

Case No. 15,742. UNITED STATES V. MATTHEWS ET AL.
[2 Sumn. 470.]¹

Circuit Court, D. Massachusetts.

May Term, 1837.

SEAMEN—ENDEAVOR TO REVOLT—DEVIATION.

Where there is a deviation from the voyage in the shipping articles, a refusal of the seamen, subsequently, to do duty on that account does not amount in law to an endeavor to commit a revolt, under the act of congress of 1835, c. 40, § 2 [4 Stat 776].

[Cited in *The Mary Ann*, Case No. 9,194.]

Indictment against the defendants [John Matthews and another], for an endeavor to commit a revolt on board of the brig *Juan*, Franklin Hall, master. Plea, not guilty. At the trial it appeared, that, by the shipping articles, the defendants shipped at Boston on the 16th of October, 1836, on board the brig for a voyage “from Boston to the Penobscot river, and from thence to the West Indies, and back to a port of discharge in the United States.”

The brig sailed on the voyage on the 16th of October, 1836, and went from Boston to Frankfort, on the Penobscot river; and from thence, sailed for Matanzas, first intending to touch on her way at Boston, to take on board the owner (Mr. Clarke), who was to go in the brig to Matanzas. The brig arrived in Boston, and came to anchor in Nantasket Roads; and Mr. Clarke then came on board. But the defendants then refused to do any further duty on board, insisting that there was a deviation from the voyage in the shipping articles, and that they were not bound to go farther. Upon this state of the facts the question arose, whether the defendants were discharged, or not, or were guilty of the offence charged in the indictment for such refusal to do duty on board.

Mr. Mills, U. S. Dist Atty.

Before STORY, Circuit Justice, and DAVIS, District Judge.

STORY, Circuit Justice. The court are of opinion, that under the circumstances stated in the evidence, the refusal of the defendants to do farther duty on board was justifiable, and was not an endeavor to commit a revolt within the statute of 1835 (chapter 40). The touching at Boston was not provided for in the shipping articles, and was a clear deviation from the voyage, which discharged the seamen from any obligation of proceeding farther on the voyage. The defendants ought therefore to be acquitted.

Verdict, not guilty.

¹ [Reported by Charles Sumner, Esq.]