

Case No. 15,436. UNITED STATES v. IDELL.
[16 Int. Rev. Rec. 147; 4 Leg. Gaz. 347.]

Circuit Court, E. D. Pennsylvania.

Oct. 23, 1872.

SEAMEN—UNLAWFUL SHIPPING CONTRACTS.

1. Under section 8, Act Cong. June 7, 1872 [17 Stat. 262], a person not a shipping commissioner who ships and engages seamen for a vessel of which he is not at the time the owner, consignee, or master, is liable to the penalties enumerated in said act.
2. The provisions of said act apply as well to vessels engaged in the coastwise as to those engaged in the foreign trade.

An information was filed by the United States district attorney, at the instance of the shipping commissioner in Philadelphia, under section 64 of the act of congress of June 7, 1872 (17 Stat. 262), charging the defendant, James D. Idell, with violating the provisions of section 8, of said act, in that, "on the 14th day of September, 1872, James D. Idell, not then and there being a shipping commissioner, did, within the jurisdiction of this court, perform certain duties which, by the provisions of the act of congress in such cases made and provided, pertain to a shipping commissioner, viz.: did ship and engage one Frederick W. Freeman as a seaman to go on board the schooner J. W. Allen, a vessel of the United States merchant marine, said James D. Idell at the time he so shipped and engaged the said Frederick W. Freeman, not then and there being the owner, consignee, or master of the said schooner, contrary to the form of the act of congress in such case made and provided, and against the peace and dignity of the United States of America." Whereupon the said attorney prayed process, and that the said James D. Idell might be arrested and held to answer the said complaint and information, and be dealt with according to law.

The defendant, Idell, filed a demurrer alleging specially that, "for further cause of demurrer the said John D. Idell says that the United States ought not further to impeach him, the said John D. Idell, touching or concerning the premises whereof he, the said John D. Idell, is by the said information accused, because he says that true it is that he did ship and engage a seaman called Frederick W. Freeman to go on board the said schooner J. W. Allen on or about the said 14th day of September, 1872, as by law he the said John D. Idell was authorized to do, the said schooner J. W. Allen being then and there an American vessel of the United States merchant marine, and engaged

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in the coastwise trade of the United States, and was not a ship or vessel bound from a port in the United States to any foreign port, nor a ship of the burden of seventy-five tons or upwards, bound from a port on the Atlantic to a port on the Pacific, or vice versa. And this he is ready to verify, wherefore he prays the judgment of the court, and that he may be dismissed and discharged of the said information.”

Henry Flanders and John K. Valentine, for the United States.

Franklin Swayne, Edwin L. Abbott, Joseph T. Pratt, and John P. O'Neill, for defendants.

The case was argued on demurrer before Judges STRONG and McKENNAN.

McKENNAN, Circuit Judge. And now, October 23, 1872, it appearing to the court by the admission of James D. Idell in his answer that he is not a shipping commissioner, but that he did, within the jurisdiction of this court, assume to perform the duties imposed by law upon said officer by shipping and engaging one Frederick W. Freeman as a seaman to go on board the schooner J. W., Allen, a vessel of the United States merchant marine, and that he was not at the time the owner, consignee, or master of said vessel, he is therefore adjudged to have violated the eighth section of the act of congress of June 7, 1872, entitled “An act to authorize the appointment of shipping commissioners,” etc. And it is also adjudged that he pay into the registry of this court, within ten days, the sum of fifty dollars as a penalty for such violation of the act of congress, and the costs of this suit, and in default of such payment that he be imprisoned, as provided by the said act.