

Case No. 16,070.

UNITED STATES v. PORTE.

{1 Cranch, C. C. 369.}¹

Circuit Court, District of Columbia.

Dec. Term, 1806.

PUBLIC STATUTES—BANK CHARTERS—LARCENY OF BANK
NOTES—INDICTMENT.

1. If a statute makes it felony to steal the notes of any particular incorporated bank, the statute, by which that bank was incorporated, thereby becomes a public statute.
2. An indictment upon the Maryland act of 1793 (chapter 35), making it felony to steal the notes of any bank established by a charter from the government of the United States, or of some individual state of the United States, must state of what bank the notes were, and whether incorporated by the United States or by an individual state. It is not sufficient to make the averment in the terms of the act.

Indictment [against Henry Porte] upon the Maryland statute of 1793 (chapter 35) for stealing bank-notes, charging the prisoner with stealing the “notes of some bank established by a charter from the government of the United States or of some individual state of the United States.”

Mr. Morsell, for the prisoner prayed the court to instruct the jury that they must be satisfied, by the evidence, that the notes were of some bank having a charter from the United States, or from some particular state; that the act of incorporation, or charter of such bank must be produced properly authenticated; and that the statute-book is not sufficient evidence of a private statute.

Mr. Jones, for the United States, admitted that the jury must be satisfied by the evidence that the notes stolen were the notes of some bank incorporated, &c, but contended that, as in this country charters could only be granted by a legislative act, they were public laws, of which the courts were bound to take notice.

THE COURT (nem. con.) was of opinion that the supplementary act of April, 1792 (chapter 1), making it felony to steal the notes of the Bank of Baltimore, makes the original act of incorporation (Act 1790, c. 5) a public statute.

Verdict, guilty. But, upon motion, THE COURT arrested the judgment, because the indictment did not state of what particular bank the stolen notes were, nor whether the bank was incorporated by the United States, or by a particular state. DUCKETT, Circuit Judge, absent.

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