

UNITED STATES v. BRIDGES.

{10 Cent. Law J. 7;¹ 27 Pittsb. Leg. J. 152.}

Circuit Court, N. D. Alabama. Oct. Term, 1879.

TRIAL—CRIMINAL PROCEDURE—SEALED
VERDICT—POLLING JURY.

Where a defendant in a criminal case agrees to a sealed verdict and the jury deliver their verdict finding him guilty to the clerk of the court and then separate, the defendant has no right to have the jury polled when the verdict is read.

{Cited in Doyle. U. S., 10 Fed. 272.}

The defendant was indicted for perjury. After the court had charged the jury, it then being night, one of the defendant's counsel said that the jury might bring in a "sealed verdict." The judge presiding said that the court would not immediately adjourn. After a short interval, the jury not having returned their verdict, the judge left the court house. That night about two o'clock, the jury delivered a sealed verdict to the clerk of the court, and separated. The court was opened the next morning at ten o'clock. The jury all being present, the verdict, signed by the foreman of the jury, was opened and read in the presence of the defendant: "We, the jury, find the defendant guilty as charged in the indictment." One of the attorneys representing the defendant immediately rose and said: "May it please the court I move that the jury be polled." The court, Bruce, J., presiding, overruled the motion to poll the jury, for the reason that the defendant by his counsel had agreed to a sealed verdict, and that the jury had filed their sealed verdict with the clerk, and had separated. At a subsequent day of the term, the defendant moved for a new trial, alleging as one ground that he had been denied the right to poll the jury.

Walker & Shelby, for the motion, cited: 1 Bish. Cr. Proc. § 830; U. S. v. Potter [Case No. 16,078]; Fox v. Smith, 3 Cow. 23; Sargent v. State, 11 Ohio, 472; State v. Hughes. 2 Ala. 102; Brister v. State, 26 Ala. 132.

Charles E. Meyer, contra, cited: 1 Bish. Cr. Proc. § 830; Com. v. Roby, 12 Pick. 496; State v. Wise, 7 Rich. Law, 412; Cook v. State, 60 Ala. 39.

BRUCE, District Judge, in an oral opinion, commented upon the cases cited by defendant's counsel, distinguishing them from the case at bar, and overruling the motion for a new trial. He adhered to the former ruling, that where a defendant agrees to a sealed verdict, and the jury find him guilty, and deliver the verdict sealed to the clerk of the court and separate, the defendant has waived his right to have the jury polled when the verdict is read.

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