

Case No. 16,645.

UNITED STATES v. WARY.

{1 Cranch, C. C. 312.}<sup>1</sup>

Circuit Court, District of Columbia.

June Term, 1806.

SECONDARY EVIDENCE.

Parol evidence of the contents of a warrant cannot be given, unless the loss of the warrant be proved.

{Cited in U. S. v. Long, Case No. 15,625.}

Indictment [against William Wary] for resisting Clement Venable in the execution of his duty as a constable, in serving a warrant from Samuel N. Smallwood, a justice of the peace. The justice swore that he had searched the papers among which it was probable that the warrant would be filed, but if he had had more time to search he thought it probable it could be found.

THE COURT thought this not sufficient to admit parol evidence of its contents, and refused to wait while the witness should make further search, it being Saturday, half past two o'clock p. m., and the witness' office being more than a mile distant

Verdict, not guilty.

<sup>1</sup> [Reported by Hon. William Cranch, Chief Judge.]