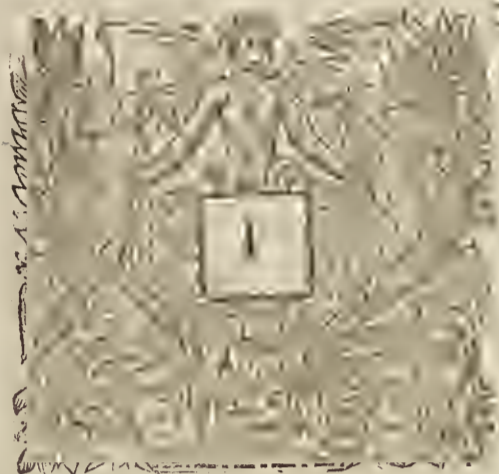


C A S E

Of Daniel Giles His MAJESTIES Marshal of the Vice-Admiralty of the COUNTY of SOUTHAMPTON and the ISLE of WIGHT.

Humbly offered to the Consideration of the

Honourable House of COMMONS.



It is prayed it may be considered for the said Giles, That he is to gain nothing by this Judgement, the owners of the Goods being all Forreigners, and the Master worth nothing.

How beneficial a Law for England the Act on which the Information is grounded, is, and how fit it is the Plaintiff after doing his Duty, in condemning of the said Goods for the Publique good, should still be put to further charge, and wearied out of his prosecution, especially by this extraordinary Proceeding, when there are ordinary remedies by Attaint or Writ of Error, in discouragement of him, and all others who shall endeavour putting the said Law in Execution; and how little reason there is for it in the present Case, will appear, if it be considered.

1. That it is agreed on all hands, the Goods were French Goods.

2. That as to the Defendants pretence of ignorance of the Law, when they bought the Goods at Roane the beginning of March, besides the general Answer, that Ignorance excuses not the breach of a publique Law, it is notoriously evident, that the prohibiting, Importing French Goods hither, was debated, and expected six weeks, if not more, before the Bill past, and the news of it soon after spread much farther than Roane, whence of their own shewing, the Ship set sail March 25. 1678.

3. It is agreed the Ship came into Portsmouth Harbor Which whether by stress of weather, or designedly, will best appear, by considering, and comparing the Evidence on both sides at the

Tryal, and so answering all the pretences of the said Merchants.

They pretend the Ship came nearer to Portsmouth only for safety, not to break Bulk, as appeared by the Masters going on shore, and giving the Deputy-Governor of Portsmouth notice, to send an Officer on board, to prevent breaking Bulk.

Ans^w. 1. The Master landed two men before he came into Harbor. That must be to see if the coast was clear.

2. They then stole a convenient Boat for landing Goods, which was taken from them at night by the Guardship, attending the Port, this was done before the Deputy-Governor was sent to, and at the Tryal there was no reason offered, why the Boat was stole, and the owner of the Boat deposed, he believed she was taken for the private landing of Goods.

3. It was proved, the Master confessed, he had formerly run several prohibited Goods, Laces, and the like, but was never caught before.

4. It is evident the Master made oath before the Lords of the Admiralty.

That his Ship was detained only on the then Embargo on Ships, and obtained their Lordships Order for her re-delivery; but the abuse discovered, their Lordships withdrew their Order.

The seizure it is agreed, was in Hillary Vacation (78)

And the Information, not brought in in Easter Term (78) as objected.

Ans^w. But there was an Order of Court for further time for bringing in the same. The Case being (Prima Impressionis) and the Goods so numerous, as they could not in lesse time be opened, and particularized.

But in Trin. 1678. the Information was filed.

The Tryal was had at the Exchequer Barr.

Upon the single Issue, whether the Goods were Imported contrary to the Act or no:

Whereon the Evidence for the Defendant alleadged in their Case, was either not as set down, or was disproved by the Plaintiffs Evidence.

Obj^{ct}. I. That the Goods (though French) were bought by Hamburgers, &c. and laden for Hambrough.

Ans^w. English Merchants or French might employ whom they please to buy French Goods for them, and might pretend lading them for any place they never designed coming to. That the Ship was bound to Hamborough, and no other Port, and her Bills of Lading so made.

Ans^w. It is in the Merchants Power to Acquaint their Master and Marriners whither they are to Sayle and afterwards Order them to touch at England for Orders; where, if they are Caught, then the Men may Swear they were bound for a Forreign Port: And so no Prohibited Goods can be Forfeited, if that Design for Another Port be Evidence, and Bills of Lading are wholly in their Power.

III. That she was driven into St. Hellens Road by stress of weather, and contrary winds.

Ans^w. This, it is true the Defendants Witnesses did prove; but, when they were prest, what drove them into the Harbour, which was four Miles further, there they confessed the weather was fair.

And the Plaintiff proved by 3 Witnesses, That the Ship came into Port in a very fair day.

That she might have sail'd for Hamborough, or where she pleased.

The other Ships in her Company at the same time went out to Sea.

That even at St. Hellens Road, were the Stress of Weather pretended, and which is (4) Miles from off the Harbour, a Boat might have then rid safely when this Ship came in.

IV. That she was removed nearer Portsmouth onely for security, she being but (50) Tun, could not Ride safe if a Storm had risen.

This is Answered in the Third.

V. That the Master knew not of the Act for Prohibiting French Goods.

This neither was proved, nor doth lie in proof. Besides, most of the goods in the Vessel were Prohibited by former Laws.

VI. That the Master gave the Governors Deputy of Portsmouth notice to send an Officer to prevent his Breaking Bulke, &c.

This is Answered before.

VII. That the Ship was seized when the Master was at London, Changing his Bills of Lading with Mr. Barr.

The Ship was seized four days after the Master had left her.

And the Seamen were proved to be in contrary Stories, whither they were bound, and what Goods they had on Board, varying their Story by the Masters Order.

VIII. That the Ship was Freightd for Hamborough, which is twice more than the freight for England.

This is still in the Marchants power. And if the vulture of the over-Freight might secure them, when seized here, it were well bestowed.

IX. That the Goods were Ensured for Hamborough, at 5, 6, 7, 8. l. per Cent. when to England one and a halfe would have served.

This Ensurance may also be fictitious, and if allowed for Evidence, any prohibited Goods may be brought here safely at 5 l. per Cent. Ensurance for part of them, as the Case was here.

X. That the owners of these Goods usually bought like Goods.

It is believed; and Vended them here.

XI. That for want of these Goods, the Defendants were forced to buy more to send in their Room.

It was proved some Goods were sent, but not near the Quantity; and it is believed the Quantity could have been vended no where but here.

Upon the whole, it is Observable, how the Defendants have been pleased so unjustly to Asperse a Jury of Persons of Quality and Estate, Four whereof were Members of the House of Commons, and all of them living about the Sea-side, and so knew the Arts used by Seamen in Smuggling Prohibited Goods; as if they had given a Verdict against all Evidence; and yet Repeat none but their own, and that not Truly neither; wholly forgetting that on the Plaintiffs part, which, it is humbly hoped, the Court, and all Standers by, were satisfied with.

Soe it is hoped, in a Law so beneficial to the Nation, and in a Case where it appears the Ship and Goods were brought in voluntarily, with Design to Steal the Goods ahoare, being all Laces, Fans, Gloves, and the like, no pity to Forreigners will oblige the Destruction of our Selves, which the French Trade hath hitherto but too much succeeded in, and, it is hoped, may now have a stop put to.

And the rather, for that if the Merchants wearing out a Prosecutor, with the Charge of several Hearings, after a Verdict and Judgement, shall gain them Reliefe (the Witnesses against them, unheard, for want of Money to bear their Charges hither) every Judgment, on the same Law, will equally have the Right of being heard here, and so make the trouble endless, and the Prohibition fruitless.