

UNITED STATES V. DUFFY ET AL.

[1 Cranch, C. C. 164.]¹

Circuit Court, District of Columbia. June Term, 1804.

CRIMINAL

LAW—CONFESSIONS—LARCENY—PROPERTY IN
GOODS STOLEN.

1. A confession upon oath, before a magistrate, cannot be given in evidence against the prisoner.
2. Possession is prima facie evidence of property.

Indictment [against Thomas Duffy, alias Rustick, and Christopher Duffy] for stealing a cable.

Mr. Taylor, for United States, produced Mr. Hoffman, the magistrate, to prove what the prisoners had testified before him on an examination of John Duffy, on a charge of stealing the cable; to show that they, being examined separately, had given opposite and inconsistent accounts of the cable, and to show their confession upon oath before the magistrate.

THE COURT refused to admit the testimony, upon the authority of 1 McNally, Ev. 47, rule 12; Buller, N. P. 242; Leach, Crown Cas. (1st Ed.; Irish) 248.

The indictment charged the cable to be of the goods and chattels of one Andry.

Mr. Swann, for defendants, contended that the jury must be satisfied that Andry had a general or special property, and that its being in Andry's boat, is not sufficient evidence of property.

THE COURT directed the jury, that a qualified property was sufficient, and that the testimony of its being taken from Andry's vessel is competent to go to the jury, and that they must decide whether Andry had a qualified property in the cable.

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

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