

**Crowell Vs. Mcfadon**

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**SooperKanoon Citation :** [sooperkanoon.com/78618](http://sooperkanoon.com/78618)

**Court :** US Supreme Court

**Decided On :** 1814

**Appeal No. :** 12 U.S. 94

**Appellant :** Crowell

**Respondent :** Mcfadon

**Judgement :**

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**Crowell v. McFadon**

**12 U.S. (8 Cranch) 94**

*ERROR TO THE SUPREME JUDICIAL COURT*

*OF THE COMMONWEALTH OF MASSACHUSETTS*

## **SYLLABUS**

Under the eleventh section of the Embargo Act of 25 April, 1808, the collector was justified in detaining a vessel by his honest opinion that there was an intention to violate or evade the provisions of the embargo laws. It was not necessary for him

to show that his suspicion was reasonable.

The case, as stated by DUVALL, J. in delivering the opinion of the Court, was as follows:

An action of trover for 650 barrels of flour of the cargo of the schooner *Union* was brought by John McFadon against Joseph Otis and the appellants in the Court of Common Pleas for Suffolk County, in the Commonwealth of Massachusetts, where a trial was had and judgment rendered in favor of the defendants. From this decision there was an appeal to the Supreme Judicial Court of that state, in which the cause was again tried and a verdict and judgment rendered for the plaintiff for \$3,716.30 and costs. Joseph Otis died whilst the suit was depending in the Supreme Judicial Court.

The following are the principal facts appearing on the record in this case:

The schooner *Union*, Benjamin Hawes, commander, with a cargo of 650 barrels of flour and five tons of logwood shipped by John McFadon, of Baltimore, was cleared at that port for Machias, in Massachusetts, late in the month of April, 1808. She had originally cleared for Passamaquoddy, on 26 April, before the collector had received notice of the act of the 25th of the same month which authorized him to detain the vessel. The destination was changed to Machias, and a clearance obtained accordingly. But the original destination of the flour on board for Eastport remained on the face of the manifest. The flour was shipped for account and risk of Josiah Dana of Machias, and in his absence Jonathan Bartlett of Eastport or his assigns. The *Union* sailed from Baltimore the last of April, and, meeting with headwinds, the commander put into Hymas, in the District of Barnstable. She was soon afterwards boarded by Joseph Crowell, one of the inspectors of the revenue in that district, who, on inspecting her papers, thought proper to

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submit them to the examination of Joseph Otis, the collector. The collector, upon a consideration of the circumstances before stated, was of opinion that it was the intention of the concerned to violate or evade the provisions of the embargo laws,

and therefore detained the vessel by virtue of the authority vested in him by the 6th and 11th sections of the Act of 25 April, 1808, vol. 9, p. 68, until the decision of the President of the United States could be had thereon. The President, after due inquiry, approved and confirmed the conduct of the collector. The vessel remained in this situation until 25 July, when she was taken to Gageis Wharf by Joseph Hawes, inspector of the port, and her cargo was landed and stored with the assent of the agent of the owners, and the vessel discharged. On 4 October following, the collector offered to deliver the flour to the agent on payment of the expense of storing.

The collector detained the Union under the 6th and 11th sections of the Act of 25 April, 1808. The 6th section provides

"That no ship or vessel having any cargo whatever on board shall, during the continuance of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, be allowed to depart from any port of the United States for any other port or district of the United States adjacent to the territories, colonies, or provinces of a foreign nation, nor shall any clearance be furnished to any ship or vessel bound as aforesaid without special permission of the President of the United States."

The 11th section provides that the collectors of the customs be and they are respectively authorized to detain any vessel ostensibly bound with a cargo to some other port of the United States whenever in their opinion the intention is to violate or evade any of the provisions of the acts laying an embargo until the decision of the President of the United States be had thereupon.

With this evidence, the cause came on to be heard in the Supreme Judicial Court of Massachusetts, and at the trial the judge charged and instructed the jury that under the circumstances proved by the defendant, neither the said collector or any person by his order, by virtue of the act aforesaid, had any right to intermeddle with or unlade the cargo of the said schooner, and that

such unloading was an unlawful act and a conversion of the cargo by the defendants, and with this direction the jury found a verdict for the plaintiff to the amount before-mentioned. To this opinion an exception was taken and the cause was removed to this Court by writ of error in pursuance of the 25th section of the act to establish the judicial courts of the United States.

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DUVALL, J., after stating the facts of the case, delivered the opinion of the Court as follows:

This Court is unanimously of opinion that the direction of the judge of the Supreme Judicial Court of Massachusetts was erroneous. The law of Congress under which the collector acted is clear and explicit. The collector was bound by law to seize and detain the *Union* on her arrival in his district if in his opinion it was the intention to violate or evade any of the provisions of the embargo laws, and his conduct was approved and confirmed by the President. The landing and storing the cargo, whether to preserve it from injury or to secure it from ruin (which, in this case, was done with the consent of the agent of the owner), was a necessary consequence of the detention. The law places a confidence in the opinion of the officer, and he is bound to act according to his opinion, and when he honestly exercises it, as he must do in the execution of his duty, he cannot be punished for it.

The judgment of the court below is

*Reversed with costs.*