

UNITED STATES V. GARDNER ET AL.

[5 Mason, 402.]¹

Circuit Court, D. Massachusetts. Oct. Term, 1829.

SEAMEN—ENDEAVOUR TO MAKE REVOLT.

If the crew combine together to refuse to do duty, and actually refuse until the master complies with some improper request on their part, it is an endeavour to make a revolt, within the crimes act of 1790, c. 9 (36) § 12 [1 Stat. 115: 1 Story's Laws. 85].

[Cited in U. S. v. Nye, Case No. 15,906.]

Indictment for an endeavour to make a revolt on board the ship *Ganges*, in Boston harbour, founded on the crimes act of 1790, c. 9 (36), § 12 [1 Stat. 115; 1 Story's Laws, 85]. Plea, not guilty. At the trial it appeared, that the seamen had signed the shipping articles, and the ship was all ready for sea, and that the master directed the pilot to get the vessel under weigh for sea for the voyage. The whole crew (among whom were the defendants [Daniel C. Gardner and others]) utterly refused to obey the orders of the master, or to get the ship under weigh, unless the master would agree, that they should have a day watch below, in the forenoon, during the whole voyage. This the master refused to do, as being an unreasonable request; and it was proved by witnesses, that it was improper and injurious, and unknown as a regulation on board of ships. The defendants and the rest of the crew then separated themselves from the officers, and collected together by the fore-castle, and steadily refused all obedience to the orders given, and acted together in concert. Application then was made for a warrant to arrest them, and they were taken on shore under it, and upon a hearing before the district judge, he explained the law to the seamen, and urged them to go on board again, and the owners agreed, if they would go on board and perform duty, this offence should be forgiven and forgotten. The defendants refused, and were then committed for trial.

Mr. Dunlap, for the United States.

S. D. Parker, for defendants.

STORY, Circuit Justice, in summing up the case, said: If the jury believe the facts to be as testified

by the witnesses, the court are of opinion, that there was an endeavour to commit a revolt. There was a common combination by the crew, for a common and illegal object, and they refused obedience to the lawful orders of the master, and incited each other to persist in that disobedience, so as to overthrow his authority and command on board of the ship. We have already decided this point in the case of U. S. v. Harris [Case No. 15,313], which has just been tried.

Verdict guilty, and sentence accordingly.

¹ [Reported by William P. Mason, Esq.]

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