

UNITED STATES V. BEALE.

[4 Cranch, C. C. 313.]¹

Circuit Court, District of Columbia. May Term, 1833.

INDICTMENT—USING CONTEMPTUOUS
LANGUAGE TO MAGISTRATE—WORDS
SPOKEN—TIME—JUDICIAL, FUNCTIONS.

An indictment for using contemptuous language to a magistrate in the exercise of his office, should set forth the words spoken, and the day and month, and that the magistrate was in the discharge of his judicial functions.

Indictment for using contemptuous and threatening language to the mayor of Alexandria, (who is, ex officio, a justice of the peace.) in the exercise of his official duties, on the—day of—, in the year 1833.

The defendant [John S. H. H. E. Beale] demurred generally, and in proper person stated his objections to the indictment. 1st. That no day or month is mentioned. 2nd. That it was not stated that the mayor was in the exercise of his judicial functions.

Mr. Key, U. S. Atty. 1. On general demurrer, the defendant cannot take advantage of the omission of the day and month. 2. The obstruction of the official functions of a town-officer, in the discharge of his official duty, is an indictable offence. It is not necessary to state that it was to the obstruction of justice, or of the judicial functions of the mayor.

THE COURT (MORSELL, Circuit Judge, absent,) stopped the defendant, in reply, and said that the indictment was bad, because the words were not set forth; because the day and month were not mentioned; and because it does not state that the mayor was in the discharge of his judicial functions.

Judgment for the defendant on the demurrer.

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

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