the lives on board.⁷ According to those on board, the *Santiago's* capture occurred six to seven miles from the coast and within United States waters.⁸ Captain Almeida took Captain Cabrera, several of the *Santiago* officers and crew, and an American passenger, later identified as Cornelius Specht, onto the *Bolivar/Wilson*, with the intent to transfer them to a pilot boat.⁹

In an effort to retain his ship and its cargo, including \$5000 belonging to the American passenger on board, Captain Cabrera attempted to ransom his ship, but he was unsuccessful.¹⁰ Upon the failed ransoming efforts, “the [American] passenger, determined to claim his money[,...] informed [Captain Almeida] where the [money] was concealed¹¹ [and] demanded that the same might be restored, and produced the documents which proved the property belong [sic] to him and sundry merchants of Baltimore.”¹² Captain Almeida kept the documents,¹³ and after he placed the few lucky souls he had taken onboard the *Bolivar/Wilson* onto the pilot boat *Star*, took the *Santiago*, the specie and cargo on board, and the rest of the members of the *Santiago's*

⁷ *Id.*

⁸ See NILES' WEEKLY REGISTER, July 8, 1820 and NILES' WEEKLY REGISTER, July 29, 1820. In 1799, Congress passed legislation establishing “customs waters” within 12 nautical miles of the coast. The contiguous zone, as it is now called, allows the United States to exercise power over foreign vessels to ensure conformance with certain laws and regulations. See *Law of the Sea*, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, http://www.nauticalcharts.noaa.gov/staff/law_of_sea.html (last visited November 29, 2014) and *United States Maritime Limits and Boundaries*, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, <http://www.nauticalcharts.noaa.gov/csdl/mbound.htm> (last visited November 29, 2014).

⁹ NEW YORK EVENING POST, July 3, 1820.

¹⁰ *Id.*

¹¹ The \$5000 in specie had been hidden away in three water casks. *Id.*

¹² *Id.*

¹³ *Id.*

Spanish crew.¹⁴ The specie Captain Almeida took included the \$5000 in specie owned by a small group of Baltimore merchants and bound for Baltimore under the charge of Cornelius Specht.¹⁵

The pilot boat and its passengers, including Cornelius Specht, continued up the Chesapeake and arrived in Baltimore.¹⁶ Meanwhile, Captain Almeida, the *Bolivar/Wilson*, and their prize, the *Santiago*, continued on to Charleston. As details of the capture of the *Santiago* spread, Lieutenant McClunie, onboard the *Revenge* and accompanied by the revenue cutter *Gallatin*, which contained an attachment of United States artillerists, pursued Captain Almeida and his prize, but their pursuit to recapture the *Santiago* was unsuccessful.¹⁷ McClunie and company, however, were able to “happily arrest” a group of Captain Almeida’s men who were on board a sloop.¹⁸ Outrage over the daring capture spread through port cities up and down the East Coast,¹⁹ and it was suggested that light vessels should be stationed along coastal ports to prevent such occurrences and to bring those who engaged in such actions to swift justice.²⁰

¹⁴ NILES’ WEEKLY REGISTER, July 8, 1820 and NILES’ WEEKLY REGISTER, July 22, 1820.

¹⁵ NILES’ WEEKLY REGISTER, July 1, 1820. See also MANRO V. ALMEIDA SUPREME COURT CASE FILE [hereinafter SUPREME COURT CASE FILE], at 3, available at http://www.mdhistory.net/nara_m214/manro_nara_m214_61_1212/html/manro_nara_m214_61_1212-0001.html (last visited November 29, 2014).

¹⁶ NILES’ WEEKLY REGISTER, July 8, 1820.

¹⁷ NILES’ WEEKLY REGISTER, July 22, 1820.

¹⁸ *Id.*

¹⁹ Articles concerning Almeida’s taking of the *Santiago* ran down the East coast from New York to Charleston. See NEW YORK EVENING POST, July 3, 1820, July 14, 1820 and August 21, 1820; THE NORTH CAROLINA STAR, July 7, 1820; EDENTON GAZETTE, July 10, 1820; THE HILLSBOROUGH RECORDER, July 12, 1820; and THE MARYLAND GAZETTE, August 3, 1820.

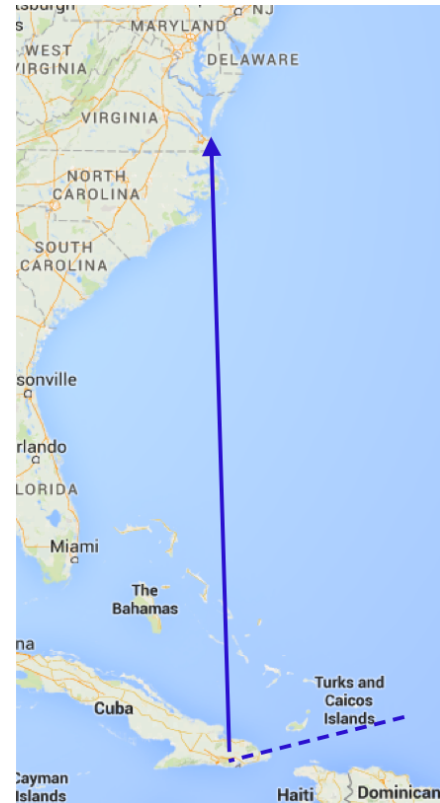
²⁰ NILES’ WEEKLY REGISTER, July 8, 1820.

Journey of the *Santiago* and the specie

Among Captain Almeida's crew members that McClunie arrested was Job Weeden, who claimed to be the *Bolivar/Wilson's* surgeon. After his arrest, Weeden gave his account of the *Santiago* and her capture to a Charleston newspaper. His story was:

That the *Santiago* was bound to Baltimore to be fitted to proceed to the coast of Africa for slaves, from whence she had just returned with 450 human beings²¹ - that she belonged to Juan Jaquea Bonne,²² of St. Jago, as her papers said-that she was captured in nineteen fathoms of water, and out of the jurisdiction of the United States-that those of her crew who were detained were held only as witnesses for her trial at Margareta.²³

Once Captain Almeida had captured the *Santiago*, he would have taken the prize into Margareta for adjudication. There, a prize court would determine whether the capture of the *Santiago* was a good prize through



²¹ Figure shows the *Santiago's* journey, as told by Job Weeden.

²² Several of the actors in *Manro* were connected prior to the capture of the *Santiago*. Cornelius Specht was the reported single owner of the privateer *Fox*, though Jean Jacques Bonne was a reported dormant owner and sometimes captain of the *Fox*. See JEROME R. GARITEE, *THE REPUBLIC'S PRIVATE NAVY: THE AMERICAN PRIVATEERING BUSINESS AS PRACTICED BY BALTIMORE DURING THE WAR OF 1812 36* (1977) [hereinafter *THE REPUBLIC'S PRIVATE NAVY*]. Bonne reportedly owned the *Bolivar/Wilson*, which captured the *Santiago* with Specht on board.

²³ NILES' WEEKLY REGISTER, July 29, 1820.

the process of formal interrogatories and an examination of the *Santiago's* papers.²⁴ If the judge determined the prize was good, the *Santiago* and her cargo would be sold and the proceeds distributed.²⁵ If the judge determined the prize was bad, the *Santiago* would be released with Captain Almeida liable for any damages.²⁶

Weeden put forth a story with vastly different facts whose nature could determine the outcome in a prize case. Was Captain Almeida still a citizen of the United States or was he now a citizen of the United Provinces? Was the *Santiago* captured inside or outside of the waters and jurisdiction of the United States? Was the *Bolivar/Wilson* indeed owned by a foreign citizen? Each of these factors would eventually play a part in the issuance of a decision in a prize case. If Captain Almeida was a foreign citizen captaining a foreign-owned vessel, the capture of the *Santiago*, a Spanish ship, by a belligerent of Spain outside United States waters would likely be a legitimate prize. If Captain Almeida was a United States citizen and captured the *Santiago* in the waters of the United States, a country at peace with Spain, then the prize would not be a good one and Captain Almeida would be guilty of piracy.

Any prize case involving the *Santiago* and her capture as a legitimate prize is, however, as of now, unknown. The case brought by the Baltimore merchants in the United States District Court for the District of Maryland was for a maritime tort

²⁴ See DONALD A. PETRIE, *THE PRIZE GAME: LAWFUL LOOKING ON THE HIGH SEAS IN THE DAYS OF FIGHTING SAIL 159-60* (1999) [hereinafter *THE PRIZE GAME*].

²⁵ *Id.* at 161. Proceeds were initially held by the court until after neutral claims could be filed. Often, a captured enemy ship contained cargo from both the enemy sovereign as well as from neutral sovereigns or a ship adjudged neutral was found to be carrying enemy cargo. *Id.*

²⁶ *Id.* at 160.

committed by Captain Almeida. Specifically, the libel that was filed against Captain Almeida did not concern the ownership and prize of the *Santiago*, but instead concerned the \$5000 in specie belonging to the merchants that he took from the *Santiago*.

The Merchants of *Manro v. Almeida*

The names of the great merchants, shipowners, and investors in the privateers of the War of 1812 are well known.²⁷ A number of these investors were also connected to the South American privateering efforts²⁸ and some even to the slave trade.²⁹ Many of these great merchants were also connected to the Panic of 1819.³⁰

After the War of 1812, many Baltimore shipowners and merchants began to feel a strain on their profits despite finding new uses for the fast Baltimore schooners and new trade markets to invest in. None felt it more so than George Pitt Stevenson. Stevenson had not profited from his investments in the War of 1812 privateering, and

²⁷ A small sampling of the most profitable investors include Andrew Clopper, Francis Foreman, Christian Keller, John Gooding, Jeremiah Sullivan, John Smith Hollins, Levid Hollingsworth, James Williams, Peter Arnold Karthaus, James A. Buchanan, Christopher Deshon, John Hollins, Charles F. Kalkman, Luke Kiersted, Michael McBlair, John McKim, Jr., Robert Patterson, Samuel Smith, Lemuel Taylor, Amos A. Williams, John Netherville D'Arcy, Henry Didier, Jr., Lyde Goodwin, Ferdinand Hurxthal, Thomas Sheppard, and Thomas Tenant. *THE REPUBLIC'S PRIVATE NAVY* at 202-04.

²⁸ Names of investors connected to the South American privateering activities include the House of Didier and D'Arcy, Nicholas Stansbury, Thomas Sheppard, Luke Kiersted, John Snyder, Joseph Karrick, Joseph W. Patterson, John Gooding, James Williams, John Joseph Lane, and Christopher Raborg. *Id.* at 224-25.

²⁹ Thomas Wilson and Martin F. Maher, both investors in privateers, were a couple of names also connected to the slave trade. *Id.* at 229.

³⁰ Among those of the named trading houses, merchants such as Charles F. Kalkman, Andrew Clopper, John W. Stump, Thomas Sheppard, Nathaniel Stansbury, and Samuel Smith are just a few of the names connected to the Panic of 1819. *Id.* at 234.

the declining profits of his investments after the war eventually caught up to him.³¹

Unable to pay his debts, to the tune of \$254,969.86, many of his creditors suffered financially.³²

His creditors may have eventually recovered, but on May 24, 1819, in news that shocked the world, the Baltimore trading houses of Smith and Buchanan; Hollins and McBlair; Didier and D'Arcy; Williams, Williams, Williams and Williams; among many others, all failed in the same day.³³ Eventually, more than forty Baltimore firms collapsed.³⁴ The collapse left the Baltimore mercantile community in disarray, and many of the great investors in privateering in the War of 1812 found themselves paupers.³⁵

Absent from these lists of well known merchants and investors are the merchants involved in *Manro v. Almeida*. The *Manro* merchants, active in the community but not as well known to history, still undoubtedly felt the effects of the Panic of 1819. The Baltimore merchants in the libel against Captain Almeida included Jonathan Manro, Andrew Crawford, James Ganteaume, John L. Hammond, Edward Dennison, Louis Conain, John M. Laroque, John Milhau, and George H. Newman. Information on these merchants is scarce and their connection to each other is even more elusive.

³¹ *Id.* at 231.

³² *Id.*

³³ *Id.* at 232.

³⁴ *Id.* at 232. Among the many reasons given for the collapse, none could have been more so the nail in the proverbial coffin than the fact that the trading houses were all tied closely together by their habit of acting as bond sureties for each other. *Id.* The fall of one house led to a domino effect that decimated the Baltimore trading houses.

³⁵ *Id.* at 234.

Jonathan Manro was a merchant,³⁶ interim director of the Farmers and Merchants' Bank of Baltimore,³⁷ one of the original stockholders of the Union Insurance Company of Maryland,³⁸ and helped establish the lottery to raise funds for the Liberty Fire Company.³⁹ Andrew Crawford, originally from Ireland, was a long-time Baltimore resident engaged in the mercantile business.⁴⁰ James Ganteaume was a grocer and flour store owner⁴¹ and John L. Hammond was a grocer and dry goods store owner.⁴² George H. Newman was the consul for Brazil and an "active and useful merchant" in Baltimore.⁴³ It is possible that Hammond and Newman may have been merchants in business together.⁴⁴ Louis Conain and John M. Laroque were both members of the French Benevolent Society.⁴⁵ Edward Dennison ran a turpentine distillery and

³⁶ See JAMES LAKIN, THE BALTIMORE DIRECTORY AND REGISTER FOR 1814-15 130 (1814) [hereinafter LAKIN'S 1814-15 BALTIMORE DIRECTORY].

³⁷ See J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 458 (1881) [hereinafter HISTORY OF BALTIMORE CITY AND COUNTY]. See also 1810 Md. Laws, Chapter LXXVII (December 24, 1810).

³⁸ See 1804 Md. Laws, Chapter XLI (January 12, 1805).

³⁹ See SAMUEL YOUNG, ORDINANCES OF THE CORPORATION OF THE CITY OF BALTIMORE 174 (1816).

⁴⁰ BALTIMORE AMERICAN, obit., Oct 17, 1832.

⁴¹ EDWARD MATCHETT, THE BALTIMORE DIRECTORY AND REGISTER FOR THE YEAR 1816 69 (1816) [hereinafter MATCHETT'S 1816 BALTIMORE DIRECTORY]. See also C. KEENAN, BALTIMORE DIRECTORY FOR 1822 & 1823 103 (1822) [hereinafter KEENAN'S 1822-23 BALTIMORE DIRECTORY].

⁴² See MATCHETT'S 1816 BALTIMORE DIRECTORY at 79 and KEENAN'S 1822-23 BALTIMORE DIRECTORY at 121.

⁴³ BALTIMORE SUN, obit., March 20, 1847.

⁴⁴ The firm of Hammond & Newman was located on Bowley's Wharf, see KEENAN'S 1822-23 BALTIMORE DIRECTORY at 121, with a later listing for George H. Newman on Bowley's Wharf, see EDWARD MATCHETT, THE BALTIMORE DIRECTOR, 1831 279 (1831) [hereinafter MATCHETT'S 1831 BALTIMORE DIRECTORY].

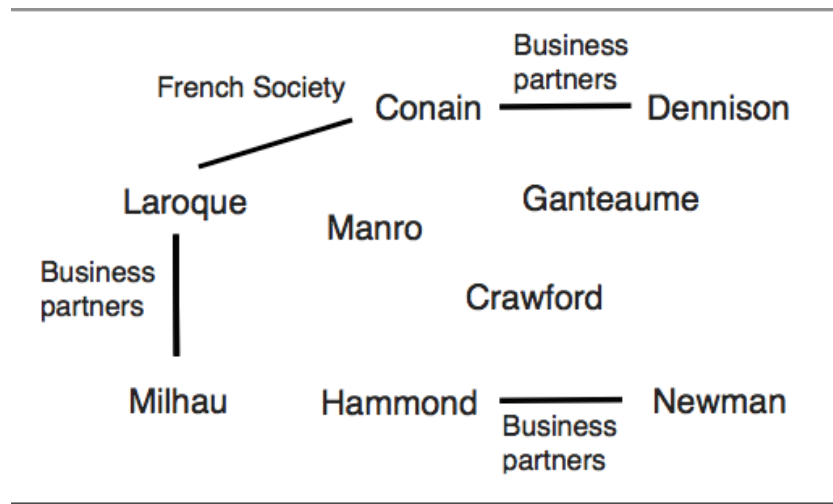
⁴⁵ BALTIMORE SUN, Local Matters, July 26, 1860.

paint/floor-cloth manufactory under the name Dennison, Conain & Co.⁴⁶ Louis Conain may have been the

Conain of Dennison,
Conain & Co.⁴⁷ John M.

Laroque was of the
House of Laroque &
Milhau, who were
chemists and druggists.⁴⁸

John Milhau may have
been the Milhau of Laroque & Milhau.^{49 50}



The *Manro* merchants were active in their community and it seems that some were connected to others, but any point that connected them all before the events of this case is unknown. Eventually, however, their lives became connected on a summer day in 1820 at the hands of Captain Joseph Almeida.

With regards to their \$5000 in specie, it is not known why it was on the *Santiago*. According to the libel, the specie was being transported from Cuba to Baltimore on the

⁴⁶ Edward Dennison was of the House of Dennison, Conain & Co. See KEENAN'S 1822-23 BALTIMORE DIRECTORY at 76.

⁴⁷ The firm of Dennison, Conain & Co was listed at an address on Granby Street. See MATCHETT'S 1831 BALTIMORE DIRECTORY. Louis Conain also lived on Granby Street. See BALTIMORE SUN, obit, Feb. 20, 1865.

⁴⁸ See KEENAN'S 1822-23 BALTIMORE DIRECTORY at 165 (listing both John Laroque and Laroque & Milhau at 8 Baltimore Street).

⁴⁹ See MATCHETT'S 1816 BALTIMORE DIRECTORY at 112 (listing John Milhaw as a druggist at 8 Baltimore Street).

⁵⁰ Figure visualizes the relationships between the different *Manro* merchants.

Santiago without their knowledge.⁵¹ It is suspicious that the Baltimore merchants would have \$5000 in specie on a ship bound for Baltimore without their knowledge. Cuba was a known importer of slaves and with the *Santiago* having just come from Africa bearing a cargo of slaves, it is not improbable that perhaps the Baltimore merchants had made a small investment in the slave trade and the \$5000 in specie was their share of the profits. If the merchants had invested in the slave trade, such actions, while common, were illegal by 1820⁵² and the merchants could not very well admit in their libel that was the reason they had money on board the *Santiago*. It may have been easier for the merchants to say the money was on board without their knowledge than to admit to investing in the slave trade.

Captain Joseph Almeida

Captain Almeida's⁵³ personal life started relatively quietly. He was born a Portuguese citizen, but later married a Marylander,⁵⁴ had a child, and became a United States citizen in 1805.⁵⁵ Captain Almeida steadily increased his wealth as a merchant captain, but it was as a privateer that he made his name.

Letters of marque, known as "privateers' commissions," were commissions issued by a sovereign nation to private vessels authorizing them to attack enemy

⁵¹ SUPREME COURT CASE FILE at 3.

⁵² In May 1820 Congress enacted a law which made engaging in the slave trade an act of piracy. See 16 Cong. Ch. 113, May 15, 1820, 3 Stat. 600.

⁵³ Joseph Almeida's name is alternatively spelled Almeda or Almeyda and later, during his South American privateering activities, he was known as Don Jose Almeida.

⁵⁴ His first wife, Ann, died in 1814. A few months later, he married his second wife, Teresa. *David Head, Independence on the Quarterdeck: Three Baltimore Seafarers, Spanish American, and the Lives of Captains in the Early American Republic*, THE NORTHERN MARINER, Jan. 2013, at 1, 7 [hereinafter *Three Baltimore Seafarers*].

⁵⁵ *Id.* at 6.

vessels on behalf of the sovereign nation.⁵⁶ During the War of 1812, letters of marque issued by the United States allowed vessels to legitimately attack and capture British ships. Captain Almeida became known as one of the “most resourceful and ablest of Baltimore privateersmen.”⁵⁷ His many exploits during the War of 1812 included his lone ship singlehandedly pursuing a fleet of eight British ships and capturing five of them.⁵⁸ During the War, he commanded⁵⁹ the *Caroline* and the *Kemp* and was part-owner⁶⁰ of the *Caroline* and the *Joseph & Mary*.

While many privateers were in the business to make money, some of them were in it for another reason - the thrill of the chase! The French came to call the prize game *la guerre de course*, as in race course, and the amongst English and French logbooks, the vessel being pursued was referenced as “the chase.”⁶¹ The rules of the privateering game allowed for a wide variety of *ruses de guerre*, including sailing with several sets of false papers and an assortment of foreign flags, as well as outright lying when pulled alongside another ship.⁶²

Whether it was for the profits or the thrill of the chase, after the War of 1812, Captain Almeida turned to privateering during the Spanish American Revolution, as did

⁵⁶ THE PRIZE GAME at 2-3 (1999). During the American Revolution, individuals states and Congress issued letters of marque, but after the Constitution was adopted, only Congress had the authority to issue the documents. *Id.* at 9.

⁵⁷ JOHN PHILIPS CRANWELL & WILLIAM B. CRANE, MEN OF MARQUE: BALTIMORE PRIVATEERS IN THE WAR OF 1812 209 (1940) [hereinafter MEN OF MARQUE].

⁵⁸ *Id.* at 210. The five ships he captured had an approximate value of \$500,000. Other sources state that he may have actually only captured four ships. See *Three Baltimore Seafarers* at 7.

⁵⁹ MEN OF MARQUE at 402.

⁶⁰ *Id.* at 407.

⁶¹ THE PRIZE GAME at 4.

⁶² *Id.* at 69.

many others.⁶³ He was caught by the Spanish in 1815⁶⁴ in Cartagena but the United States State Department secured his release and he returned to Baltimore.⁶⁵ Captain Almeida, however, continued to sail⁶⁶ against Spain as he had “swor[n] revenge against the nation that had imprisoned him.”⁶⁷ In a letter, he wrote: “Cartagena [is] ever memorable to me by the cruelties which I received from [Spanish General] Morillo and his army. I lost my property, suffered imprisonment and was discharged with my life only.”⁶⁸ Revenge, and likely the excitement of privateering and the need to provide for his large family,⁶⁹ continued to fuel his privateering activities for South America against Spain.

The Rise and Fall of Baltimore Privateering

Businesses and fortunes were built and made on privateering efforts based in Baltimore. The lives of Captain Almeida, the *Manro* merchants, and even the local legal actors involved in *Manro v. Almeida* were intertwined with Baltimore privateering. How did Baltimore, its local economy, and its citizens become firmly entrenched in privateering activities?

⁶³ *Three Baltimore Seafarers* at 2. More than forty privateers sailed from Baltimore as captains to fight in the Spanish American Revolution, and each of them had sailed under letters of marque for the United States during the War of 1812. *Id.*

⁶⁴ Captain Almeida sailed into Cartagena (in what is now Colombia) only to find that the Spanish had taken the city. The Spanish seized his vessel and threw him in jail. *Id.* at 1.

⁶⁵ *Id.*

⁶⁶ During the next four years, Captain Almeida commanded the *Congresso*, the *Louisa*, and the *Louisa Cosary*, which later he renamed the *Wilson* and then the *Bolivar*. *Id.* at 11.

⁶⁷ *Id.* at 2.

⁶⁸ *Id.* at 10-11.

⁶⁹ Captain Almeida went on to have a total of ten children. *Id.* at 16.

From the time Europeans found the New World, privateering had a presence in the United States.⁷⁰ Sir Walter Raleigh's primary purpose in establishing a colony in Virginia was to set up a raiding base, and during the early period of colonization, the profits made from privateering exceeded that from the colonies themselves.⁷¹ King George's War and the French and Indian War only increased the popularity of and profits in privateering.⁷²

During the colonial period, Baltimore's large, protected anchorages, gentle tides, proximity to the areas used for growing wheat, and streams to run flour mill operations made it an ideal port.⁷³ As the demand for wheat increased within the United States and worldwide, so did Baltimore establish its dominance among the local ports.⁷⁴ Once established as a leading port for exporting wheat, Baltimore also became a leading port for privateering activities in the United States. It is estimated that the number of privateers fitted out in Baltimore during the Revolutionary War ranged between one hundred ninety-eight to two hundred forty-eight.⁷⁵ Demand for crews to man the privateering vessels could explain why Baltimore's population increased nearly 3000 percent during a twenty-five year period.⁷⁶ After the Revolutionary War, Baltimore's

⁷⁰ THE REPUBLIC'S PRIVATE NAVY at 5.

⁷¹ *Id.*

⁷² *Id.* at 7-8.

⁷³ *Id.* at 11.

⁷⁴ *Id.* at 12. Baltimore staved off local competition from Alexandria, Georgetown, and Elkton to become the leading exporter of wheat in the Chesapeake region. Baltimore also became the main port for imports of English goods into the Chesapeake region. *Id.* at 12-14.

⁷⁵ *Id.* at 17-18. The larger number represents the number of overall commissions. *Id.* at 18.

⁷⁶ Baltimore's population increased from 200 in 1751 to 5,934 in 1776. *Id.* at 19.

ability to export flour and tobacco kept the port thriving while much of the newly established country suffered from an economic depression.⁷⁷

Between the Revolutionary War and the War of 1812, Baltimore continued to see growth in its population and maritime trade. By 1810, Baltimore and the surrounding precincts had a population near fifty thousand.⁷⁸ The port supplied skilled and semi-skilled sailmakers, caulkers, iron workers, riggers, shipwrights, and master carpenters, among others and was a popular place to recruit naval and private crews.⁷⁹ Baltimore's location near timber that was optimal for building new vessels, and the availability of plentiful labor, also meant that shipbuilding in the area increased greatly.⁸⁰ Baltimore-built vessels were easily recognizable by their profiles and their speed often baffled their pursuers.⁸¹

The War of 1812 brought continued expansion to Baltimore's population and privateering activities. Investing in and outfitting a privateer was expensive, with "costs ranging from \$16,000 up to \$54,000 for a commissioned full-rigged, three-decked, and three-masted ship."⁸² But the rewards of owning or crewing a privateer could also be great. Pay could vary greatly, but a seaman entitled to two shares of a prize averaged about \$100 a month during a three month cruise.⁸³ In comparison, a sailmaker in the

⁷⁷ *Id.* at 20.

⁷⁸ *Id.* at 29.

⁷⁹ *Id.*

⁸⁰ *Id.* at 30.

⁸¹ *Id.* at 114-15.

⁸² *Id.* at 184.

⁸³ Compare to the crew of the *Mammoth*, who on her second cruise brought in no prizes, leaving her crew with no pay. *Id.* at 194.

navy earned only about \$40 a month.⁸⁴ Prize vessels entering the Baltimore harbor offered numerous money-making opportunities for the city. On the waterfront, entrepreneurs, proprietors of shops and boarding houses, lawyers, seamen, craftsmen, and others benefitted from the incomes these prize vessels provided.⁸⁵ Away from the waterfront, citizens of Baltimore also benefitted from the collection of duties collected on prize goods and from taxes collected from waterfront businesses and auction houses.⁸⁶

The signing of the Treaty of Ghent, which ended the War of 1812, and the end of government sanctioned privateering meant that Baltimore shipowners of small schooners that had been designed for wartime conditions had to find new, profitable uses for their fast ships during peacetime. Some owners turned to shipping,⁸⁷ but the larger, slower ships were better suited to transporting large cargos.⁸⁸ Immediately after the war, exports of flour and tobacco and the reexport of other goods grew, but the postwar boom in exporting had ended by 1818.⁸⁹ Some entrepreneurs and shipowners turned to shipping arms to the South American revolution or buying prize goods in other countries for shipment back to Baltimore.⁹⁰

⁸⁴ *Id.* at 194.

⁸⁵ *Id.* at 213.

⁸⁶ *Id.* at 213. For example, the City collected \$118,500.98 during the war on auction receipts. The auction tax income for 1813 and 1815 was double what was collected in property taxes. *Id.*

⁸⁷ Didier, of the firm D'Arcy and Didier, hoped to use the firm's fast schooners to transport tobacco to the Mediterranean. *Id.* at 219.

⁸⁸ *Id.* at 219. In 1814, the fast Baltimore schooners constituted two-thirds of all new ship registries, and only four large ships were registered. In 1815, over half of the new registries were large ships. Forty-nine of those were for ships weighing over 300 tons. *Id.* at 230.

⁸⁹ *Id.* at 220.

⁹⁰ *Id.* at 220-21.

Baltimore shipowners and entrepreneurs managed to find some new markets and profitable ways to use their fast schooners, but outside competition from New England and European vessels as well as internal competition among the many merchants the war had supported meant that success was often elusive.⁹¹ Shipowners were not the only ones to find profitable business difficult after the war. Initially, officers and crew from the Baltimore privateers found work plentiful, but eventually, they too found that work had dried up.⁹² The suffering Baltimore maritime economy was well-suited to privateering, so it was only natural that many of its actors turned to privateering once more.

Baltimore Privateers in the South American Revolution

Baltimore merchants and shipowners found the South American Revolution a perfect opportunity to return to the profitable business of privateering.⁹³ Many realized the benefits of supporting both sides of the revolution, and supplied both the Spanish and rebel forces with arms.⁹⁴ Baltimore eventually became “notorious” as the “chief center of privateering activities in the United States’ for the insurgents.”⁹⁵

⁹¹ *Id.* at 222-23. For example, the trading firm owned by Robert Oliver made \$833,618 in 1809, \$38,413 in 1813, \$22,950 in 1816, \$162.00 in 1817, and suffered a loss of \$236.00 in 1819. *Id.* at 223.

⁹² *Id.* at 223.

⁹³ Among the names connected to providing capital to the raiders were the entrepreneurs of Nicholas Stansbury, Thomas Sheppard, Luke Kiersted, John Snyder, Joseph Karrick, Joseph W. Patterson, John Gooding, James Williams, John Joseph Lane and Christopher Raborg, all who had also invested in privateering during the War of 1812. *Id.* at 225. In addition, reportedly District Court Judge Theodorick Bland, Postmaster John S. Skinner, and Baltimore’s customs collectors also contributed capital to the South American privateering efforts. *Id.*

⁹⁴ *Id.* at 224.

⁹⁵ *Id.*

After the War of 1812, a number of the fast Baltimore schooners were outfitted and armed in Baltimore and then sold to the South American rebels. Often, the South Americans then persuaded the schooners' former officers and crews to continue serving on those vessels.⁹⁶ But not all of the fast schooners were sold to South American rebel forces, however. Many were still owned by Baltimore entrepreneurs and merchants. These vessels departed as legitimate merchant vessels on their way out of Baltimore and would then proceed to add extra men and guns as they sailed down the Chesapeake on their way to raid the South American waters.⁹⁷ It is estimated that nearly thirty-five hundred American seamen found work on these privateering vessels between 1816 and 1821.⁹⁸ At the helm of these ships were many of the same privateering captains from the War of 1812, including Captain Joseph Almeida.⁹⁹

These crews, and the merchants who invested in them, "believed they were fighting for the 'liberty' of the new nations," a popular sentiment so soon after the United States' own revolution.¹⁰⁰ But as "privateering" excess began to look more like "pirating," that popular opinion, and the acceptance of continued privateering activities, began to change. Many of the 'victims' of the South American privateers were the

⁹⁶ *Id.* at 226.

⁹⁷ *Id.* at 224. The first of these raiders to leave for South American waters were the *Orb* and the *Romp*. *Id.*

⁹⁸ *Id.* at 224-25.

⁹⁹ *Id.* at 225. Other captains included Danels, Stafford, Jenkins, Davey, Chaytor, Taylor, Barnes, and Chase, among others. *Id.*

¹⁰⁰ *Id.* at 226.

Spanish, but the United States was at peace with Spain. Violations of the neutrality laws by Baltimore's privateering activities did not go unnoticed.¹⁰¹

Reigning in the privateering activities was nearly impossible for the local authorities, despite heavy pressure from the national level. Legitimate ships and cargos would leave Baltimore, only to have guns and men added on their way to South America. These ships sometimes sailed under more than one commission, and often the commissions themselves were bogus.¹⁰² As condemnation of prizes became near impossible, merchants and crews, hoping to regain their investments, began to disguise prize goods taken from the Spanish, Portuguese, Dutch and French as regular imports or even resorted to smuggling the goods into Baltimore.¹⁰³ This made it difficult for government employees to identify legitimately imported goods from ill-gotten ones.¹⁰⁴

Prosecution of these shipowners and investors was also difficult. James H. McCulloch claimed he could not get merchants to testify against their neighboring merchants.¹⁰⁵ Elias Glenn, the United States Attorney for Maryland and located in Baltimore, had so much trouble getting prosecutions against those involved in the privateering activities that John Quincy Adams called him "a weak, incompetent man."¹⁰⁶ Many of the Baltimore merchants were associated with the South American privateering

¹⁰¹ *Id.* at 225. The privateering activities also garnered complaints from foreign consuls and agents. *Id.*

¹⁰² *Id.* at 225.

¹⁰³ *Id.* at 225-26.

¹⁰⁴ Baltimore collector James H. McCulloch noted that the vessels fitted out for raids against Spain "looked too much like 'mercantile projects' for him to detain them." *Id.* at 225.

¹⁰⁵ *Id.* at 226.

¹⁰⁶ Jeffrey Orenstein, *Joseph Almeida: Portrait of a Privateer, Pirate & Plaintiff, Part I*, 10 GREEN BAG 2D 307, 323 (2007).

activities only by heresay, and one failed prosecution based on such evidence discouraged the government from pursuing other suspected participants.¹⁰⁷

Captains such as Joseph Almeida, and officers and crew, often provided documentation, sometimes legitimate and sometimes not, that they were citizens of foreign countries, that their ships were owned by citizens of foreign countries, and that their ships were sailing under the flags of foreign countries.¹⁰⁸ All this, combined with “frequent bills of sales, name changes on the vessels, silent owners, crews charged to secrecy, multiple commissions, and prize goods altered to resemble regular importations,” made prosecutions infrequent.¹⁰⁹ Judges James Houston and Theodorick Bland, the Baltimore District Court judges during this period,¹¹⁰ and reportedly sympathetic to privateering activities,¹¹¹ dismissed nearly two-thirds of the privateering cases brought before their courts.¹¹²

Manro v. Almeida in the District and Circuit Courts for the District of Maryland

In May 1822, nearly two years after Captain Almeida captured the *Santiago* and the specie on board, the Baltimore merchants filed their libel in the United States District Court for the District of Maryland.¹¹³ Their libel stated that:

¹⁰⁷ THE REPUBLIC’S PRIVATE NAVY at 227.

¹⁰⁸ *Id.* at 228.

¹⁰⁹ *Id.* at 227.

¹¹⁰ James Houston was the District Court Judge for the District of Maryland from 1806 until his death in 1819. Theodorick Bland, who replaced him, sat from 1820 until 1824. See PETER GRAHAM FISH, FEDERAL JUSTICE IN THE MID-ATLANTIC SOUTH: UNITED STATES COURTS FROM MARYLAND TO THE CAROLINAS, 1789-1835 app. at 297 (2002).

¹¹¹ Judge Bland reportedly invested in South American privateering with his brother-in-law, Postmaster Skinner, and “narrow escaped being indicted . . . for privateering.” Orenstein, *supra* note 106 at 323.

¹¹² THE REPUBLIC’S PRIVATE NAVY at 228.

¹¹³ SUPREME COURT CASE FILE at 2.

1. Captain Almeida was a citizen of the United States and had “wrongfully, violently, and tortiously and piratically, taken, seized and wrested” from the *Santiago* \$5000 in monies belonging to them, all citizens of the United States.
2. Captain Almeida had refused to restore their monies or make any reparations and instead “piratically converted and retained the same to his own use.”
3. Captain Almeida had absconded from the United States and was preparing to remove his property from the jurisdiction of the court to avoid judicial inquiry into his illegal conduct.¹¹⁴

The Baltimore merchants asked that the goods, chattels, and credits of Captain Almeida within the jurisdiction of the court be attached in an effort to force Captain Almeida to appear and answer the libel. In addition, the Baltimore merchants asked for the goods, chattels, and credits to be condemned if necessary and appropriate.¹¹⁵

It is unclear from the record how the attachment was issued. An attachment order should come from judicial decree, but there was no judicial order in this case. In the absence of a judicial order, it seemed the clerk¹¹⁶ of the court issued the attachment order, and the goods were attached by the marshal.¹¹⁷ It is also unclear from the record exactly which goods of Captain Almeida attached in the case. He and his family lived in Baltimore on Duke Street,¹¹⁸ but around the same time the libel was filed, Captain

¹¹⁴ *Id.* at 3.

¹¹⁵ *Id.* at 4.

¹¹⁶ The clerk during this time was Philip Moore, so he was probably the one to have issued the attachment order.

¹¹⁷ *Manro v. Almeida*, 23 U.S. (10 Wheaton) 473, 475 (1825).

¹¹⁸ Captain Almeida’s address was listed as the North side of Duke Street, east of Wolf Street. See KEENAN’S 1822-23 BALTIMORE DIRECTORY at 9. Duke Street no longer exists in Baltimore, but a comparison of maps of Baltimore show that Duke Street existed where the modern day Granby Street is located. Later, Teresa Almeida, who was the wife of Captain Almeida, was listed as living on Granby Street. MATCHETT’S 1831 BALTIMORE DIRECTORY at 13. Compare JAMES POUPARD & A.P. FOLIE, PLAN OF THE TOWN OF BALTIMORE

Almeida was actually fleeing the country with his family,¹¹⁹ exactly as the libel stated. At the time of the attachment, “Almeida was not to be found within the District, [so the marshal] left a copy of the monition at the late dwelling house of Almeida, and had affixed it at the public exchange, and on the mast of the vessel containing the goods and chattels attached by him.”¹²⁰

Other than the fact the attached goods and chattels were on a vessel, the only clue regarding the attached goods from the record is a petition filed by the Baltimore merchants and their lawyers in the court requesting an inspection of the attached goods and chattels because they were “of a perishable nature . . . being of a nature to waste and deteriorate in a short time.” Judge Bland granted the petition and ordered for the goods to be inspected, but the inspectors¹²¹ reported back to the court there were “no article[s] of a perishable nature among the goods and chattels [sic] attached.”¹²²

In June 1822, Judge Bland, for the United States District Court for the District of Maryland, issued a judgment, without opinion, dismissing the libel and restoring the attached goods with costs.¹²³ The ruling was unsurprising, considering his sympathy towards privateering. On appeal to the United States Circuit Court for the Fourth

AND IT’S [sic] ENVIRONS, 1792, *located at* The George Peabody Library, Johns Hopkins University, *available at* <https://jscholarship.library.jhu.edu/handle/1774.2/35336> with FIELDING LUCAS, PLAN OF BALTIMORE, 1832, *located at* The George Peabody Library, Johns Hopkins University, *available at* <https://jscholarship.library.jhu.edu/handle/1774.2/34953>.

¹¹⁹ The libel was filed in May 1822, and during the same month he and his family fled to St. Bartholomew. *Three Baltimore Seafarers* at 16.

¹²⁰ *Manro*, 23 U.S. at 474-75.

¹²¹ Judge Bland ordered Johnathan Hudson, Christian Keller, and Thomas Whelan to inspect the goods. See SUPREME COURT CASE FILE at 6-7.

¹²² *Id.* at 7.

¹²³ *Id.* at 8. Of note, Captain Almeida himself did not attend court to address the libel. Instead, his proctors attended in his stead. *Manro*, 23 U.S. at 475.

Circuit, Judge Gabriel Duvall, without opinion, affirmed the lower court's ruling.¹²⁴ The Baltimore merchants then appealed to the United States Supreme Court, which heard arguments in the case in February of 1825,¹²⁵ nearly five years after Captain Almeida captured the *Santiago* and took the Baltimore merchants' monies.

The Case: Arguments Before the Supreme Court

David Hoffman and Charles F. Mayer,¹²⁶ for the merchants, argued that there was a long history of attachment in Admiralty and that even though it had fallen out of use in England did not mean that the United States had to follow suit.¹²⁷ Furthermore, they argued, there was no authority to support distinguishing between contract and tort in attachment cases.¹²⁸ Although an attachment could not lie where the tort was so indefinite in character that damages could not be estimated, where there was a defined amount of damages - in this case, the \$5000 in specie that Captain Almeida took - courts of common law had allowed attachment for tort claims.¹²⁹ In addition, the merchants only stated their claim - they did not give it the name of a "tort" necessarily. At common law, they could have stated their claim either as a tort - trespass for money taken and carried away - or as a contract debt for money had and received.¹³⁰

¹²⁴ SUPREME COURT CASE FILE at 8-9. An affirmance *pro forma* is one method to bring an appeal to the Supreme Court in which the appellate judge does not write an opinion.

¹²⁵ DOCKET OF THE SUPREME COURT OF THE UNITED STATES, at 178, *available at* http://mdhistory.net/nara_supreme_court/m216_1/html/nara_m216_1-0001.html.

¹²⁶ David Hoffman was a well-known member of the Baltimore Bar and professor of law at the University of Maryland. See HISTORY OF BALTIMORE CITY AND COUNTY at 714. Charles F. Mayer was also a Baltimore attorney who was known as an excellent orator and later became a State senator. *Id.*

¹²⁷ *Manro*, 23 U.S. at 475-76.

¹²⁸ *Id.* at 476.

¹²⁹ *Id.* at 476-77.

¹³⁰ *Id.* at 477.

The merchants also argued that even if the attachment was irregular in the case, all formal defects in the process of attachment were cured by the fact that Captain Almeida, through his proctors, appeared to answer the libel.¹³¹ In addition, the attachment did not need to specify the goods to be attached.¹³² They also argued that the civil remedy for the case did not merge with a piracy charge, as the merger doctrine only applied to cases of felony and treason, of which under common law piracy was not.

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Roger Taney,¹³⁴ for Captain Almeida, argued that the stated libel amounted to piracy, and under English law, piracy was a felony and the goods of a pirate were forfeited to the Crown.¹³⁵ By that reasoning, the goods could not be made liable to satisfy a private claim for damages.¹³⁶ Although the merchants pointed out that their claim could be stated as a tort or as a contract debt, the only time this could be done was when the claim was private and upon conversion of the plaintiff's goods and their sale, the plaintiff could ratify the sale as having been done by his authority.¹³⁷ The tort waiver could not be done in this case, as it was a case of piracy and therefore a wrong

¹³¹ *Id.* at 478.

¹³² *Id.* at 480.

¹³³ *Id.* at 479.

¹³⁴ Although Roger Taney argued for Almeida in the Supreme Court, William Winder and Jonathan Meredith were Captain Almeida's proctors in the lower court cases. See SUPREME COURT CASE FILE at 6. The change probably occurred because the case was not argued before the Supreme Court until 1825 and William Winder died in 1824. See HISTORY OF BALTIMORE CITY AND COUNTY at 711. Roger Taney went on to become Chief Justice of the Supreme Court in 1836.

¹³⁵ *Manro*, 23 U.S. at 481.

¹³⁶ *Id.* at 482.

¹³⁷ *Id.*

to the public and the only remedy was a criminal case or in the Prize Courts for wrongful taking of a prize.¹³⁸

In addition, even if the merchants could maintain a civil suit, attachment could only issue in contract cases, and although it had occasionally been used in the United States courts, the legal precedent of its use was not well grounded.¹³⁹ Furthermore, the use of attachment had become obsolete in England.¹⁴⁰ Taney further argued that even if attachment could issue in a maritime tort case, it must be done only by express order of the Court¹⁴¹ and that the property to be attached must be expressly stated in the order.¹⁴² Such errors as in this case were not cured by Almeida's appearance, as he appeared under protest to contest the proceedings.¹⁴³

The Supreme Court Ruling

On March 9, 1825, the Supreme Court reversed the decision of the United States Circuit Court and remanded for further proceedings.¹⁴⁴ Much of the Supreme Court's discussion focused on whether an attachment could issue in maritime tort, and whether the lower court should have maintained the attachment in *Manro*.

Irregularity of the attachment

The Court discussed the irregularity of the attachment throughout its opinion.¹⁴⁵ It noted that "instead of moving to quash [the attachment] for irregularity, [Almeida]

¹³⁸ *Id.*

¹³⁹ *Id.* at 483.

¹⁴⁰ *Id.* at 482.

¹⁴¹ *Id.* at 483.

¹⁴² *Id.* at 484.

¹⁴³ *Id.*

¹⁴⁴ *Id.* at 497.

¹⁴⁵ *Id.* at 484-85, 494-96.

appeared to the libel, filed his demurrer, and was content to let the regularity of the attachment abide the decision of the [c]ourt upon the general questions raised upon the libel.”¹⁴⁶ For that reason, the Court declined to address the propriety of the attachment in the case,¹⁴⁷ even though it was brought up during arguments by both sides. The Court seemed exasperated by the lack of record available regarding the attachment and by the fact that Captain Almeida was allowed to appear and enter his demurrer in the District Court without giving a bail, but Court stated it was “compelled to take the case as [it] f[ou]nd it.”¹⁴⁸

Despite its statement declining to address the irregularity of the attachment, the Court did give some direction for attachment in general. With regards to whether the libel or process should specifically state the property to be attached, the Court found that such a specification was not required.¹⁴⁹ In addition, the Court addressed the issuance of an attachment without the order of a judge and found that such an order could be issued simultaneously with the monition against the defendant.¹⁵⁰

Remedy of attachment

The Court stated it was well founded that a maritime tort could be heard in the admiralty courts and that the remedy *in personam* could be pursued.¹⁵¹ Furthermore, there was precedent that the remedy of attachment had been used in admiralty courts

¹⁴⁶ *Id.* at 485.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.* at 494.

¹⁴⁹ *Id.* at 495. The Court again lamented the lack of record over the process and its return, and stated that as such, it could “express no opinion respecting its form.” *Id.*

¹⁵⁰ *Id.* at 495-96.

¹⁵¹ *Id.* at 486-87. The question of whether such remedy was appropriate was “not to be stirred.” *Id.* at 487.

to compel an appearance in both tort and contract cases.¹⁵² But the Court was faced with the question of whether such attachment was proper.

The Court first examined the establishment of admiralty courts, as distinguished from courts of common law.¹⁵³ In Maryland, the right of attachment may be asserted in the courts of common law¹⁵⁴ and the lower courts appeared to believe that the merchants were trying to avail themselves of a common law remedy in the admiralty courts.¹⁵⁵ The Court agreed with this assessment, but found there was no ground for a complete denial of attachment based on such a use.¹⁵⁶ The basis for attachment was well grounded in civil law, and for several years, the admiralty courts looked to the civil courts for their forms and modes of proceeding. The Court found there was no indication under the Process Act of 1792 that precluded the use of attachment in admiralty courts.¹⁵⁷ Attachment had not only been used in the United States admiralty courts but historically had also been used in the English admiralty courts. The Court cited to Clerk's Praxis by John E. Hall, which states:

¹⁵² *Id.* at 487.

¹⁵³ *Id.* at 488.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.* at 488-89.

¹⁵⁶ *Id.* at 489. The merchants' libel requested the remedy of attachment both for compelling Almeida to appear and also for the purpose of condemnation if he did not. The Court found that condemnation was a secondary purpose, and that the request for attachment to compel appearance, if legal, should not be denied because the merchants also requested it for condemnation. *Id.* at 489. Furthermore, the fact that the merchants requested condemnation as substitute for Almeida's failed appearance was appropriate, as historically, upon default in personal actions, after a years time goods were forfeited and abandoned to the plaintiff. *Id.* at 494.

¹⁵⁷ *Id.* at 491.

If the defendant has concealed himself, or has absconded from the kingdom,¹⁵⁸ so that he cannot be arrested, if he have any goods, merchandise, ship or vessel, on the sea, or within the ebb or flow of the sea,¹⁵⁹ and within the jurisdiction of the Lord High Admiral,¹⁶⁰ a warrant is to be impetrated to this effect, viz. to attach such goods or ship of D., the defendant, in whose hands soever they may be : and to cite the said D. specially as the owner, and all others who claim any right or title to them, to be and appear on a certain day to answer unto P. in a civil and maritime cause.¹⁶¹

The Court found that the merchants' libel essentially met the requirements for attachment under English admiralty law.¹⁶² In addition, the Court found that the remedy for the alleged tort did not merge into the crime.¹⁶³ Likening such merges as "barbarous doctrines of antiquity," the current, "more rational" rule allowed the plaintiff to reclaim his pirated property.¹⁶⁴ Subsequently, the value of the goods could be recovered from any of a defendant's goods located within the jurisdiction of the court.¹⁶⁵ For these reasons, the Court reversed the Circuit Court's decision and remanded the case back to the lower courts, allowing *Manro v. Almeida* to go to trial on the merits of the case under a

¹⁵⁸ The Court found that under Praxis, an attachment could issue when a defendant had concealed himself or absconded, and that the merchants' libel stated precisely that Almeida was doing just that. *Id.* at 492.

¹⁵⁹ The Court noted that the merchants' libel not only requested the attachment of Almeida's goods and chattels, but also his credits. The Court found no issue with the attachment of credits, as title 32 of Praxis indicates that where no property is found in the possession of the defendant, the officer can attach the goods or credits in the hands of third party by way of notice. *Id.* at 492-93.

¹⁶⁰ The Court found that Praxis required the attached goods be within the jurisdiction, and that the merchants' libel only requested that Almeida's goods within the jurisdiction be attached. *Id.* at 492.

¹⁶¹ *Id.* at 491-92.

¹⁶² See *supra* notes 159 and 160.

¹⁶³ *Manro*, 23 U.S. at 494. The Court noted that the doctrine of merger was inapplicable, as even at common law it was limited to felonies, and piracy was not a felony at common law.

¹⁶⁴ *Id.* at 494-95.

¹⁶⁵ *Id.* at 495.

valid order issued for attachment. The history and result of any subsequent proceedings, however, are unknown.

Continued Importance of the *Manro* Ruling

The Supreme Court decision in *Manro v. Almeida* is codified under Rule B of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions at 28 U.S.C.A. Rule B states that in an *in personam* action:

If a defendant is not found within the district when a verified complaint praying for attachment and the affidavit required by Rule B(1)(b) are filed, a verified complaint may contain a prayer for process to attach the defendant's tangible or intangible personal property -- up to the amount sued for -- in the hands of garnishees named in the process.¹⁶⁶

In addition to the adoption of the *Manro* ruling under Rule B, *Manro* has been cited to approximately ten times in the last twenty years, and discussed in depth as recently as 2002.¹⁶⁷ In *Grand Bahama Petroleum Co. v. Canadian Transportation Agencies, Ltd.*,¹⁶⁸ the United States District Court for the Western District of Washington upheld the use of attachment *in rem* despite an absence of minimum contacts,¹⁶⁹ reasoning that admiralty

¹⁶⁶ FRCP SUPP AMC Rule B(1)(a).

¹⁶⁷ See, e.g., *ProShipLine Inc. v. Aspen Infrastructures Ltd*, 609 F.3d 960 (9th Cir. 2010) (citing *Manro*), *Aurora Maritime Co. v. Abdullah Mohamed Fahem & Co*, 85 F.3d 44 (2nd Cir. 1996) (citing *Manro*), and *Winter Storm Shipping, Ltd. v. TPI*, 310 F.3d 263 (2nd Cir. 2002) (discussing *Manro*).

¹⁶⁸ 450 F. Supp. 447 (W.D. Wash. 1978).

¹⁶⁹ *Id.* at 459. The court did find, however, that the procedure used by Rule B(1) was unconstitutional because it failed to provide adequate protections to prevent defendants from mistaken deprivation of property. *Id.* at 459-60. Compare with *Polar Shipping Ltd. v. Oriental Shipping Corp.*, 680 F.2d 627, 641 (9th Cir. 1982) and *Parcel Tankers, Inc. v. Formosa Plastics Corp.*, 569 F.Supp. 1459, 1465 (S.D. Texas 1983) (upholding the constitutionality of Rule B upon finding that the courts had adequate powers under local rules to promptly hear motions contesting the attachment).

jurisdiction differed from the requirements of subject-matter jurisdiction set forth in *Pennoyer v. Neff*.¹⁷⁰

It is notable that a comparison of the arguments by each side with the Court's decision shows that the Court accepted the merchants' arguments almost without fail. The tone of the opinion seems to suggest the Court was chastising the lower courts for issuing the attachment in the first place, while at the same time for not maintaining the attachment with regards to the libel. With its ruling, the Court may have been trying to send a message to the lower courts that the free reign and corruption of the local judiciary in connection to privateering efforts would no longer be tolerated. The Court may have also have thought its opinion could constrain the wanton disregard the South American privateers, such as Captain Almeida, seemed to have for the laws of the United States and make the "pirates" responsible for their actions, if not in person, than by attaching their property.

Conclusion

Despite the fact the decision in *Manro v. Almeida* continues today as part of the Federal Rules of Civil Procedure, in 1825 the decision generated very little press. In comparison, Captain Almeida's exploits and his daring capture of the *Santiago* were picked up by newspapers up and down the East Coast. Captain Almeida was eventually caught by the Spanish again and he spent three years in a cell in San Juan before he was executed for piracy in February 1832.¹⁷¹ His family returned to Baltimore.

¹⁷⁰ *Id.* at 456.

¹⁷¹ *Three Baltimore Seafarers* at 18.

¹⁷² The *Manro* merchants continued to live quiet lives until their deaths. The end of the War of 1812 and the South American Revolution saw privateering activities in Baltimore and the United States decline. Although privateering had a small revival during the Civil War,¹⁷³ its heyday was a thing of the past.

¹⁷² *Id.*

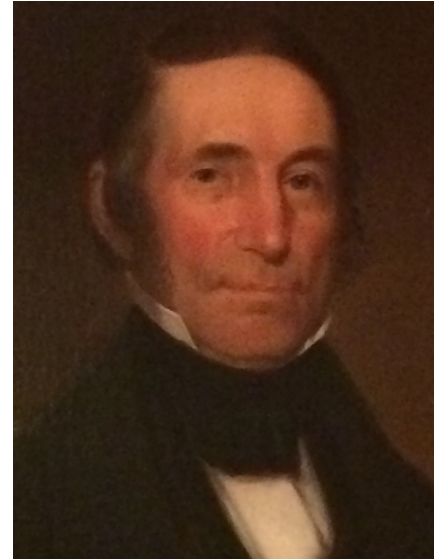
¹⁷³ THE REPUBLIC'S PRIVATE NAVY at 247-49.

Appendix

Jonathan Manro¹⁷⁴ (? - 1848?)

Jonathan Manro was a Baltimore merchant¹⁷⁵ and grocer.¹⁷⁶ He lived on Liberty Street in Baltimore, and his place of business was located on Baltimore Street.¹⁷⁷

There is little information on his personal life. He was married and had several children. His eldest son, James C., died in 1815 at age 19.¹⁷⁸ His eldest daughter, Evaline, married into the Turnbull family in 1825.¹⁷⁹ His youngest daughter, Hannah Maria, died in 1841.¹⁸⁰ Another son, Jonathan, died in 1842.¹⁸¹ He may have had another son, George W.¹⁸²



In 1805, Jonathan Manro was one of the original stockholders when the Union Insurance Company of Maryland was incorporated.¹⁸³ The Union Insurance Company of Maryland had a capital stock of \$60,000 with the purpose of “effecting marine insurances, and also insurances against fire and upon lives, and lending money upon bottomry and *respondentia*, and transacting business relating to insurances generally.”¹⁸⁴

¹⁷⁴ Portrait of Jonathan Manro provided by Dee Davis, relative of descendent of Jonathan Manro.

¹⁷⁵ See JAMES LAKIN, THE BALTIMORE DIRECTORY AND REGISTER FOR 1814-15 130 (1814) (listing Jonathan Manro as a merchant at 258 Baltimore Street). See also C. KEENAN, BALTIMORE DIRECTORY FOR 1822 & 1823 178 (1822) (listing Jonathan Manro as a merchant at 285.5[sic] Baltimore, with a dwelling at 18 N. Liberty Street).

¹⁷⁶ See EDWARD MATCHETT, THE BALTIMORE DIRECTOR, 1831 238 (1831) (listing Jonathan Mauro [sic] as a grocer at 258.5 Baltimore Street, with a dwelling at 16 N. Liberty Street)

¹⁷⁷ See *supra* notes 175 and 176.

¹⁷⁸ BALTIMORE AMERICAN, obit., September 6, 1815.

¹⁷⁹ BALTIMORE GAZETTE, January 2, 1826. This daughter may be the Mrs. Turnbull listed as living at his residence after his death. See BALTIMORE SUN, classifieds, October 3, 1848.

¹⁸⁰ BALTIMORE SUN, obit., April 29, 1841.

¹⁸¹ BALTIMORE SUN, obit., December 22, 1842.

¹⁸² Upon Jonathan Manro’s death, his estate was handled by a George W. Manro. See BALTIMORE SUN, classifieds, October 3, 1848.

¹⁸³ See 1804 Md. Laws, Chapter XLI (January 12, 1805).

¹⁸⁴ *Id.*

In 1810, he was elected as an interim director of the Farmers and Merchants' Bank of Baltimore.¹⁸⁵ The bank was organized in March 1810 and incorporated in December 1810.¹⁸⁶ The bank, with an authorized capital stock of \$500,000, was initially located at the corner of Bank Lane and Calvert Street and later on the northwest corner of South and Lombard Streets.¹⁸⁷

In February 1812, the Baltimore City Mayor and Council approved the establishment of a lottery scheme to raise \$4,500 to raise funds to build an engine house for the Liberty Fire Company.¹⁸⁸ Jonathan Manro was one of the men approved to run the lottery.¹⁸⁹

In 1820, Jonathan Manro and a small group of merchants had \$5000 in specie on board the Spanish barque ship *Santiago*, being transported from Cuba to Baltimore. Of the coast of the Chesapeake Bay, Captain Joseph Almeida, sailing under the flags of South America, captured the *Santiago* and the specie. The merchants filed a libel against Captain Almeida in a case that went all the way to the Supreme Court, and gave rise to attachment *in rem* for maritime torts.¹⁹⁰

By 1823, Jonathan Manro was largely in debt,¹⁹¹ perhaps due to a combination of the Panic of 1819, Captain Almeida taking money that belonged to him, and the legal costs resulting from *Manro v. Almeida*. Sometime in late 1847 or early 1848, Jonathan Manro died without a will,¹⁹² leaving an estate worth about \$6100.¹⁹³

¹⁸⁵ See J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY FROM THE EARLIEST PERIOD TO THE PRESENT DAY 458 (1881). See also 1810 Md. Laws, Chapter LXXVII (December 24, 1810).

¹⁸⁶ SCHARF, *supra* note 185, at 458-59.

¹⁸⁷ *Id.*

¹⁸⁸ See SAMUEL YOUNG, ORDINANCES OF THE CORPORATION OF THE CITY OF BALTIMORE 174 (1816).

¹⁸⁹ *Id.*

¹⁹⁰ *Manro v. Almeida*, 23 U.S. (10 Wheaton) 473 (1825).

¹⁹¹ *Balderston v. Manro*, 2 Cranch C.C. 623 (1825).

¹⁹² BALTIMORE COUNTY REGISTRY OF ADMINISTRATIONS 194 (February 4, 1825) [hereinafter BALTIMORE COUNTY REGISTRY OF ADMINISTRATIONS].

¹⁹³ See BALTIMORE COUNTY REGISTRY OF ADMINISTRATIONS at 149-51 (Inventory of the Estate of Jonathan Manro) and BALTIMORE COUNTY REGISTRY OF ADMINISTRATIONS at 288 (Additional Inventory of the Estate of Jonathan Manro) (The estate consisted of personal property and a small group of slaves).