

Case No. 15,989. UNITED STATES v. PALJUEB.
[2 Cranch, C. C. 11.]³

Circuit Court, District of Columbia.

Nov. Term, 1810.

GRAND JURY—WITNESSES.

Witnesses cannot be sent to the grand jury on the part of the accused; nor can a grand juror be withdrawn after he is sworn, for a cause which existed before he was sworn.

[Cited in *U. S. v. Terry*, 39 Fed. 362.]

Mr. E. J. Lee stated that the witnesses were about to be sent to the grand jury on the part of the United States against one Palmer for perjury, and moved for leave to send up witnesses to the grand jury on the part of Palmer, and referred the court to Burr's trial at Richmond. He moved also to withdraw from the grand jury the magistrate who committed Palmer. As to the right to challenge grand jurors, he cited Hawk. P. C. (3d folio Ed.) 2, c. 25, § 16, pp. 215. 307, and Id. c. 43, § 1, p. 412. By the Virginia law, a magistrate of the examining court is excluded from the jury.

THE COURT said that, not being furnished with any precedent of sending up witnesses to the grand jury on the part of the accused, they refused the motion, and refused to withdraw a grand juror after he was sworn, for a cause which existed before he was sworn. See 4 Bl. Comm. 302.

³ [Reported by Hon. William Cranch, Chief Judge.]