

Case No. 3,837.

DEVAUGHN'S CASE.

[2 Cranch, C. C. 501.]<sup>1</sup>

Circuit Court, District of Columbia.

Nov., 1824

WITNESS BEFORE GRAND JURY—CRIMINATING QUESTIONS.

A witness before the grand jury, is bound to answer a question, although he makes oath that he cannot answer it without criminating himself.

William Devaughn was sworn as a witness to the grand jury, who asked him whether he saw John Ball gaming at Mrs. Garner's. He refused to answer, saying that he could not answer the question without criminating himself. This was stated to the court, by the grand jury, in writing.

THE COURT (THRUSTON, Circuit Judge, absent) decided, under the authority of this court, in the case of U. S. v. Miller, at October term, 1821 [Case No. 15,772], that he was bound to answer the question, and informed him that if he persisted in his refusal he must be committed. He then submitted to answer.

NOTE. Cranch, C. J., did not concur in the opinion of the court, in the case of the U. S. v. Miller [supra], but considered himself now bound by that decision.

<sup>1</sup> [Reported by Hon. William Cranch, Chief Judge.]