

UNITED STATES V. DOUGHTY ET AL.

[1 Quart. Law J. 69.]

Circuit Court, E. D. Virginia.

Nov. 30, 1855.

EVIDENCE—SEAMEN—INDICTMENT FOR
REVOLT—SHIPPING
ARTICLES—COPY—HANDWRITING.

1. On a charge of revolt against seamen, a copy of the shipping articles purporting to be signed by the prisoners cannot be given in evidence to show that the prisoners were part of the crew, without proof of loss or destruction of the original articles.
2. The original articles cannot be given in evidence unless the handwriting of the prisoner is proved.

This was an indictment under the act of congress, March, 1835, § 2 [4 Stat. 776], for an endeavor to commit a revolt on board of the American ship *Arcole* (R. A. Pitman, master), while lying in Hampton Roads. Plea not guilty.

John M. Gregory, for the United States.

Henry G. Cannon and James R. Crenshaw, for prisoners.

On the trial, the attorney for the United States offered in evidence a certified copy of the shipping articles, for the purpose of proving that the prisoners were the crew or part of the crew of the said ship.

But, on motion of the defendants, THE COURT held that a copy could not be read in evidence without first proving that the original was lost or destroyed.

The attorney then obtained from the custom house the original articles purporting to be signed by the prisoners. But the defendants moved the court to exclude the original articles unless the attorney for the United States could prove the signatures of the prisoners to have been made by themselves or by some persons authorized to sign for them, which motion THE COURT sustained.

The attorney then offered to prove that the prisoners were on board of the *Arcole* as her crew; but

THE COURT held after argument that any contract different from that provided for and rendered necessary by the act of congress of July 20, 1840, c. 48, § 10 [5 Stat. 395], was void; and that act requiring a written or printed contract, and declaring any contract of a different character to be void, no parol contract or verbal agreement could be proven; and that unless the prisoners were part of the crew of the vessel, they could not be prosecuted for an endeavor to commit a revolt, and therefore the jury must find the prisoners not guilty.

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