

Case No. 14,873. UNITED STATES v. COTTOM.
[1 Cranch, C. C. 55.]¹

Circuit Court, District of Columbia.

Jan. Term, 1802.

CRIMINAL PROCEDURE—CAPIAS—TRIAL—ARGUMENT OF COUNSEL.

1. A *capias* may be issued as the first process against a person for unlawful gaming.
2. The court will not suffer counsel in a criminal prosecution to argue to the jury, a point of law which has been decided by the court.

[Cited in *Stettinius v. U. S.*, Case No. 13,387.]

Indictment for gaming, contrary to the act of Virginia. A *capias* had issued upon the indictment, as the first process.

Mr. Swann, for defendant, moved to quash it, as being illegal and oppressive. But THE COURT overruled the motion.

Mr. Taylor began to address the jury on the points of law heretofore decided by the court, that the offence was not committed within the jurisdiction of the court, being before the first Monday of December, 1800; and that an indictment is not the proper and legal process in such cases.

THE COURT stopped him, and said they had before prevented Mr. Jones from arguing points of law to the jury, which the court had decided against him, (see *Virginia v. Zimmerman* [Case No. 16,968]), and they had not altered their opinion on that subject.

Mr. Jones, for defendant, tendered a bill of exceptions.

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