

**Case No. 14,892.** UNITED STATES v. CROPLEY.  
[4 Cranch, C. C. 517.]<sup>1</sup>

Circuit Court, District of Columbia.

March Term, 1835.

ASSAULT WITH INTENT TO KILL—CONVICTION OF SIMPLE ASSAULT.

Upon an indictment at common law for assault with intent to kill and murder, the defendant may be found guilty of the simple assault only.

Upon the trial, W. L. Brent, for defendant, moved the court to instruct the jury that if they should not find the assault to be with intent to murder, they must find the defendant not guilty, 1 East, Cr. Law, 411, which was a case decided by Lord Kenyon at nisi prius on an indictment in which there were two counts, namely: 1. For an assault with intent to murder. 2. A common count for assault and battery. The evidence was that if death had ensued it would have been manslaughter only; and Lord Kenyon directed the jury to find the defendant not guilty on the first count.

Mr. Key, contra, cited 1 Chit. Cr. Law, 232, 248, 250, 251; Hunt's Case, 2 Camp. 583; and Williams' Case, Id. 646.

THE COURT (THRUSTON, Circuit Judge, absent, but concurring) refused to give the instruction; and directed the jury, that they might, if justified by the evidence, find the defendant guilty of the assault only, without the intent charged.

<sup>1</sup> [Reported by Hon. William Cranch, Chief Judge.]