

Case No. 15,645. UNITED STATES v. DYDES.
[1 Cranch. C. C. 322.]¹

Circuit Court, District of Columbia.

July Term, 1806.

WITNESS—DISQUALIFICATION—INTEREST.

A mere honorary obligation to indemnify a prosecutor, who is liable for costs, is not a sufficient interest to exclude the testimony of the witness.

Indictment, for assault and battery on Joshua Riddle. John Johnston's name, as prosecutor, was indorsed on the indictment. Joshua Biddle was examined as a witness on the part of the prosecution, and on cross-examination said he felt himself bound in honor to indemnify Johnston, in case he should be obliged to pay costs; but he had made no engagement; that Mr. Taylor, his counsel, had managed the business, and that he had no conversation himself with Johnston. See Peake, Ev. 93,104,105; 1 Strange, 129.

Mr. Youngs, for the defendant [G. N. Lyles], prayed the court to instruct the jury that Riddle was not a competent witness, being disqualified by his interest.

THE COURT, after considerable deliberation and doubt, refused to give the direction. DUCKETT, Circuit Judge, absent. The general principle seemed to be that it must be a direct interest, and not ideal or imaginary. Here was no promise, no direct engagement, no legal obligation.

¹ [Reported by Hon. William Cranch, Chief]