

Case No. 16,772.

UNITED STATES v. WEIGHT.

[2 Cranch, C. C. 68.]¹

Circuit Court, District of Columbia.

Dec. Term, 1812.

FORGERY—BANK—NOTES.

Possession of forged bank-notes, with intent to utter them as true, is not an indictable offence.

Indictment {against Walter Wright} for knowingly having in his possession forged bank-notes with intent to utter them as true.

Mr. Wallach and Mr. Law, for defendant, moved the court to quash the indictment; because: 1. It is only an intent to commit a crime, which intent is not indictable. *Rex v. Higgins*, 2 East, 5; 4 Bl. Comm. 21; St. 41 Geo. III. c. 39; East, P. C. 881. 2. It does not charge an unlawful intent to injure any person. Nothing can be inferred. At common law it is no crime simply to make a false bank-note unless some person be injured. 1 Hawk. P. C. c. 70, § 11; *Rex v. Wheatly*, 2 Burrows, 1127; *Rex v. Munoz*, 2 Strange, 1127. 3. It does not set forth the notes in haec verba. *Mason's Case*, East, P. C. 975; *Com. v. Morse*, 2 Mass. 138.

Mr. Jones, contra. An inchoate act towards the consummation of a crime is indictable. *Rex v. Higgins*, 2 East, 5. There is a form of such an indictment in C. Cir. Comp. p. 286, for having counterfeit money in his possession with intent to utter it. This court in the case of *U. S. v. Williams* [Case No. 16,709], decided that in an indictment for forgery, it is not necessary to set forth the forged instrument in haec verba.

THE COURT having some doubt, refused to quash the indictment; but after verdict, arrested the judgment.

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