

## UNITED STATES V. DAVIS.

{4 Cranch, C. C. 333.}<sup>1</sup>

Circuit Court, District of Columbia. Oct. Term, 1833.

## INDICTMENT—ASSAULT AND BATTERY—“PERSON UNKNOWN.”

Quære, whether an indictment will be for assault and battery upon “a person unknown,” not “unknown to the jurors.”

Indictment {against “William Davis for assault and battery, “upon a person unknown,” (not “to the jurors unknown,”)}

Mr. Neale, for defendant, moved in arrest of judgment, that the indictment was too uncertain.

THE Court, however, overruled the motion; CRANCH, Chief Judge, doubting, because the only reason which can be admitted for not inserting the name of the person assaulted, is, that the person was unknown to the jurors; which is not averred; for the person might be unknown to the attorney of the United States, who sent up the indictment, and might have been known to the jurors. The indictment might be true if the person assaulted was unknown by any person.

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