

## UNITED STATES v. BASCADORE.

{2 Cranch, C. C. 30.}<sup>1</sup>

Circuit Court, District of Columbia. Nov. Term, 1811.

## CRIMINAL LAW—EVIDENCE—CONFESSION.

The confession of a prisoner, taken upon oath, cannot be used against him upon his trial.

Indictment for burglary.

The attorney for the United States, offered to prove by Mr. Faw, a justice of the peace, that the prisoner sent for him to come to the gaol, where the prisoner confessed the fact and named his associates. This confession was taken upon oath, as it charged the accomplices.

THE COURT, (nem. con.) upon the authority of McNally, p. 47, rule 12, rejected the testimony, no goods having been found in consequence of the confession. The statute of Phillip and Mary does not say whether the confession should be upon oath or not. From the silence of the act in that respect the judges have drawn the inference that the confession is not to be upon oath; and it is said that policy forbids the using of such declarations against the prisoner.

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