

Case No. 15,715a.

[21 Int. Rev. Rec, 235.]

UNITED STATES v. MANK.

Circuit Court, S. D. New York. The defendant [William G. Mank] was tried and<sup>1875.</sup> convicted on an indictment charging him with keeping in possession counterfeit money with intent to sell, under section 5431 of the Revised Statutes of the United States. On the trial the prosecution proved affirmatively that one Porter, a secret service detective, represented himself to the defendant as a friend of Thomas Congdon, a counterfeiter, who had been arrested and was awaiting trial; that as such he negotiated with the defendant for the purchase and destruction of certain counterfeit money in the possession of the defendant which had been taken from the said Congdon, and was to be used as evidence against said Congdon on his trial; Porter himself testifying that when the defendant gave him the said counterfeit money, in consideration of two hundred dollars, he told him (Porter) to destroy it, which Porter agreed to do.

On the conclusion of the trial, Judge Dittenhoefer, counsel for the defendant, requested the court to direct a verdict of acquittal, which was refused, and also requested the court to charge the jury that, as the "intent to defraud" was a necessary and essential ingredient, under the statute, of the crime, if the jury believed there was no intent to defraud they must acquit, which was also refused; the court reserving these questions for consideration and adjudication on a motion in arrest of judgment and for a new trial.

The motion was argued on the 6th of July, before BENEDICT. District Judge, and subsequently the learned judge stated that, as the questions presented in the brief of defendant's counsel were very important, he would not dispose of them without consultation with, and if necessary, a re-argument before, three judges, and for that purpose he requested Judge Dittenhoefer, defendant's counsel, and Mr. Purdy, the assistant district attorney, to agree upon and submit a written or printed case containing the evidence of Porter as to the facts testified to by him.

[Nowhere reported; opinion not now accessible.]