

UNITED STATES V. FENWICK.

{5 Cranch, C. C. 562.}¹

Circuit Court, District of Columbia. May Term, 1839.

CRIMINAL

PROCEDURE—INSTRUCTIONS—SUFFICIENCY OF EVIDENCE.

It is error in a judge to instruct the jury that the evidence is sufficient to convict the defendant. The sufficiency is to be decided by the jury.

{Cited in *Stettimus v. U. S.*, Case No. 13,387; *U. S. v. Taylor*, 11 Fed. 473.}

{Cited in *Territory, v. Kee (N. M.)* 25 Pac. 926.}

Error to the criminal court for Alexandria county, in a prosecution for perjury.

The judge had instructed the jury that the evidence was sufficient to convict the defendant [Francis Fenwick], who objected to the instruction, and took his bill of exceptions.

THE COURT (THRUSTON, Circuit Judge, absent) was of opinion that the judge should not have instructed the jury that the evidence was sufficient; that question is for the jury.

Judgment reversed, and venire de novo to be awarded.

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