

UNITED STATES v. BATES.

{2 Cranch, C. C. 1.}¹

Circuit Court, District of Columbia. June Term, 1810.

FORGERY—DRAFT—RIGHT TO
DRAW—WITNESS—DRAWEE.

1. The drawee of a forged draft is a competent witness to support the prosecution.

[Followed in *U. S. v. Brown*, Case No. 14,658. Cited in *U. S. v. Anderson*, Id. 14,452.]

2. To support an indictment for forgery, under the Maryland statute of 1799, c. 75, § 2, it is not necessary that the drawer should have a right to draw, or that the draft should purport to be by a person having a right to draw.

[Cited in *U. S. v. Book*, Case No. 14,624.]

Indictment under the act of assembly of Maryland of 1799, c. 75, § 2, for forging a draft upon Gustavus Higden, with intent to defraud him.

Higden was offered as a witness on the part of the United States. He had paid the order.

Mr. Caldwell, Mr. Balch, and Mr. Sprigg, for prisoner [William Bates], cited Peake, Ev. 96, 97.

But THE COURT (THRUSTON, Circuit Judge, absent), permitted the witness to be sworn and examined.

Verdict, "Guilty."

Motion in, arrest of judgment, because it is not averred in the indictment that Arnol had a right to draw. 2 East, P. C. 936; Mitchell's Case, anno 1754, upon the act of 7 Geo. II. c. 22; the words of which are like those of the act of Maryland, except that it has not these words, which are in the Maryland act, "Or draught for the payment of money, or delivery of goods, or other valuable articles."

The order, or draft, was in these words: "Washington City, Jan'y 12, 1810. Mr. Higden—Sir, you will please let the bearer, James Gray, have 3% dollars worth out of your store, and oblige, Sir, your most obed't serv't. William Arnol."

THE COURT (FITZHUGH, Circuit Judge, absent, but concurring,) was of opinion that the word "draught," in the act of assembly of Maryland, which was not in the English statute, made a difference; and that a draft might be made by a person who had no right to draw.

The sentence of the court was twenty stripes.

CRANCH, Chief Judge, said that it was the first case under this act of assembly which had come before the court; and perhaps there was some ground to doubt whether the case was strictly within it, as explained by the English authorities. For these reasons, the court inflicted a lighter punishment than they would otherwise have done.

¹ [Reported by Hon. William Cranch, Chief Judge.]

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