

Case No. 15,897.

{5 Blatchf. 427.}¹

UNITED STATES v. NOLCON.

Circuit Court, N. D. New York.

July 11, 1867.

CUSTOMS DUTIES—SMUGGLING FROM CANADA.—MANIFEST.

1. An indictment for smuggling goods from Canada into the United States, charging that the goods were brought in without an invoice, and without the payment of duties, cannot be maintained under the 19th section of the act of August 30, 1842 (5 Stat. 565).
2. Such importations are governed by the act of March 2, 1821 (3 Stat. 616), which requires only the delivery to the collector of the verified manifest of goods imported from an adjacent foreign territory and the payment of the duties.

This was a motion to quash an indictment [against George B. Nolton] for smuggling, founded on the 19th section of the act of August 30, 1842 (5 Stat. 565). The gravamen of the indictment was, smuggling from Canada into the collection district of Cape Vincent, in the Northern district of New York. The indictment charged, that the goods were liable to duties and should have been invoiced and the duties paid, but that they were brought in without an invoice and without the payment of duties.

NELSON, Circuit Justice. The objection to the indictment is, that the 19th section of the act of August 30, 1842, does not apply to the case of goods imported from an adjacent foreign territory; and that such importations are governed by the act of March 2, 1821 (3 Stat. 616), which requires only that a manifest of the goods, duly verified, shall be delivered to the collector, and the duties paid, and that, in case of default, the goods shall be forfeited, together with the vessel or vehicle, and the party be subject to a penalty of 5400, altered and increased by the act of March 3, 1823 (3 Stat. 781), to a penalty of four times the value of the goods. The law has now been changed by the 4th section of the act of July 18, 1866 (14 Stat. 179).

As the alleged offence was committed before the act of 1866 was passed, I do not see how this indictment can be upheld, and must, therefore, grant the motion to quash it See *U. S. v. Smith* [Case No. 16,319].

¹ [Reported by Hon. Samuel Blatchford, District Judge, and here reprinted by permission.]