

Case No. 15,306. UNITED STATES v. HARGRAVE.
[17 Int. Rev. Rec. 39; 5 Chi: Leg. News, 208.]

District Court, N. D. Ohio.

Dec. Term, 1872.

COUNTERFEITING—DEGREE OF LIKENESS NECESSARY.

[In determining whether defendant is guilty of passing counterfeit coin, the question is, not whether the coin was such as would deceive a person of ordinary skill and caution, but whether it was capable of, and designed to be used for, deceiving the incautious and unskillful.]

The coin passed by the defendant [William S. Hargrave] was similar to the genuine coin of the United States in size, color, milling, and the devices on reverse and obverse sides, but differed in weight and in the inscriptions on either side. The indictment contained seven counts, four of which were framed under the act of March 3, 1825 (4 Stat. 121), and three under the act of June 8, 1864 (13 Stat. 120). The main question was whether the spurious coin in question came under either act.

It was claimed by the prosecution that it came under both,—that is: First, that it was in the similitude of the genuine coin; second, that if considered of “original design,” it was within the later act above cited; and, third, that the question was, not whether it would deceive a person of ordinary skill and caution, but whether it was capable of, and designed to be used for deceiving the incautious and unskillful,—citing, particularly to this point, *U. S. v. Burns* [Case No. 14,691]. These points were much contested.

Geo. Willey, U. S. Atty., and H. S. Sherman, Asst. U. S. Atty.

Lockwood & Everett, for defendant

THE COURT (SHERMAN, District Judge) in its charge to the jury, maintained the propositions of the prosecution, and the defendant was found guilty on all the counts of the indictment and afterwards sentenced to imprisonment for five years in the Ohio penitentiary.