

Case No. 16,092.

UNITED STATES v. PRIOR.

[5 Cranch, C. C. 37.]¹

Circuit Court, District of Columbia.

Nov. Term, 1837.

INDICTMENT—JOINDER OF OFFENSES—LARCENY AND RECEIVING STOLEN GOODS—CONFESSIONS.

1. A count for stealing, and a count for receiving stolen goods, may be contained in the same indictment, and the attorney for the United States will not be put to his election upon which to proceed.
2. The whole confession must be given in evidence, if any part is given, but the jury have a right to judge for themselves of the truth thereof, or of any part of it.

Indictment. The first count was for stealing the goods of one Eckloff. The second count was for receiving them, knowing them to be stolen.

Brent & Brent, for defendant, contended that the court ought to oblige the attorney for the United States to elect the count upon which he would proceed; and they cited Russell on Crimes.

UNITED STATES v. PRIOR.

THE COURT (MORSELL, Circuit Judge, absent) refused.

R. J. Brent contended that the confession of the defendant must be taken altogether; and that if there is no evidence to contradict any part of the confession, the attorney for the United States cannot be permitted to argue to the jury that any part of the confession is false.

CRANCH, Chief Judge, said that the question has often been made in this court; and the court had always decided, that the whole confession must be given in evidence to the jury; but that they had a right to judge for themselves of the truth of it, or of any part of it. See Starkie, pt 4, p. 48.

Verdict, not guilty.

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