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The Hoppet Vs. United States

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Court : US Supreme Court

Decided On : 1813

Appeal No. : 11 U.S. 389

Appellant : The Hoppet

Respondent : United States

Judgement :

The Hoppet v. United States - 11 U.S. 389 (1813)
U.S. Supreme Court The Hoppet v. United States, 11 U.S. 7 Cranch 389 389 (1813)

The Hoppet v. United States

11 U.S. (7 Cranch) 389

APPEAL FROM THE DISTRICT COURT

FOR THE DISTRICT OF ORLEANS

SYLLABUS

Wines, the produce of France, imported into the United States before the nonintercourse act, reexported to a Danish island, there sold to a merchant of that

place, and thence exported to New Orleans during the operation of that act of Congress, were liable to forfeiture under that law.

An information in the admiralty for a forfeiture must contain a substantial statement of the offense. A general reference to the provisions of the statute is not sufficient. If the information be defective in that respect, the defect is not cured by evidence of the facts omitted, to be averred in the information.

The decree must be *secundum allegata* as well as *secundum probata.*

This was an appeal from the sentence of the District Court for the District of Orleans, exercising the jurisdiction of a circuit court of the United States, condemning the schooner *Hoppet* and her cargo as forfeited to the United States under the Act of Congress of March 1, 1809, vol. 9, p. 243, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes."

The 4th section of that act makes it unlawful

"to import into the United States or the territories thereof from any foreign port or place whatever any goods, wares, or merchandise whatever being of the growth, produce, or manufacture of France or of any of her colonies or dependencies"

or of any country in the possession of France.

By the 5th section it is enacted

"That whenever any article or articles the importation of which is prohibited by this act shall, after 20 May, be imported

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into the United States or the territories thereof contrary to the true intent and meaning of this act, such articles, as well as all other articles on board the same ship or vessel belonging to the owner of such prohibited articles, shall be forfeited."

And by the 6th section it is enacted

"That if any article or articles the importation of which is prohibited by this act shall, after 20 May, be put on board of any ship or vessel . . . with intention to import the same into the United States or the territories thereof contrary to the true intent and meaning of this act, and this the knowledge of the owner or master of such ship or vessel, . . . such ship or vessel shall be forfeited."

The information against the vessel did not aver that the goods were put on board the vessel with intention to import the same into the United States or the territories thereof contrary to the act with the knowledge of the owner or master of the vessel, nor did the information against the cargo state that such of the goods as were not prohibited belonged to the owner of the prohibited goods, but both informations averred generally that the goods were imported contrary to the 4th, 5th and 6th sections of the act.

It appeared from the evidence and admissions in the case that the wines, which constituted the principal part of the cargo, were the produce of France, and had been shipped from New York to the Danish Island of St. Bartholomews, where they were purchased by a merchant of that place and shipped to New Orleans. It did not appear certainly whether they had been imported into New York since 20 May, referred to in the act of Congress.

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MR. CHIEF JUSTICE MARSHALL delivered the opinion of the Court as follows:

This is an appeal from a sentence of the court for the District of Orleans condemning the schooner *Hoppet* and her cargo as forfeited to the United States for violating the nonintercourse law.

In the district court, two informations were filed by the attorney for the United States, one claiming the ship as being forfeited and the other claiming the cargo. Objections have been made to each of these informations which will be separately considered.

The information against the vessel charges in substance that while the act, entitled "An act to interdict commercial intercourse," &c.;, was in force, certain goods of the growth, produce, or manufacture of France were imported into the United States, to-wit, into the port of New Orleans, in the said vessel from some foreign port or place, to-wit from St. Bartholomews, contrary to and in violation of the 4th, 5th, and 6th sections of the act. By reason of which, and by virtue of the act of Congress entitled "An act, &c.;," the said vessel her tackle, apparel and furniture have become forfeited to the United States.

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The charge contained in this information, and the only charge it contains, is an importation into the United States of certain prohibited articles while the prohibitory act was in force. How far does this crime affect the vessel?

This question must be answered by the law. The 6th section of the act enacts in substance that if any article the importation of which is prohibited, shall be put on board of any ship, &c.;, with intention to import the same into the United States or the territories thereof contrary to the true intent and meaning of this act and with the knowledge of the owner or master of such ship, &c.;, such ship, &c.;, shall be forfeited.

This is the only section of the act which imposes a forfeiture on the vessel. It will be perceived that the crime consists in the prohibited articles being laden on board a ship with intent to be imported into the United States and with the knowledge of the owner or master of the vessel. A union of a lading with the intention to import and with the knowledge of the owner or master is necessary to constitute the crime. Without these essential ingredients, the particular offense, which alone incurs a forfeiture, cannot be committed.

In the information under consideration neither of these offenses is charged. It is neither alleged that the prohibited goods were put on board the ship with intention to be imported into the United States nor with the knowledge of the owner or master.

The information against the cargo charges in substance that certain prohibited articles and certain other articles not stated to be prohibited were brought into the United States, to-wit, into the port of New Orleans, while the act, entitled "An act to interdict commercial intercourse" &c.; was in force from some foreign port or place, by reason of which, and by virtue of the act, the whole cargo of the *Hoppet* has become forfeited.

The 5th section of the act, under which this prosecution was sustained, inflicts forfeiture on the prohibited articles imported contrary to law, and also on "all other articles on board the same ship or vessel, boat,

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raft, or carriage belonging to the owner of such prohibited articles."

The innocent articles are liable to forfeiture only where they belong to the owner of the prohibited articles. It is this association, and this alone, which constitutes their crime. Their being in the same vessel exposes them to no forfeiture unless they belong to the same person.

In the case under consideration, the information does not allege that the innocent and the prohibited articles did not belong to the same person.

The first question made for the consideration of the Court is this -- will this information support a sentence of condemnation pronounced against the vessel and the innocent part of the cargo?

That the information states a case by which no forfeiture of the ship or the innocent part of the cargo has been incurred unless its defectiveness be cured by the allegation that the act was done contrary to and in violation of the provisions of the statute has been already fully shown.

It is not controverted that in all proceedings in the courts of common law either against the person or the thing for penalties or forfeitures, the allegation that the act charged was committed in violation of law or of the provisions of a particular statute will not justify condemnation unless, independent of this allegation, a case

be stated which shows that the law has been violated. The reference to the statute may direct the attention of the court and of the accused to the particular statute by which the prosecution is to be sustained, but forms no part of the description of the offense. The importance of this principle to a fair administration of justice, to that certainty introduced and demanded by the free genius of our institutions in all prosecutions for offenses against the laws, is too apparent to require elucidation, and the principle itself is too familiar not to suggest itself to every gentleman of the profession.

Does this rule apply to information in a court of admiralty?

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It is not contended that all those technical niceties which are unimportant in themselves, and standing only on precedents of which the reason cannot be discerned, should be transplanted from the courts of common law into the courts of admiralty. But a rule so essential to justice and fair proceeding as that which requires a substantial statement of the offense upon which the prosecution is founded, must be the rule of every court where justice is the object, and cannot be satisfied by a general reference to the provisions of a statute. It would require a series of clear and unequivocal precedents to show that this rule is dispensed with in courts of admiralty, sitting for the trial of offenses against municipal law.

It is, upon these and other reasons, the opinion of the Court that the information is not made good by the allegation that the offense was committed against the provisions of certain sections of the act of Congress.

Is it cured by any evidence showing that in point of fact the vessel and cargo are liable to forfeiture?

The rule that a man shall not be charged with one crime and convicted of another may sometimes cover real guilt, but its observance is essential to the preservation of innocence. It is only a modification of this rule that the accusation on which the prosecution is founded should state the crime which is to be proved and state such

a crime as will justify the judgment to be pronounced.

The reasons for this rule are

1st. That the party accused may know against what charge to direct his defense.

2d. That the court may see with judicial eyes that the fact alleged to have been committed is an offense against the laws, and may also discern the punishment annexed by law to the specific offense. These reasons apply to prosecutions in courts of admiralty with as much force as to prosecutions in other courts. It is therefore a maxim of the civil law that a decree must be *secundum allegata* was well as *secundum probata.* It would

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seem to be a maxim essential to the due administration of justice in all courts.

It is the opinion of the Court that this information will not justify a sentence condemning the schooner *Hoppet* and that part of her cargo which is not alleged to be of the growth, produce, or manufacture of either France or Great Britain or the dependencies of either of those powers, whatever the fact may be.

There are certain wines imported in this vessel alleged to be of the growth, produce, or manufacture of France. These wines were exported from the United States to St. Bartholomews, where they were purchased by the consignee and shipped to New Orleans. It is contended that having been imported into the United States previous to the passage of the nonintercourse law, their exportation and reimportation does not subject them to the penalties of that law. But the Court is unanimously of opinion that they come completely within the provisions of the act of Congress.

It is the opinion of the Court that there is no error in that part of the sentence of the District Court of Orleans which condemns the wines in the information mentioned as forfeited to the United States, but that there is error in that part of the sentence which condemns the schooner *Hoppet* and the residue of her cargo.

This Court doth therefore adjudge and order that so much of the sentence of the district court as condemns the schooner *Hoppet* and the thirty-five hogsheads of molasses, five barrels of molasses, twelve dozen of cocoa nuts and twelve pounds of starch, part of the cargo of the said schooner, be and the same is hereby

Reversed and annulled, and the said sentence as to the residue of the cargo is in all things affirmed.

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