

## UNITED STATES v. ANDERSON.

{4 Cranch, C. C. 476.}<sup>1</sup>

Circuit Court, District of Columbia.

## WITNESS—TRIAL FOR FORGERY—INTEREST.

Upon an indictment for forgery, a person interested in setting aside the instrument forged, is not a competent witness to prove the forgery.

Indictment {against John Anderson} for forging an order in the name of Mr. Dorsey, who was called as a witness for the United States.

Mr. Brent, for defendant, objects, and contends that no person, interested in setting aside the instrument, is competent as a witness, to prove the forgery. 2 Russ. 374; 4 Starkie, 573, 582, 583. In those states where a contrary doctrine prevails, it is by statute; and in England there is a late statute (9 Geo. IV. c. 32) permitting such testimony; which statute would have been unnecessary if it could be permitted by the common law. Ross's Case, 2 Dall. [2 U. S.] 239; Keating's Case, 1 Dall. [1 U. S.] 110; 10 Petersd. Abr. 70.

THE COURT (hesitans) rejected the witness.

Mr. Key, for the United States, offered again to examine Mr. Dorsey, upon a collateral question, and contended that he was competent to prove any fact except that the signature is not his. *Rex v. Boston*, 4 East, 582.

THE COURT (nem. con.) still rejected the testimony of Mr. Dorsey, because he was offered to prove a fact tending to prove the forgery.

NOTE. See *U. S. v. Porter* [Case No. 16,072], in this court, in 1812, where Jenkins, the person cheated, was examined as a witness for the prosecution. 2 Hawk. P. C. 610; *Rex v. Whiting*, 1 Ld. Raym. 396; *McNally*, Ev. 105. 124; *U. S. v. Maxwell* [Case No.

15,749], in this court. Peake, Ev. 94; Abrahams v. Bunn, 4 Burrows. 2255; Smith v. Prager, 7 Term R. 60; Bent v. Baker, 3 Term R. 27; Respublica v. Ross, 2 Dall. [2 U. S.] 239. See Hardr. 331; 1 Salk. 283, 286; 2 Strange, 728, 1043; 1 Vent. 49: 2 Hawk. P. C. c. 46, §§ 24, 25; 2 Strange. 1229; McNally, Ev. 121; Peake, Ev. 96, 116: 4 Starkie, 770, 771: and the following cases in this court: U. S. v. Surer, Nov., 1807 [Case unreported]; Bayne's Case, Dec, 1830 [Case No. 1,146]: U. S. v. Brown, Dec, 1827 [Case No. 14,658]: U. S. v. Bates, April. 1823, and June, 1810 [Cases Nos. 14,542 and 14,543]; U. S. v. Moxley, Dec, 1812 [Id. 15,830].

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

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