Case No. 14,660.

UNITED STATES v. BROWN.

{4 Cranch. C. C. 508.}[1]

Circuit Court, District of Columbia.

March Term, 1835.

CRIMINAL LAW—EVIDENCE—ADMISSIONS—EXAMINATION BY MAGISTRATE.

What was said in the presence of the prisoner, before the examining magistrate, and to which he made no reply, cannot be given in evidence against him.

{Cited in State v. Young (Mo. Sup.) 12 S. W. 881.}

Mr. Key, Dist. Atty, offered to give in evidence against the prisoner {Nehemiah Brown}, who was indicted for larceny, what had been said before the examining justice in the presence and hearing of the prisoner, to which he had made no reply.

W. L. Brent, for defendant, objected, and cited People v. Johnson, 2 Wheeler, Cr. Cas. 377.,

THE COURT (THRUSTON, Circuit Judge, absent) said that the United States could not give in evidence what was said while the prisoner was under examination before the justice, if the prisoner made no reply; for he is not bound to admit or deny what is said by the witnesses.

Mr. Key said he only meant to give evidence of what was said and replied to by the prisoner; and the examination was so confined.

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