

Case No. 14,726.

UNITED STATES v. CARNOT.

[2 Cranch, C. C. 469.]¹

Circuit Court, District of Columbia.

May Term, 1824.

LARCENY—BANK-NOTES—WITNESS—INTEREST—JURY DE MEDIETATE LINGUAE.

1. The owner of the goods stolen, after having released to the United States and to the prisoner, all his interest in the fine, is a competent witness for the United States, and may be examined generally.
2. A foreigner in Virginia is entitled to a jury de medietate linguæ.
3. Bank-notes are not goods and chattels, and cannot be the subject of larceny at common law.

The prisoner [Alexander Carnot] was indicted at common law, for stealing Certain bank-notes, the property of W. B. Stewart to wit, two bank-notes of the Bank of Virginia, and one ten-dollar bank-note of the Bank of the United States. W. B. Stewart the owner of the notes, was called to testify for the United States, and stated that he had collected \$95, which he had laid by in his desk to pay a particular debt; that he had not seen it for two or three days, when going to his desk, he missed \$60. That he asked his wife, who denied she had taken it and said it must have been taken by the Frenchman, (meaning the prisoner.)

THE COURT here interposed and stopped the witness, and, asked if it was agreed that he should be examined generally.

Mr. Taylor, for the prisoner, objected to the witness because he was entitled to one half of the fine which the court might impose.

Mr. Swann, the district attorney, obtained a release from the witness to the United States, and to the prisoner of all right to the fine; and the court permitted the witness to be examined generally.

Mr. Ramsay, for the prisoner, in argument to the jury said that the prisoner might have required a jury de medietate linguæ.

THE COURT (THRUSTON, Circuit Judge, absent) intimated a doubt upon that point as it was not allowed in Maryland.

Mr. Herbert afterwards produced "The Richmond Inquirer" of November 4, 1823 (volume XX., No. 52), in which it is stated that in the case of U. S. v. Cartacho [Case No. 14,738], in the circuit court of the United States, before Mr. Chief Justice Marshall and Judge St. George Tucker, "the court, according

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to the motion of the prisoner's counsel, directed the discharge of the jury that had been previously summoned, and that a new array should be impanelled, one half of which to be foreigners, who were not citizens of the United States." See, also, the Revised Code of the Virginia Laws (page 101. § 13), that "juries de medietate linguæ may be directed by the courts respectively."

Verdict, guilty.

But THE COURT (THRUSTON, Circuit Judge, absent) arrested the judgment, upon the authority of the case of U. S. v. Bowen [Case No. 14,628], at April term, 1817; banknotes not being goods and chattels at common law.

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