INTERNATIONAL LAW. RECENT SUPREME COURT DECISIONS AND OTHER OPINIONS AND PRECEDENTS

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INTERNATIONAL LAW.

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NOTE.

These decisions and other precedents, including those arising during the Spanish-American war, were originally compiled by Captain C. H. Stockton, U. S. Navy, under the direction of the United States Naval War College. With some additions they have been arranged and prepared for publication by the college staff.

MARCH, 1904.

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INTERNATIONAL LAW: RECENT SUPREME COURT DECISIONS AND OTHER OPINIONS AND PRECEDENTS.

CASE OF UNITED STATES v. RODGERS.

CERTIFICATE OF DIVISION IN OPINION FROM THE EASTERN DISTRICT OF MICHIGAN.

(Vol. 150, United States Reports, p. 249. Decided November 20, 1893. MR. JUSTICE FIELD delivered the opinion of the court.)

Statement of the case.

In February, 1888, the defendant, Robert S. Rodgers and others, were indicted in the District Court of the United States for the Eastern District of Michigan for assaulting, in August, 1887, with a dangerous weapon, one James Downs, on board of the steamer Alaska, a vessel belonging to citizens of the United States, and then being within the admiralty jurisdiction of the United States, and not within the jurisdiction of any particular state of the United States, viz. within the territorial limits of the Dominion of Canada.

The indictment contained six counts, charging the offence to have been committed in different ways, or with different intent, and was remitted to the Circuit Court for the Sixth Circuit of the Eastern District of Michigan. There the defendant filed a plea to the jurisdiction of the court, alleging that it had no jurisdiction of the matters charged, as appeared on the face of the indictment, and to the plea a demurrer was filed. Upon this demurrer the judges of the Circuit Court were divided in opinion, and they transmitted to this court the following certificate of division:

Certificate of division of opinion.

"*Certificate of Division of Opinion.*

"United States of America. The Circuit Court of the United States for the Sixth Circuit and Eastern District of Michigan.

"THE UNITED STATES
vs.
ROBERT S. RODGERS.

"The defendant in this cause was indicted on the twenty-fourth day of February, in the year of our Lord

one thousand eight hundred and eighty-eight, in the District Court of the United States for the Eastern District of Michigan, together with John Gustave Beyers and others, charged, under section 5346 of the Revised Statutes of the United States, with having made an assault with dangerous weapons upon one James Downs, the assault having taken place on the steamer Alaska, a vessel owned by citizens of the United States, while such vessel was in the Detroit River, out of the jurisdiction of any particular State of the United States and within the territorial limits of the Dominion of Canada, and the said Robert S. Rodgers, and the others indicted with him, having first, after the assault, come to the United States in the Eastern District of Michigan.

"On the twentieth day of September, in the year of our Lord one thousand eight hundred and eighty-nine, the defendant Rodgers was arrested, and on the same day the indictment was, on motion of the United States attorney for the Eastern District of Michigan, and by order of the District Court for such district, remitted to the Circuit Court for such district, and, with all proceedings theretofore taken, certified to such Circuit Court.

"On the twenty-third day of September, in the year of our Lord one thousand eight hundred and eighty-nine, the defendant, on being called upon to plead in the Circuit Court of the United States for the Eastern District of Michigan, by permission of the court pleaded in abatement to the jurisdiction of the court, claiming that under section 5346 of the Revised Statutes of the United States the courts of the United States have no jurisdiction of offences committed in the Detroit River on a vessel of the United States within the territorial limits of the Dominion of Canada.

"The United States, by C. P. Black, United States attorney, and Charles T. Wilkins, assistant United States attorney for the Eastern District of Michigan, demurred to such plea, and the defendant joined on demurrer.

"The matter of the plea of the jurisdiction coming on to be heard in the Circuit Court of the United States for the Eastern District of Michigan, on the third day of October, in the year of our Lord eighteen hundred and eighty-nine, before the circuit and district judges, and the defendant being present in court, the said circuit and district judges were divided in opinion on the question:

Question upon which division arose.

"*Whether the courts of the United States have jurisdiction, under section 5346 of the Revised Statutes of the United*

States, to try a person for an assault, with a dangerous weapon, committed on a vessel belonging to a citizen of the United States, when such vessel is in the Detroit River, out of the jurisdiction of any particular State and within the territorial limits of the Dominion of Canada.'

"And so, at the request of the defendant and of the United States attorney for this district, the circuit and district judges do hereby at the same term state this point upon which they disagree, and hereby direct the same to be certified under the seal of the Circuit Court of the United States for the Eastern District of Michigan to the Supreme Court of the United States at its next session, for its opinion thereon.

"HOWELL E. JACKSON,
"*Circuit Judge.*
"HENRY B BROWN,
"*District Judge.*"

Section 5346 of the Revised Statutes, upon which the indictment was found, is as follows:

Section 5346, Revised Statutes.

"SEC. 5346. Every person who, upon the high seas, or in any arm of the sea, or in any river, haven, creek, basin, or bay, within the admiralty jurisdiction of the United States, and out of the jurisdiction of any particular State, on board any vessel belonging in whole or part to the United States, or any citizen thereof, with a dangerous weapon, or with intent to perpetrate any felony, commits an assault on another shall be punished by a fine of not more than three thousand dollars and by imprisonment at hard labor not more than three years."

The statute relating to the place of trial in this case is contained in section 730 of the Revised Statutes, which is as follows:

"SEC. 730. The trial of all offences committed upon the high seas or elsewhere, out of the jurisdiction of any particular State or district, shall be in the district, where the offender is found or into which he is first brought."

MR. JUSTICE FIELD delivered the opinion of the court:

Opinion.

Several questions of interest arise upon the construction of section 5346 of the Revised Statues, upon which the indictment in this case was found. The principal one is whether the term "high seas", as there used, is applicable to the open, unenclosed waters of the Great Lakes, between which the Detroit River is a connecting stream. The term was formerly used, particularly by writers on public law, and generally in official communications

Question as to meaning of term "high seas."

Former meaning.