

Case No. 16,343.

UNITED STATES v. SMITH.

[2 Wash. C. C. 310.]¹

Circuit Court, D. Pennsylvania.

Oct. Term, 1808.

SMUGGLING—EVIDENCE.

1. The defendant was indicted for unloading from a vessel in the port of Philadelphia, three bags of coffee, without authority from the proper officer of the customs. The coffee was taken at night in a boat from the vessel, and part put on the wharf, the rest being in the boat; but on discovery, it was returned to the vessel. The court decided that this was not a landing within the act of congress, of March 2, 1799 II Stat. 627].

[Cited in U. S. v. The Express, Case No. 15,066.]

2. The twenty-seventh section of the act applies only to the captain or mate of the vessel.

The defendant was indicted for unloading from a vessel, which had arrived at the port of Philadelphia, three bags of coffee, without being duly authorized by the proper officer of customs to unload the same, &c. It was proved, that the defendant was seen to bring from the vessel in a boat in the night time, three bags of coffee, which he had got only in part on the wharf, the other half of the bags lying on the gunwales of the boat, when the witness discovered himself. The defendant then took back the bags, and returned them to the vessel.

THE COURT informed Mr. Dallas, that this was not a landing of the coffee, so as to constitute an offense under the fiftieth section of the law; nor is the defendant charged with landing it. The twenty-seventh section, which makes the unloading an offence, applies only to the captain and mate.

THE COURT directed the jury to acquit the defendant, which they accordingly did.

¹ [Originally published from the MSS. of Hon. Bushrod Washington, Associated Justice of the Supreme Court of the United States, under the supervision of Richard Peters, Jr., Esq.]