

Case No. 15,554.

UNITED STATES v. LAMBERT.

{2 Cranch, c. 137.}¹

Circuit Court, District of Columbia.

April Term, 1817.

BIGAMY—EVIDENCE—BOND TO OBTAIN LICENSE—OFFICIATING
CLERGYMAN—BENEFIT OF CLERGY—PEREMPTORY CHALLENGE.

1. Upon a trial for bigamy in Alexandria, D. C, the bond given by the defendant to the clerk of the court at Richmond to obtain a marriage license, cannot be given in evidence on the part of the United States.
2. The fact that the person who performed the ceremony of marriage was a clergyman authorized to celebrate the rites of matrimony according to the laws of Virginia, may be proved by parol, as any other matter of fact in pais; and the record of the testimonial required by the act of Virginia, of December 22, 1792, c. 104, § 3, need not be produced; nor a copy thereof.
3. A person convicted of bigamy in Alexandria is entitled to the benefit of clergy, and may be burnt in the hand, and required to recognize for his good behavior.
4. Upon a trial for bigamy in Alexandria, the prisoner is entitled to a peremptory challenge.

This was an indictment for bigamy. The prisoner [Joshua alias Joseph Lambert] was allowed a peremptory challenge.

E. J. Lee, for the United States, offered a certified copy of the bond given by Lambert to the clerk of the court of hustings in Richmond to obtain a marriage license.

But THE COURT (THRUSTON, Circuit Judge, absent) rejected it.

Mr. Lee offered the clergyman, the Rev. Mr. Courtney, as a witness to prove the first marriage, and parol evidence that he had been in the practice of celebrating the rites of matrimony nearly fifty years.

Mr. Mason and Mr. N. Herbert, for the defendant, objected that his testimonial to celebrate the rites of matrimony required by the act of Virginia, of December 22, 1792, c. 104, § 3, ought to be produced, as the best evidence of his authority; or a copy of it from the record.

But THE COURT decided that the fact of his being a clergyman authorized to celebrate the rites of matrimony might be proved by parol as any other matter in pais. Thus the authority of a justice of the peace may be proved by reputation, and by the fact of his publicly acting as such, &c.

Verdict, guilty—recommended to mercy by the jury.

THE COURT decided that he was entitled to the benefit of clergy, and sentenced him to be burnt in the band, and to recognize in 500 dollars for his good behavior for one year, and to stand committed till the costs should be paid.

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