

Old Bailey Proceedings Online (www.oldbaileyonline.org, version 7.2, 17 February 2016), October 1848, trial of JAMES JENNINGS SMITH ALEXANDER REID JOHN JAMES DAVID GILLIES JAMES PAYNE JOHN KELLY ROBERT BARCLAY EDWARD SORRELL JOHN MCDONALD (t18481023-2400).

JAMES JENNINGS SMITH, ALEXANDER REID, JOHN JAMES, DAVID GILLIES, JAMES PAYNE, JOHN KELLY, ROBERT BARCLAY, EDWARD SORRELL, JOHN MCDONALD, Miscellaneous > piracy, 23rd October 1848.

2400. JAMES JENNINGS SMITH, ALEXANDER REID, JOHN JAMES, DAVID GILLIES, JAMES PAYNE, JOHN KELLY, ROBERT BARCLAY, EDWARD SORRELL , and JOHN MCDONALD , were indicted for that they being mariners on board the *Lion*, on the High seas, feloniously and piratically did endeavour to make a revolt in the said ship.â€”2nd COUNT, for making a revolt.

MESSRS. CLARKSON *and* SLEIGH *conducted the Prosecution.*

HENRY WILLIAM NEVILLE . I am master of the steam-ship *Lion*, which trades between London and Friesland, in Hollandâ€”we left London on 13th Sept. lastâ€”the vessel is from 600 to 700 tons, and has three mastsâ€”I took with me, as part of my crew, the whole of the prisonersâ€”Smith's duty was to drive the engine as first engineerâ€”he performed that duty for six months previouslyâ€”Reid was second engineerâ€”the duties of the other prisoners were that of firemen and coal-trimmersâ€”I delivered the register-tickets to the British vice-consul, at Harlingen, in Frieslandâ€”I think they were produced before the Lord Mayorâ€”I have not got them hereâ€”I did not place the

names of these men on the muster-rollâ€”we arrived at Harlingen on the morning of the 14th, and there took on board a general cargo, consisting of butter, cheese, flax, oil, 160 beasts, about 700 or 800 sheep, besides horses and calvesâ€”we were to be ready to leave Harlingen on the morning of the 16th, at nine o'clockâ€”the fires had been lighted that morning for the purpose of starting on the voyageâ€”I observed a quantity of poultry being brought on board in basketsâ€”I inquired of two of the firemen to whom they belongedâ€”one was Payne; I do not recollect who the other wasâ€”Smith, the first engineer, came on board afterwardsâ€”I observed him coming from the shore over the paddle-boxâ€”I walked on to the bridge close to where he was, and he came running up, and said, "You won't allow my poultry to come on board the ship, won't you?"â€”I said, "There are too many of them, I can't allow it"â€”he then shook his fist in my face, and said, "Then you bâ€”r I will pay freight for them;" on which I said, "They shall not come on board at all"â€”he then turned round, and clapping his hands at me, said, "Now, you bâ€”r, I have got you; this is what I have been scheming for you; I will stop the ship; I will learn you and your Mr. Robinson a trick"â€”he was not drunkâ€”he then called out to the firemen below, "Rake the fires out, you bâ€”r's! rake the fires out!" on which I said, "Smith, come here, and do not make a fool of yourself, and do that in a moment which you will be sorry for hereafter"â€”he said, "No, no, you bâ€”r, I won't hear you," and ran off from the paddle-box on to the main-deck, calling out to the firemen again, "Rake out the fires, you bâ€”r's! rake the fires out, and come ashore with me, and bring your things with you"â€”I then went aft into the cabin, and made a communication to the mateâ€”I sent him forward to try and talk to the engineers for them to come aft to meâ€”he went, and came aft again with a messageâ€”the men then went ashoreâ€”they returned once or twice, but did not resume their dutyâ€”I then went to the company's agent in Harlingenâ€”before he came I was ashore, alongside the vessel, and Smith came up to me, and said, putting himself in a *sparring* position, "I will fight you"â€”I said, "No, you won't"â€”he said, "You won't fight me?"â€”I said, "No"â€”he said, "Then you are a b----y

coward"â€”I went on board, and shortly after that the agent cameâ€”I told him the circumstancesâ€”he tried to expostulate with Smith, and sent for Mr. Harlamâ€”I stated the case to him, he being one of the head gentlemen of the placeâ€”he took Smith down the pier with him, and walked with him a quarter of an hourâ€”he returned, and said, "I can do nothing with him; the man is raging for revenge"â€”I then sent for the British consul, and stated the facts to himâ€”the men were then, some on the paddle-box, and some on one side of the vesselâ€”Smith stood outside the cabin door, and I took the muster-roll, and read their names to them, and asked them, one by one, to return to their dutyâ€”M'Donald, one of the prisoners, said he would stop on board the ship, and another man, named Rayner, said he would stop on board and do my ordersâ€”the others said they would not, unless Smith didâ€”Smith said, "Hold your tongues! silence gives consent; the bâ€”r will only catch you"â€”on that they went ashore, and loaded abuse on me, clapping their hands, and saying, "B----y Capt. Neville, why don't you take your ship away?" where is your b----y Mr. Robinson I and that sort of abuse was continued the whole afternoon, and I was afraid to go from the shipâ€”Smith kept calling out, "You b----y thief!" and threatened to take the other men out of the ship that stopped to do their dutyâ€”M'Donald stopped on board about an hour, or a little more, and then they came and coaxed him away with the restâ€”he then took his things, and deserted me, and the only man left on board was Raynerâ€”Gillies and James came several

times to try and get him, and threatened they would murder him if he remained in the shipâ€”I delivered the whole of their register-tickets to the British consulâ€”about eleven o'clock he came, and said, "I think Smith will return now with the rest"â€”he did not return nor did any of themâ€”I at last got a fresh crewâ€”I had to hire another steamer, and leave that port for Amsterdam, expecting to meet a ship there belonging to the same company, but sheâ€”had sailed the night beforeâ€”I left at eight on the Saturday evening after having three interviews with the prisoners to see whether they would come orâ€”I arrived at Amsterdam at five the next afternoon, and had to wait till five on Monday afternoon, and hire another steam-boat to convey me and an engineer back to Harlingen, to bring my cargo to Londonâ€”the cargo was transhipped; the live-stock were obliged to be put into stalls or fields, and be kept at an expense to the owners till we started, and instead of my leaving Harlingen on the 16th, as I ought to have done, I was not able to leave till the 19th, and did not arrive here till the 20th; and according to the average passage I ought to have arrived on the Sunday afternoon, so as to enable the cattle and other goods to be at the Monday's marketâ€”I received a certificate from the Vice Consul.

COURT. *Q.* Before you sailed from London did you enter into an agreement, in writing, with Smith, or any of the other seamen, specifying what wages each seaman was to be paid? *A.* I did not, nor the quantity of provision he was to receive in the capacity in which he was to act (they had all acted in a certain capacity), or the nature of the voyage on which they were to be employed; no such agreement was entered into by meâ€”I ordered my chief-mate to do so: he is hereâ€”it appears the agreement he entered into was not a regular oneâ€”I had their register-tickets in my possession on the voyageâ€”I never entered into any such agreement.

(Upon this stale of facts the COURT was of opinion that the prisoners could not be deemed "mariners" within the meaning of the Act of Parliament; the captain having neglected to enter into the necessary agreement no trust was reposed in or accepted by them, nor were they legally bound to the discharge of any duty.

NOT GUILTY .